SENATE—*Thursday, October 16, 1986*

(Legislative day of Tuesday, October 14, 1986)

The Senate met at 9 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:

Mighty God, Ruler of history, Lord of the nations, I confess we have been so secularized that we do not believe in miracles anymore. But gracious God, I pray for a miracle on Capitol Hill. You know what is frustrating the best intentions and earnest efforts of the leadership to bring the 99th Congress to adjournment sine die. Whatever it is, Lord, do what God alone can do, work a miracle. Dissolve resistance, break deadlocks, generate movement, eliminate roadblocks. Be God in this place. Be glorified in our midst. Help burdened Senators who have so few days left to wrap up their campaigns successfully. Provide the rest so sorely needed by Your weary servants. Hallowed be Thy name. Thy kingdom come, Thy will be done on Earth as it is in heaven. Through Jesus Christ our Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able and distinguished majority leader, Senator ROBERT DOLE, of Kansas, is now recognized.

Mr. DOLE. Mr. President, I thank the distinguished Presiding Officer, the senior Senator from South Carolina, the President pro tempore, Senator THURMOND.

SCHEDULE

Mr. DOLE. Mr. President, today ought to be a big day. I will say at the outset it seems to me we have many opportunities in line with the prayer this morning to maybe not have a miracle but we might almost complete our action today.

I would hope we could do the immigration conference report first thing, after we do a little short continuing resolution so the Government will not shut down at noon, and we need to do that hopefully between now and 9:30 a.m.

Then I am still going to believe that Senator PACKWOOD will get unanimous consent to do his little concurrent resolution to take care of some of the errors to make corrections in the tax bill. I would urge my colleagues to give Senator PACKWOOD that agreement.

There are 31 States involved in that little agreement. It means a great deal to many of our colleagues on both sides of the aisle. It is not a partisan matter at all.

I would urge my colleagues who wait for these opportunities to gain an extra ounce of flesh that they just back off and let us proceed with our work. There will be other opportunities, I would think, for those who feel constrained to always be there to see if they cannot leverage one more amendment before we adjourn.

So I would hope that Senator PACKWOOD can reach that agreement. It is important. I have had Senators on both sides say what can we do. I said we can talk to our colleagues and tell them not to insist on offering amendments, or whatever, but that I think will be up again.

Reconciliation is still mired down with two or three provisions. I am not certain that will be worked out.

We do have the continuing resolution conference report and the clean water conference report. The debt limit conference report has not yet come over.

But aside from the continuing resolution conference report, I do not think anything is going to take any great deal of time.

So I am prepared as soon as we can, and again I want to thank my colleagues for all their cooperation on the antidrug bill. It seemed yesterday that we were going to be bogged down again on that. Cloture was not invoked. It probably did not make a great deal of difference about the cloture vote. The important thing was that members of our staff, Republicans and Democrats, went off and sat down and worked it out in a matter of 2 hours and passed on a voice vote last night a $1.7 billion Antidrug Program that I believe is a very credible program.

Some people did not get all they wanted. Some would insist on the death penalty. I thought the voluntary tax checkoff was a good idea, but in my view the better idea was to pass the drug bill, and that was also the view of the distinguished Presiding Officer, who is the chairman of the Judiciary Committee, who indicated that next year we will have another opportunity to vote on some of the matters that we were not able to complete last evening.

PUBLIC SUPPORTS REAGAN ON REYKJAVIK MEETING

Mr. DOLE. Mr. President, last week I suggested to the press and broadcast media that, with all the handwringing over a captive American soldier of fortune, they were missing the real story of a Marxist nightmare in Nicaragua. Now, if I may quote the President: "There you go again."

For the past few days, all of us have been subjected to screaming headlines about the "collapse" of the Reykjavik talks because of—and I will quote a typical line from the press—"Because of the President's refusal to give up star wars." That was the headline. But while the headline writers have been busy at their work, some far more important things have been going on.

First, the President gave us an authoritative, comprehensive account of what really happened in Reykjavik. Other administration officials—including the Secretary of State, came up here 2 days ago and provided additional details of the talks. They set straight a record that the media had gotten very, very wrong.

Then the Geneva arms control talks resumed, right on schedule, and with the full participation of the Soviet delegation and, of course, our own delegation, and the Soviet side arrived back in Geneva amid reports that the "official Politburo position" in Moscow was that the door was still open for progress on arms control.

And now, last evening, we begin to get the returns in on what the American people believe about the Iceland presummit meeting. As usual, the public seems to be taking in what happened with a great deal more calm, perspective, and a great deal more common sense than we have seen in the press and—sad to say—from some people up here on Capitol Hill.

Here is what the brandnew ABC-Washington Post poll tells us: Do the American people approve of the President's handling of the Reykjavik talks? Some 64 percent say yes, while only 22 percent say no. Three times as many support the actions the President took as oppose them.

What about Gorbachev's role? The headlines say the President's position on SDI sunk an accord. But the people, thank goodness, know better. Only 16 percent of those polled indicated the President should shoulder the blame. Four times as many—four times as many—put the blame where it belongs: on Gorbachev's doorstep.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

And what about SDI? The media would have you believe that SDI's only supporters live at 1600 Pennsylvania Avenue. But the polls say otherwise. Nearly three out of five of all respondents characterized SDI as "essential" to the United States—essential, meaning, you do not give it away just so you can get Gorbachev's signature on some kind of agreement.

Mr. President, last week, in discussing arms control issues, I asked the Congress to "let the President be the President." Today, I want to add: Thank goodness that the American people are being the American people—wise, tough and, as always, united behind their President.

Finally, Mr. President, I would like to include in the RECORD results from public opinion polls taken by the Wall Street Journal and the New York Times.

When asked by the Wall Street Journal: "Do you think Ronald Reagan should have made concessions on star wars so that a formal agreement could have been reached; or don't you think so?" 31 percent said he should have made concessions, while 60 percent said he should not have.

The New York Times asked who was to blame for the summit failure. Of those polled, 17 percent blamed President Reagan, 44 percent blamed General Secretary Gorbachev.

I ask unanimous consent that the previously mentioned articles be printed in the RECORD.

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

[From the Wall Street Journal, Oct. 16, 1986]

PUBLIC BROADLY BACKS REAGAN'S SUMMIT STANCE, POLL SHOWS, SUGGESTING PUBLICITY BLITZ WORKED

(By Albert R. Hunt and Jane Mayer)

WASHINGTON.—President Reagan wins impressive public support for his performance at the Iceland summit, according to a new Wall Street Journal/NBC News poll, suggesting a smashing success for the administration's unprecedented public-relations blitz.

More than 70% of the public approves both the general way the president handled his meeting with Soviet leader Mikhail Gorbachev and his specific refusal to limit the U.S.'s Strategic Defense Initiative. Even when asked specifically if Ronald Reagan should have made "concessions" so that a formal agreement with the Soviets could have been reached, 60% said no.

What's especially remarkable about this support is that initially the summit was viewed as a failure and a disappointment, both by administration officials and the media, since the negotiations broke down at the end. But after early expressions of disappointment, even anger, the Reagan administration decided to declare a victory and has worked relentlessly and effectively the past three days to spread that idea.

Flying back last Sunday night from Iceland, top Reagan advisers decided they shouldn't return "with our tails between our legs, acting like we just lost the World Series," recalled White House chief of staff Donald Regan. "We made a conscious decision on Monday morning at the White House, let's tell everybody how far we got."

Mr. Regan made these remarks in a lunch at the Wall Street Journal's Washington bureau yesterday, one of dozens of sessions with the media this week, most of which he initiated. And Secretary of State George Shultz yesterday went on a whirlwind selling job in New York, meeting with top news executives of the three television networks, the New York Times and this newspaper.

IMPLICATIONS FOR POLICY

The upshot is that the Reagan White House has taken a potential political and policy disaster and turned it into a near-term triumph. This may have substantive policy implications, in that initially it appeared the president would be under heavy pressure at home and from European allies to go back and make concessions to get a deal with the Soviets. It's now clear, however, that won't be the case at least in the short run.

Instead, the public appears to strongly support the president's decision to reject a Soviet offer to make deep reductions in long-range and intermediate-range nuclear weapons in return for severe constraints on the development of the futuristic SDI.

Whether this public support actually translates into Republican gains in the congressional elections in less than three weeks is less certain. Democrats insist it won't. Yesterday, House Speaker Thomas O'Neill (D., Mass.) said it would only have a "relatively small" effect, and Rep. Tony Coelho (D., Calif.), who runs the Democrats' House campaign committee, said he has gotten only seven inquiries from candidates about how to handle the summit issue.

But top GOP political strategists, who only three days ago saw political peril, now see possible gains. Yesterday, campaigning for Maryland Senate candidate Linda Chavez, the president charged it would be a "terrible tragedy" if congressional Democratic critics cut funds for the Strategic Defense Initiative, popularly known as Star Wars, and "hand over to the Soviet Union free of charge what we refused to hand over across the negotiating table in Reykjavik."

Privately, top Republican politicians are considering trying to make the summit and support for Star Wars an important national theme in the closing days of this campaign. Yesterday, in another White House-arranged session with reporters, Richard Wirthlin, the president's pollster, suggested Mr. Reagan will "talk about the summit as he continues to campaign" and that, this will help Republican candidates.

To be sure, the poll was taken only a day after the president's nationally televised address Monday night, and thus some drop-off in support seems inevitable. But the Reagan support starts from a high base.

RELATIONS WITH SOVIETS

By better than 4-to-1 margins, the Wall Street Journal/NBC News poll shows the public approves of the president's actions at the summit. Support for the way he handles relations with the Soviets showed a modest but significant rise from pre-summit levels; 60% of the public believes that as a result of the summit, relations with the Soviets will stay the same, 26% think relations actually will get better and only 9% think they'll get worse.

The president's Star Wars initiative also fares well in this survey. Fully 60% say they favor the development of Star Wars, with only 26% in opposition. Further, 53% of the public think it's important to elect members of Congress who'll back the president on Star Wars.

It appears, however, that the public isn't as optimistic as the president about the political benefits of his antimissile defense research program. Mr. Reagan contends Star Wars can make nuclear weapons obsolete, but according to the Wall Street Journal/NBC News poll the public, by a 58% to 23% margin, rejects that contention.

'EXTRAORDINARY GAINS'

The reversal in White House psychology was dramatically evident in Donald Regan. On Sunday, after the summit ended, the White House chief of staff angrily assailed the Soviets, charging the outcome "shows them up for what they are." But at lunch yesterday he confidently spoke of the "extraordinary gains" made in last weekend's negotiations and suggested "this period is really a pause or an interlude in the negotiations."

Separately, White House communications chief Patrick Buchanan crowed that the extraordinary public-relations effort "is working. It doesn't have to be all that complex. The average guy doesn't know about INF (intermediate-range nuclear forces). All he knows is that the Russians wanted us to give up SDI, and Dutch Reagan said blankety-blank, no way. That's the level it's on for the average guy.

"By the end of the week, it's going to be the Triumph of Reykjavik," Mr. Buchanan predicted.

Certainly, the administration is sparing no effort toward that goal. Even the stolid, secretive National Security Adviser John Poindexter has been trotted out from one media event to another. Coming home from Iceland on Air Force One Sunday night, he briefed reporters for more than an hour; on Tuesday he held sessions with two more groups; and yesterday he appeared on NBC's "Today" TV show and gave an interview to a group of British, French, German, Turkish and Norwegian TV stations.

"Hey you know," Donald Regan cracked, noting Adm. Poindexter's new high profile, "a star is born."

[From the New York Times, Oct. 16, 1986]

FIRST REACTION: POLL SHOWS ARMS-CONTROL OPTIMISM AND SUPPORT FOR REAGAN

SUMMIT AFTERMATH: WHAT THE PUBLIC THINKS

(By Adam Clymer)

The American public's initial reaction to the Reykjavik summit meeting is quite supportive of President Reagan and very optimistic about the future of arms control, a New York Times/CBS News Poll shows.

But there was no indication in the survey that this support had translated into advantages for Republicans in the November elections. Voting preferences among the 767 Americans interviewed by telephone Tuesday and on Wednesday morning were unchanged from the views of those same respondents two weeks earlier.

Public reactions may deepen or swerve as the issue is debated, but the survey suggested that Mr. Reagan had, at the least, put his stamp on the first impressions in the mind of an American public that rarely focuses intently on foreign-policy issues.

The poll was conducted as Administration officials, after President Reagan's nationally broadcast speech Monday night, have been offering their view of events through dozens of newspaper and television inter-

views in what they describe as one of their most intense public-relations campaigns.

REAGAN POPULARITY REPORTED UP

Yesterday, continuing that effort, Secretary of State George P. Shultz visited the New York Times, and Richard B. Wirthlin, Mr. Reagan's poll taker, said overall approval of Mr. Reagan's handling of his job had jumped from 64 percent among 1,000 people interviewed Oct. 9 and 10 to 73 percent among 500 interviewed on Oct. 14.

In the Times-CBS News Poll, 44 percent said the blame for the failure of the meeting to produce an arms-control agreement rested on Mikhail S. Gorbachev, the Soviet leader, and only 17 percent blamed both, 4 percent neither and the rest had no opinion. The poll had a margin of sampling error of plus or minus four percentage points.

Moreover, only 20 percent said the President "should have given up the Strategic Defense Initiative—'Star Wars'—in order to get Gorbachev to agree to a big reduction in Soviet and U.S. nuclear weapons," while 68 percent sided with Mr. Reagan and said he should not.

OPTIMISM ON ARMS ACCORD

The most striking single comparison with past surveys emerged from the answers to the question: "Even though no agreement was reached at the Iceland summit, do you think that meeting will eventually lead to real arms-control agreements, or not?

Fifty-seven percent said such agreements would result, and 31 percent said they would not.

Past Times/CBS News Polls, including those taken around the summit meeting last November in Geneva, had never found more than two Americans in five optimistic. In January 1986, 41 percent said the Geneva meeting would lead to agreements, and 47 percent said it would not.

Another important comparison showed 72 percent approving of Mr. Reagan's handling of relations with the Soviet Union, up from 61 percent in a Sept. 28-Oct. 1 Times/CBS News Poll. Approval by women increased very sharply, from 58 percent in the earlier poll to 69 percent in this one.

Although the public blamed Mr. Gorbachev much more than Mr. Reagan for the outcome in Reykjavik, its confidence in the Soviet leader's desire for arms control was unchanged. In the poll two weeks ago, 33 percent said they thought he "wants an arms-control agreement enough to make real concessions to the United States in order to get it." This time, 34 percent said that.

But the poll clearly indicated that the public support and optimism were making no difference yet in the November election races. Asked if they preferred or leaned toward the Democrat or Republican House candidate in their district, prospective voters in the sample divided, 48 to 46 percent, for the Democrats. Two weeks ago, this same group preferred Democrats, 47 to 46 percent; the difference is not statistically significant.

And although 12 percent of the probable electorate said yes when asked if the events in Iceland would "make a difference in how you vote this fall for Congress," among that group only 3 percent, or 15 individuals, reported a different voting intention than they offered two weeks earlier. Five were switching from Republican to Democrat, and five from Democrat to Republican; two went from Republican to "don't know" and two from Democrat to "don't know" or other, and one went from "don't know" to Republican.

The respondents were also asked which party they would like to see control the Senate. The prospective voters divided, 47 to 42 percent, for the Democrats. The entire probable electorate in the Sept. 28-Oct. 1 poll preferred the Democrats by only 43 to 42 percent, and the particular respondents who were reached in the poll this week had wanted a Democratic Senate by a margin of 45 to 41 percent. For these respondents there was thus no statistically significant change.

FOREIGN AFFAIRS OF LITTLE INTEREST

Two key reasons for what was apparently the lack of political impact was measured in questions asked in the earlier poll. When asked if the main reason for a vote for a House candidate was a national issue, a state or local issue, the candidate's character or experience, only 5 percent of the probable electorate gave answers related to foreign affairs or the military. Even when asked what was the most important problem facing the nation, only 30 percent gave such answers.

Still, this issue, and the intense publicity it is getting, has a political potential because of the breadth of support for Mr. Reagan.

In almost all population groups, more than twice as many blamed Mr. Gorbachev as blamed the President for the lack of an agreement in Reykjavik. Blacks, however, were about evenly divided. But 39 percent of Democrats, for example, blamed the Soviet leader, and only 22 percent of them blamed Mr. Reagan.

The poll also demonstrated continued, and perhaps stronger, confidence in the Strategic Defense Initiative, or "Star Wars" plan. Sixty percent said they believed it was likely to work, while 21 percent said it would not. When a similar question was asked before the Geneva summit meeting, 58 percent said the system was likely to work but 27 percent said it would not.

The belief that the Iceland meeting would eventually lead to real arms agreements also did not vary greatly among different groups. Republicans (62 percent of whom believed) and college graduates (65 percent of whom did) were most optimistic. Blacks and those with less than a high school education or family incomes under $12,500 a year and those who live in small towns were least optimistic, although in all those groups more respondents expected an eventual agreement than did not.

A majority said they felt Mr. Reagan wanted arms control enough to make concessions to the Soviet Union to achieve it. Fifty-three percent felt that way, and 37 percent disagreed.

Along with the question that found that 34 percent believed Mr. Gorbachev wanted an agreement enough to make concessions, the survey found that 51 percent of the public said that both leaders were equally interested in negotiating an arms pact. Thirty-five percent said Mr. Reagan was more interested, and 9 percent said Mr. Gorbachev was. All three groups were about equally optimistic about an eventual agreement.

HOW THE POLL WAS CONDUCTED

The latest New York Times/CBS News Poll is based on telephone interviews conducted Oct. 14 and 15 with 767 adults around the United States, excluding Alaska and Hawaii.

The people who were called were randomly selected from two-thirds of the 1,525 people interviewed in a poll conducted from Sept. 28 to Oct. 1, a process that permitted precise examinations of shifts in opinion. The earlier 1,525 were called from a sample of telephone exchanges selected by a computer from a complete list of exchanges in the country. The exchanges were chosen so as to insure that each region of the country was represented in proportion to its population. For each exchange, the telephone numbers were formed by random digits, thus permitting access to both listed and unlisted residential numbers.

The results have been weighted to take account of household size and number of residential telephones and to adjust for variations in the sample relating to region, race, sex, age and education. Some election-related findings are reported in terms of an overall "probable electorate," which uses responses to questions dealing with voter registration, past voting history and the likelihood of voting in 1986 as a measure of the probability of particular respondents' voting in November.

In theory, in 19 cases out of 20 the results based on such samples will differ by no more than 4 percentage points in either direction from what would have been obtained by interviewing all adult Americans registered to vote. The error for smaller subgroups is larger. For example, for men or women, the margin of sampling error is plus or minus five percentage points.

In addition to sampling error, the practical difficulties of conducting any survey of public opinion may introduce other sources of error into the poll.

[From the USA Today, Oct. 16, 1986]

POLLS GIVE REAGAN HIGH REYKJAVIK RATING

The White House is touting polls that show its public relations blitz on the Reykjavik summit is paying off. "The more people know about what happened in Iceland, the more they support the president," said Reagan's pollster, Richard Wirthlin. His numbers: Reagan's approval rating—64 percent before the summit—jumped to 73 percent Tuesday; 75 percent think Reagan's Strategic Defense Initiative ("star wars" missile defense system) is a good idea, 23 percent say it's a bad idea. It was 62- to 36-percent approval before the summit. Other polls:

41% say summit was a failure, 30% say it was successful; 55% support SDI—Business Week/Harris Poll.

44% blame Soviet leader Mikhail Gorbachev for no agreement, 17% cite Reagan. 68% agree Reagan shouldn't give up SDI for big reductions in nuclear weapons, 20% disagree—CBS New/New York Times.

64% approve of Reagan's handling of summit; 22% disapprove—ABC News/Washington Post.

[From the Washington Post, Oct. 16, 1986]

REAGAN UNDAMAGED BY SUMMIT

(By John M. Goshko)

More than 60 percent of Americans approve of President Reagan's handling of relations with the Soviet Union, including his stance at the Reykjavik summit, according to a Washington Post-ABC News poll. But 49 percent also believe that he could do more to further nuclear arms control.

The poll, conducted Tuesday, indicates that the failure of Reagan and Soviet leader Mikhail Gorbachev to break the arms-control impasse will not significantly affect the Nov. 4 congressional elections.

Of those polled, 78 percent said the summit would make no difference in how

they vote, while 10 percent said they were more likely to vote Democratic and 9 percent said the summit was likely to turn them toward the Republican column.

Poll results were based on 768 interviews in different parts of the country, and their accuracy is subject to a variation of 4 percentage points in either direction.

The poll showed that 64 percent approved of Reagan's handling of the summit, while 22 percent disapproved. Similarly, 55 percent backed his decision not to accept limits on the Strategic Defense Initiative, with 16 percent dissenting and 27 percent saying they did not know enough about the space-based missile defense to have an opinion.

Responses to other questions directly related to the summit showed that 53 percent believe that Gorbachev was more to blame for the failure to reach an arms accord, while 16 percent said Reagan should be blamed.

Reagan was described as the better negotiator by 55 percent, while 15 percent said that distinction belonged to Gorbachev and the other respondents either had no opinion or said the leaders demonstrated equal negotiating ability.

In assessing the impact of the summit's failure to produce an agreement, 55 percent said the fact that Reagan and Gorbachev came close was a step forward, but 36 percent described it as a step backward.

The poll gave Reagan an approval rating of 62 percent for his overall handling of U.S.-Soviet relations, and 74 percent said they believe that the president seriously seeks progress in arms control. These figures were relatively consistent with Reagan's ratings on the same questions in other polls over the last year.

But the question of whether he has done as much as he should to limit nuclear arms buildups caused a sharp division among respondents, with 49 percent saying he has not and 42 percent endorsing his accomplishments. Other polls taken periodically since 1982 have reflected a similar division.

The poll indicated that 44 percent think Gorbachev wants arms-control progress, while 47 percent suspect his motives. Eleven months ago, a Washington Post-ABC News poll showed 56 percent believing that Gorbachev was sincere about arms control, while only 35 percent mistrusted him.

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SENATOR GARY HART

Mr. DOLE. Mr. President, I wish to make a statement on another one of my neighbors, another one of my colleagues, in fact, a colleague who was born in Kansas, who may be spending his last week in the Senate—he is retiring—Senator GARY HART.

Senator HART has taken unique approaches in dealing with many of the pivotal issues of our time. While some are willing to rely on well-worn solutions to our problems, GARY has had the courage to explore and offer new solutions. Whether it was military reform, arms control, or education, Senator HART has provided this body and the Nation with food for thought.

Success in this institution should not be measured merely by the number of bills passed. There is success in prodding Members to looking at new and different directions, and that Senator HART has done time and time again.

I look forward to hearing about and from Senator HART in the coming months. Who knows, two native Kansans may just happen to bump into each other on the road to 1988. The other Kansan, of course, being Senator KASSEBAUM. [Laughter.]

But, in any event, I say to my friend and my neighbor from Colorado, and a native born Kansan, I again say with pride, that I wish Senator HART well. He is a man of great wisdom, integrity, and character. Whatever he may do, I wish him almost complete success. [Laughter.]

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The able and distinguished acting Democratic leader, Senator PROXMIRE, is now recognized.

WHY SDI WILL WEAKEN THIS COUNTRY'S MILITARY STRENGTH

Mr. PROXMIRE. Mr. President, if this Congress decides to go ahead with the strategic defense initiative [SDI] or star wars, how much will it cost? And where is that money coming from? The testimony before the Appropriations Committee has produced not even a ballpark estimate of SDI costs from the administration. Their answer when asked is that they don't know what the cost will be.

Mr. President, in my 25 years on the Appropriations Committee I can recall no other major program—none—where an administration called for a major program, secured billions of dollars of appropriations for it and could not even give a rough estimate of how much it would cost to complete. It is even worse that the committee has permitted Congress to get away with this.

General Abrahamson, the Director of SDI, has told the Appropriations Committee that it is "too early to tell." Defense Secretary Weinberger has said that it will be some time before the administration can make a judgment on the extent and even the nature of the strategic defense initiative. That will be essential to any useful judgment on the project's cost. And yet Secretary Weinberger insists that SDI will be a nationwide defensive system designed to protect our cities and the great bulk of our population. The Secretary has repeatedly denied that SDI will be scaled back to simply provide protection for our missile sites and command centers. Mr. President, this is outrageous. Our taxpayers have every right to know how much SDI can be expected to cost. The Congress is appropriating $3½ billion for research for SDI for the fiscal year that began October 1. That brings SDI costs to more than $9 billion already appropriated and we still don't know where we are going with this project or what the ultimate cost will be. We do know we will be called on by the administration to appropriate sharply increasing sums in coming years. This money will be largely wasted if the Congress determines 5 or 6 years from now that the tens of billions required every year is simply too much.

So if the administration draws a blank, where can the Congress go to get some notion of what this burden is likely to be? The Appropriations Committee has turned to former Defense Secretaries as military experts and to outstanding scientists. How do they estimate the cost? Former Secretaries Schlesinger, Brown, and McNamara have weighed in at about a trillion dollars. The magazine Physics Today representing the experts in the most relevant scientific discipline for SDI estimates the cost at $2 trillion. Former Defense Secretary Brown who is a world class physicist and who has served as the Director of the Livermore Weapons lab where much of the advance work for SDI has been done has given us a further insight into the cost of SDI. He estimates that the perpetual annual cost of maintaining and modernizing star wars after we deploy it will range from $100 to $200 billion per year in 1986 dollars. So we might expect to spend roughly one-third or more of the defense budget per year to keep star wars operating.

Now, Mr. President, all of us in the Congress are well aware of the great pressure to hold down spending. In the past year the pressure has been especially strong to hold down military spending. So where would this $100 to $200 billion per year come from? Isn't it obvious? It almost certainly would come from other military spending. This would mean a roughly one-third slash in spending for the Army, Navy, and Air Force. It would require a sharp reduction in our military personnel. It would mean we would have to forgo the dream of a 600- or even a 500-ship Navy. We would have to scrap our plans to modernize and improve our submarine fleet. It would mean no new aircraft carriers. We would curtail our plans to improve our fighter planes and bombers. We would have to cut back the advanced weapons for our Marines. A proportionate allocation of the one-third cutback would knock out a third of this country's military bases. We would have to withdraw a large segment of our military forces from the NATO command in Europe. We would cut severely into the funding of our vital National Guard and Reserve Forces. Is there any doubt that overall we would have to weaken this country's military force and severely

weaken it? And we would have to do all of this without any corresponding reduction in the military capability of our prime adversary—the Soviet Union?

Mr. President, previously this Senator asserted on the floor of the Senate that Secretary Gorbachev might very well want the United States to proceed with SDI. Why? Because he knows that he can almost certainly overwhelm it and because he knows that SDI will weaken this country's overall military capability. Mr. President, anyone who has served in this Congress long enough to know what a fiscal bind we are in, anyone who knows the pressure the Congress is under to cut costs, anyone who understands how that pressure will concentrate on holding down military spending, must know that, whether Mr. Gorbachev knows it or not, we will serve the interests of the Soviet Union and disserve the interests of our country if this Congress insists on moving ahead as the administration has asked us to do with SDI.

MYTH OF THE DAY: REHNQUIST COURT WILL BE DIFFERENT

Mr. PROXMIRE. Mr. President, the myth of the day is that the new "Rehnquist Court" will somehow be radically different from its predecessor, the "Burger Court."

This is a myth, pure and simple. Those who propagate this myth are overlooking two basic facts.

First, William Rehnquist has been a member of the Supreme Court for many years. He is not a new arrival on the Court. He has been handing down decisions over the years, and the direction and substance of his views are well known.

Will Justice Rehnquist's views suddenly change now that he has been elevated to the position of Chief Justice of the United States? No. We can logically expect the Rehnquist positions and opinions to remain basically the same, regardless of the fact that he is now the Chief Justice. As a result, there will be no radical change brought about by the movement of Justice Rehnquist to fill the post of Chief Justice. Things will remain pretty much the same on that score.

Second, how about Judge Scalia as a substitute for Warren Burger on the Supreme Court? Here again, little change in the Court's direction can reasonably be anticipated. After all, Judge Scalia comes to the Supreme Court with a well-known background. He has a track record, and it shows that he is and will very likely remain a conservative jurist. Exactly the same can be said regarding the recently departed Chief Justice, Mr. Burger. Once again, there is what might be called an even exchange: Scalia for Burger, one conservative for another.

So, what we have here, Mr. President, is a Supreme Court that will simply give us more of the same. Mr. Rehnquist is still there, and he will be handing down decisions that follow a well-worn path. He represents a constant. And, in getting Justice Scalia and losing Chief Justice Burger, we are simply getting one conservative in lieu of another conservative.

In view of these facts, Mr. President, those who foresee a radical change in direction on the U.S. Supreme Court are believers in a myth. The Supreme Court, as now constituted, should provide no great surprises.

Mr. LAUTENBERG. Mr. President, is there leadership time available from our side, I ask the Senator from Wisconsin?

Mr. PROXMIRE. I just do not know. May I ask the Presiding Officer, do we now go into a period of morning business with time allotted to Senators?

The PRESIDENT pro tempore. There is morning business specified after the leadership time.

Mr. PROXMIRE. There is no morning business?

The PRESIDENT pro tempore. There is morning business after the leaders' time.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the remainder of the Democratic leader's time be reserved for his use later in the day.

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

ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 9:30 a.m., with statements therein limited to 5 minutes each.

TECHNICAL CORRECTIONS TO THE TAX BILL

Mr. MELCHER. Mr. President, would the majority leader yield to me?

Mr. DOLE. I am happy to yield to the Senator from Montana.

Mr. MELCHER. I thank the majority leader for yielding to me.

I want to tell the majority leader that the difficulty in getting up the technical corrections to the tax bill has been complicated so much by one Senator after another hoping to add some amendment to it. I wanted to make clear to the majority leader and to all other Senators that the amendment that I sought to offer to it, income averaging for farmers, truly a tax proposal, I will offer that amendment to some other piece of legislation that remains before us before we adjourn.

I make that announcement so that all Senators may become aware of that, that if my proposal complicates the procedure of the Senate considering the technical corrections to the tax bill, that at least mine will be removed from that complication.

I well understand a number of Senators whose States are in the so-called bond pool provision of the technical corrections, that it is extremely important to those Senators that this technical correction bill pass. And so, I do not know whether that will free up the consideration of that measure, but at least I will not complicate it.

I understand the Senator from New Jersey, Senator BRADLEY, late yesterday evening entered an objection if my amendment were to be considered, which seemed to ruin the opportunity for unanimous-consent requests to bring it up at this time today.

□ 0920

If I had known about the Senator from New Jersey's objection earlier, I would have taken this step earlier so that the work of the Senate would not be complicated; as complicated as it is.

Mr. DOLE. Mr. President, I want to thank the distinguished Senator from Montana. I know this will be good news to the distinguished chairman of the Finance Committee as well as the distinguished ranking member, Senator LONG, and others. This will, I think, make it possible to obtain the agreement, and it is an indication that the Senator from Montana, and many other Senators have decided they would like to put an amendment on there but if they do that they are going to torpedo a number of other amendments that have been considered that mean a great deal not just to Senators but to their States. I am advised there are 31 States—I do not know if there are 31—that are affected by this little concurrent resolution.

So I would encourage Senator PACKWOOD maybe to come back to the floor after a while and renew his unanimous-consent request. I again thank the Senator from Montana for his thoughtfulness.

FURTHER CONTINUING APPROPRIATIONS, 1987

Mr. DOLE. I wonder if we might be able to act on the short continuing resolution.

Mr. BYRD. Yes.

Mr. DOLE. I thank the distinguished minority leader. I ask unanimous consent that the Senate now turn to the consideration of House Joint Resolution 753, the continuing resolution extension which is at the desk.

The PRESIDING OFFICER (Mr. MURKOWSKI). Is there objection? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 753) making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes.

There being no objection, the Senate proceeded to the consideration of the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 753) was ordered to a third reading, was read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution of October 11, 1986 (Public Law 99-465) is hereby amended by striking out "October 15, 1986" and inserting in lieu thereof "October 16, 1986".

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

Mr. DOLE. Let me indicate that this expires at midnight tonight. It will be delivered to the President for his signature before noon. The Government will continue to function as smoothly as in the past.

SCHEDULE

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

Mr. DOLE. I am happy to.

Mr. BYRD. I wish to ask the majority leader as to how he sees the operation of the Senate today, what the schedule is going to be, how late he would expect us to be in, and what he sees for tomorrow.

Mr. DOLE. I was asked earlier by someone in the press if we would finish today. I doubt it. It seems to me we might be able to do the immigration conference report this morning; the clean water conference report I understand will soon be available. Hopefully we can go to the technical corrections that Senator PACKWOOD has an interest in doing. I think all of those can be done very quickly. Then we would move to the main event today, which would be the continuing resolution conference report which has arrived. I do not know precisely how many amendments there will be in disagreement. As I understand, there are four that are amendable. So we could make some pretty good time today. That would leave reconciliation, and debt limit. That is all we would have left. There is a glimmer, at least.

I understand, again, the Speaker would like to finish this evening. They still have the debt limit and reconciliation. We have the continuing resolution, debt limit, reconciliation, water, and immigration. But I do not believe any of those will take a great deal of time.

Mr. BYRD. What is the outlook for the signing of the Superfund bill?

Mr. DOLE. I have been urging the White House to do that. I have been suggesting to the White House, and I have been helping circulate a letter which would indicate to the President that if he would sign the Superfund there would not be an effort here next year to come back and again raise the ante by raising additional taxes because there are some people in the business, the oil business, chemical business, and business in general who feel they have been taxed about enough.

I hope to be able to demonstrate that there is some bipartisan support for that effort, and I believe if we could deliver a letter to the President, with a pretty good number of signatures, that would give him the encouragement to sign the bill.

Mr. BYRD. May I also add a note that I am urging the majority leader on the other side of the Capitol not to send over the adjournment resolution until Tuesday so that the Congress will be around in the event the President pocket-vetoes that bill, unless in the meantime we would get some assurances from the White House that that bill will not be pocket-vetoed.

The bill has passed both Houses by wide majorities. It is much-needed legislation. I hope we can get that assurance from the White House so that when we complete our other work we would not have to stay around. I share the majority leader's feeling that we do not want to come back next year and revisit this matter with higher taxes, but I also feel that it is incumbent upon us to do everything we can to see that this bill is enacted into law, it having passed both Houses by great majorities. It is very much needed, I think. I can speak for my own State and the chemical companies therein. I would hope we could get that assurance from the White House.

Mr. DOLE. I would hope the bill would be signed. I am going to work very hard today on the letter. I hope to have Republicans and Democrats. It does not bind anybody. It just indicates, we believe, the level of funding is not going to be increased by more taxes. I have had some Democrats who indicated they will sign the letter.

So, I think, if we want the President to indicate his good faith, maybe we could show that we believe this is a good bill, it ought to be signed, and we are not about to, and we are willing to restrain ourselves on raising taxes.

Mr. BYRD. The majority leader feels, does he, there is a good likelihood that the Senate will still be in tomorrow?

Mr. DOLE. I would rather err on the side of being cautious. I would say yes.

Mr. BYRD. I thank the majority leader.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I would like to extend morning business. I think it is until 9:30.

The PRESIDING OFFICER. The leader is correct. Morning business is until 9:30.

Mr. DOLE. I ask unanimous consent to extend morning business until 10. I know there are some speakers who have not spoken. I have been asked by the Senator from Delaware if he might have 15 minutes if the minority leader has no objection.

The PRESIDING OFFICER. Without objection, morning business will be extended until 10 o'clock.

Mr. DOLE. We will reserve the time.

Mr. ROTH addressed the Chair.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I would ask if my colleague from Delaware would allow me about 5 minutes, Mr. President, if there is no objection.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. I thank my colleague from Delaware, the majority leader, and I thank the minority leader for his views on the Superfund bill.

SUPERFUND

Mr. LAUTENBERG. Mr. President, the fate of Superfund still hangs in the balance, as we await action by the President.

The Senate passed the conference report by 88 to 8. The House by 386 to 27. Industry, labor, public health, and environmental groups have rallied behind the bill. Eighty-one Senators joined in a letter to the President urging him to sign this historic legislation. And public opinion polls consistently show that an overwhelming majority of the public is committed to toxic waste cleanup.

After almost 3 years of work, Congress has crafted a Superfund bill that will get the job done, and which is supported by a broad cross section of interests in this country. This consensus did not come easily. Literally thousands of hours of work went into this bill. It was considered by eight committees in the House and Senate.

Yet we have heard that President Reagan is being advised by some to veto the bill. With such an action the President would be turning his back on the environment. Rejecting new,

tough cleanup standards; community right to know requirements; protection from radon; citizen suits; a leaking underground tank program; and many other breakthroughs in the bill that is sitting on his desk.

Mr. President, I hope that President Reagan will sign this bill. But, we are running against a clock. If the President wants to try and wait the Congress out, and pocket-veto this bill, he just needs to delay action until we adjourn, if we adjourn today or tomorrow, or even Saturday. This, Mr. President, would be unacceptable, in my judgment.

So, Mr. President, I want to reiterate that there is another option on Superfund. And, that is to stay in session long enough to override a veto. I know that suggestion will not be welcomed by some. All of us have canceled visits with our constituents as the session has dragged on. I know that everyone here would like to finish our work and go home. But, if the President decides to wait out the Congress, then I think we have no choice but to wait out the President.

Last week, 55 of our colleagues joined me and Senator CRANSTON in a letter to the majority leader asking that the Senate be accorded the opportunity to override a potential veto. The Democratic caucus agreed on Tuesday that, if necessary, we should follow such a course of action.

Also on Tuesday, the Democratic leadership in the House announced its intention to stay in session long enough to prevent a pocket veto, by staying in session until the President takes action on the bill. My understanding is that, under the Constitution, the Senate cannot adjourn sine die until the House does. So, the decision by the House leadership should assure that the Senate would stay in session, as well, if necessary, to vote on a veto override. It would be a comfort to know that our leadership is in accord with that recommendation.

Mr. President, I believe the Senate has no choice. We are here to do the work of the people. It would be unconscionable to walk away from this bill. Already we have 900 sites on the national priority list, 99 of which are in my home State of New Jersey. Estimates suggest that there may be as many as 10,000 abandoned toxic waste sites. They threaten the air we breathe, our soil, our ground water. They scar our Nation and jeopardize the health of our citizens.

And while the cleanup tasks ahead continue to mount, the very means of taking on the challenge—Superfund—is dying a slow death. EPA sent termination notices to cleanup contractors on October 1. And the agency will be forced to cancel remedial work at over 100 sites across the Nation in 2 weeks, if Superfund is not reauthorized.

The time has come to put our shoulders to the wheel. To push forward with an historic new program of toxic waste cleanup. To tell people across the Nation that this Government is committed to protecting them, their children, and their grandchildren from the insidious threats of toxic waste sites.

This is what Superfund is all about. This is what is at stake. That is why I hope the President will sign the bill. But, if he chooses to veto it, that is why the Congress should be here to override that veto.

We cannot adjourn, we cannot go home, until we take final action on a strong and reauthorized Superfund. This Nation deserves no less.

Mr. President, I yield the floor. I ask unanimous consent that three editorials recently appearing the Camden Courier-Post, the Bridgeton Evening News, and the Central New Jersey Home News, be printed in the RECORD following my remarks.

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

[From the Camden Courier-Post, Oct. 13, 1986]

THE LAST HURDLE FOR SUPERFUND

Ronald Reagan, back from the summit that wasn't a summit, has waiting for his signature the Superfund bill that may never be. Mr. Reagan has been urged to veto the legislation by Treasury Secretary James A. Baker and budget director James Miller. Rather than be persuaded by Jimmies-come-lately to the Superfund debate, Mr. Reagan should give careful attention to the advice he is getting from Senate Republicans.

"I hope the president and presidential advisers will study the bill carefully, and I hope that it will be signed and not vetoed," said Senate Majority Leader Robert Dole. Added Wyoming Republican Alan Simpson during floor debate in the Senate Oct. 3: "I think it would be a very bad mistake if the president of the United States were to veto this."

Indeed, if only from a partisan perspective, the president's veto would be a major political blunder. Twenty-two of 34 senators up for re-election are Republicans, and the GOP leadership concedes that the going will be tough for some of them, as it always is for the majority party in mid-term elections. Those senators will have to explain to their constituents why Mr. Reagan scuttled the Superfund and with it their best chance to get toxic waste dumps in their state cleaned up. The Senate's 88-8 vote for the expanded $9-million Superfund suggests that senators of both parties prefer to confront the voters with a "yes" vote recorded on the major environmental issue to come before this Congress.

Mr. Reagan might also pause to consider the bipartisan efforts that went into building the unique coalition that supports the Superfund bill. It includes the Chemical Manufacturers Association and environmental groups such as the National Audubon Society. None of the supporters is absolutely satisfied with the bill, and that in itself is testimony to the compromise that it represents.

The administration's objections to the Superfund center around its size—too big to be effectively managed, detractors say—and the inclusion of a broad-based tax that will require industries other than petroleum and chemicals to pay a share of the cleanup. Neither objection stands up to scrutiny. The $9 billion, to be spend over five years, is not too much considering the hundreds of sites that need attention; and the broad-based tax is simple recognition not only of the need for equitable tax policy but also of the fact that cleaning up the nation's worst dumps is everyone's problem.

Mr. Reagan won't decide the fate of Superfund with New Jersey uppermost in his mind, but should he veto, he should be aware that this state, with the most sites on the Superfund list, will lose the most. Work already begun under the original Superfund will stop. Once it does, it won't simply be a matter of starting again. Contractors, EPA employees, complementary state programs—everything that has been set in place to attack toxic waste—will fall apart, as will the political compromise on which the legislation is based. By time the pieces are picked up and put back together, toxic pollution will have won another round.

[From the Bridgeton Evening News, Sept. 29, 1986]

RENEW SUPERFUND

Let's save the Superfund that was originated to clean up scores of hazardous toxic waste sites, many of them in New Jersey.

Congress must act on legislation to continue the Superfund before the end of next month or it will cost millions of extra dollars to terminate it and to get a new bill passed next year, according to Environmental Protection Agency chief Lee Thomas.

If the fund dies for lack of continuing legislation and appropriation of funds, Thomas says that as many as 1,500 EPA employees may have to be terminated. That will not only be a hardship to them but to the thousands who suffer from the proximity of toxic waste sites to their homes and businesses and could greatly delay implementation of any new efforts at toxic waste removal.

It is proposed that the fund be renewed for $8.5 billion for the next five years. Such sums frighten congressmen in the face of the Gramm-Rudman budget limitations and coming elections but failure to renew the fund may prove a worse threat in states where toxic wastes are a public health threat.

It is just plain stupid to put off the inevitable in such a case. The removal of toxic waste hazards from antiquated dumps is essential and will have to be faced sooner or later. Only a fraction of the needed cleanup has been done and we can't rest until it has all been cleaned up.

Congress must act before it adjourns in October to stump for re-election or the fund will automatically terminate. It must be renewed. Waiting to enact a new toxic waste dump cleanup law next year will both increase the hazard and the cost.

Time is running out and with it the public's patience.

R.E.B.

[From the Central New Jersey Home News, Oct. 6, 1986]

LAST PUSH FOR SUPERFUND

Now that congressional negotiators at long last have resolved their differences over the reauthorization of the federal Su-

perfund, Americans ought to be able to breathe a sign of relief for a renewed commitment to cleaning up the worst toxic sites in America.

Alas, congressional agreement—which came a year and a day after the original five-year Superfund expired—is not the final hurdle for the program. All along, the Reagan administration has threatened to veto any Superfund renewal financed with a broad-based tax or with a price tag as high as the $9 billion Senate-House proposal. And there is no indication the administration has changed its mind.

It should. The Superfund renewal may not be a perfect bill. It probably calls for a bigger program and more money than the Environmental Protection Agency can spend efficiently and effectively, and it almost certainly is overspecific in its instructions to the EPA on toxic-waste cleanup. Congress has a bad habit of imposing overstrict and unrealistic rules and conditions on environmental legislation.

But the alternative to the compromise congressional bill—a presidential veto or pocket veto that would put the Superfund out of business—is unacceptable.

Congress is making a last push to persuade President Reagan to go along with this Superfund renewal. It can do more than that. It can stay in session long enough to prevent a presidential pocket veto and be prepared to vote a veto override. The Superfund cannot be allowed to shut down.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

NEED FOR A STRONG JAPANESE ROLE IN PHILIPPINE DEVELOPMENT

Mr. ROTH. Mr. President, 3 weeks ago we heard a most moving and an effective speech by President Corazon Aquino, regarding the situation in the Philippines and Filipino-American relations. The American people have followed closely the developments which brought Mrs. Aquino to power for many reasons—the historical and ethnic ties between the Philippines and the United States, our security relationship, but, most importantly, because we admired the dramatic rebirth of democracy almost 15 years after former President Marcos had declared martial law. That the change of leadership ultimately occurred peacefully and that the vast majority of the Filipino people supported a democratic rather than Communist alternative was very gratifying to us. We certainly want to help the new Government and the Filipino people, but our means are limited. I believe that we should seek a strong joint approach with the Japanese to assist the Philippines.

As President Aquino pointed out in her speech before this body, the struggle for freedom in the Philippines did not end with the flight of Mr. Marcos and the restoration of civil liberties. All of us in politics know that it is easier to "kick the bums out" than it is to design meaningful alternative programs and carry them out effectively. The new leadership has faced and continues to confront a variety of acute challenges. The viability of what must be regarded as a fledgling democracy in the Philippines depends on the new Government's success in dealing with the growing Communist insurgency, in working out acceptable arrangements with Muslim and tribal ethnic minorities, in rooting out corruption, in providing more effective delivery of Government services, and above all in restoring economic growth and improving standards of living in both urban and rural areas. Since 1983, there has been negative economic growth in the Philippines, while population has continued to grow. Many desperately poor Filipinos will be loyal to whatever government offers the best prospect of a decent livelihood.

The challenges facing the Philippines are long term, but the time available to President Aquino to begin making significant progress may not be that long. That is the reason she made an early visit to the United States. She realizes that the challenges facing her government must be basically solved at home, but she also knows that the Philippines needs the help of its friends abroad. If she, with our support, can offer a clear strategy for the long-term growth of the Philippines and begin to implement it, she will have taken a major stride in consolidating the democratic revolution she began.

The United States is responding generously to the Philippines' needs. We have humanitarian concerns and important political, strategic, and economic interests in the Philippines. Aside from governmental assistance programs, under which millions of dollars have been committed in economic and military assistance already this year, other resources are flowing from the United States to the Philippines under private auspices. These include spending by United States-based foundations, contributions by charitable and religious organizations, and individual remittances to friends and relatives in the Philippines. This public and private response comes at a time when the United States is facing enormous deficits in the Federal budget and in its current balance-of-payments account with the rest of the world.

There is another developed country whose stake in the Philippines is equal or greater to that of the United States; this is Japan. Japan and the Philippines are among the very few democratic nations in Asia. Japan is the Philippines' second largest trading partner. The vast majority of Japan's petroleum and many other raw materials pass through the South China Sea between the Philippines and Vietnam. Economic progress, the evolution of democratic institutions, and political stability in the Philippines will make a major contribution to the East and Southeast Asian political, economic, and security environment so important to Japan's own security and growth. If democracy fails in the Philippines and the Communists ultimately come to power, Japan's economic lifeline to the Middle East and Europe might be flanked by Soviet bases on both sides. Many in the Japanese Government recognize their country's stake in the success of the Aquino government, and Japan is currently providing more foreign economic assistance to the Philippines than does the United States. Aside from its aid, however, the Japanese role is more limited. For example, private foundation activities, markets for Philippine manufactured goods, new Japanese investments, and educational opportunities for Filipino students in Japan, are not well-developed.

Japan's role in the Philippines should be regarded as an important test of Japan's ability to assume increased international responsibilities and contribute to the comprehensive security of free countries in the Asia-Pacific region. The external requirements of the Philippines are principally economic in nature, and the Japanese have long argued that they can best assist free world security through economic means. I hope that Japan will design a special and generous policy toward the Philippines to help that country recover economically and thus contribute to political stability and the strengthening of Philippine democracy.

This policy should go beyond foreign aid. There are frequent calls by Japanese and other Asians for a Japanese "Marshall plan" for this or that country or countries, and these frequently place too much stress on the foreign aid, and forget that even the original Marshall plan was not simply a United States foreign aid program for Europe, but also involved the development of regional institutions and European plans of self-help and cooperation. Indeed too great a stress of foreign aid can be detrimental when projects are not well thought out and aid leads to corruption and cynicism.

The biggest foreign exchange earner for the Philippines as for most developing countries is exports. Japan has been a good market for Filipino raw materials and primary products, but it is a small market for Filipino manufactures. As manufactured goods have become an increasingly large share of Philippine exports, Japan's share of Philippine exports have dropped from almost 40 percent in the early 1970's to only 20 percent today. The Philippines and other Southeast Asian nations face major barriers to marketing their products in Japan, a problem Japan is only beginning to address.

Japan should regard the Philippines as a priority country in its foreign

policy and develop a comprehensive strategy of help in aid, trade, investment, technical assistance, and education. It seems to me that it makes a lot of sense if that strategy evolves in close collaboration and consultation with not only the Philippines, but also with the United States. Japan and the United States are the Philippines' main external partners. Coordination by these two partners on external assistance programs agreed to with Philippines will permit a more effective use of external resources. Moreover, a triangular dialog may contribute to the better flow of communication than separate bilateral dialogs. This may be particularly true in the Japanese-Filipino relationship, where wartime legacies and other factors appear to place a heavy negative psychological load on the relationship. In my judgment, a triangular discussion should involve the private sectors as well as the governments and be carried out in a low-keyed manner, exploring Filipino needs, Filipino domestic policy options, and the kinds of Japanese or American policies that can complement Filipino policies.

□ 0940

Some Filipinos may fear that a triangular dialog would reduce their bargaining power with the two economic giants. This dialog would not substitute for bilateral negotiations or more multinational efforts involving the international financial institutions, but be complementary to these discussions. The triangular approach would encourage a more forthcoming policy by the Japanese than would otherwise be the case. Japan still lacks confidence in its foreign policies and the development of a comprehensive policy of support for the Philippines would certainly be sidetracked and delayed by squabbles within the Japanese bureaucracy. A triangular arrangement will not only give the Japanese more confidence, but also provide a continuing source of political pressure for the development of a forthcoming and broad policy direction. Of course, a forthcoming policy will also depend very much upon Filipino progress in understanding domestic policies and policy reforms that ensure the effectiveness of foreign help.

Some Americans also may be skeptical of a triangular approach, fearing that it would be cumbersome and slow down assistance programs that Americans would find more convenient to handle by themselves. I believe, however, that if we want our allies to share burdens as we say we do, we need to develop stronger habits of meaningful consultations and complementary policy arrangements. I also believe that a tripartite program involving Japan as a key factor and the chief financier would provide a stronger basis of political support for the United States program toward the Philippines. Finally, existing programs and shorter term emergency assistance need not wait while we develop a longer term Japanese-United States effort. I would agree, however, that major new support should be carefully planned on the basis of trilateral consultation.

Some Japanese might be fearful that a triangular approach would entangle Japan in bilateral United States-Philippine questions, such as the future of the United States bases. Our triangular approach should be limited to economic development plans for the Philippines, understanding, of course, that successful economic development provides a more favorable climate in which a variety of political and security questions, including the bases, the insurgency, and the minority questions, can be resolved by the party or parties directly involved.

I do not mean to imply that Japan and the United States are not already in touch on the situation in the Philippines. A rather broad dialog on many issues, including the Philippines, is taking place between the two governments, but our efforts are essentially separate, focused on meeting emergency problems such as debt rescheduling, and there is nothing approaching a long-term coordinated strategy to assist Philippine economic development. Such a strategy would provide a basic consensus on policy for the three parties; obviously policy details and implementation must be nationally determined.

The Aquino government offers civil liberties, political participation, and new hope to the Filipino people. The United States and Japan want this government to succeed. Japan has a golden opportunity to help the Philippines and, in so doing, contribute to regional development and security. This would help strengthen its relationship with the United States. I hope, Mr. President, that Japan will join with us and with the Philippines in a historic effort to develop new policies that give maximum opportunity for the Aquino government to succeed and allow the frail plant of Philippine democracy to develop deep and strong roots.

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

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

U.S. EXPORT CONTROLS

Mr. BAUCUS. Mr. President, I have risen repeatedly on this floor to speak about the need to improve America's international competitiveness.

I am concerned that sometimes the issue of competitiveness is just an abstraction—just a collection of generalities, masked in unclear terms like "productivity," "innovation" and "capital costs."

Today I would like to explain what our lack of a clear competitiveness policy has meant to one specific business in the United States. The plight of this company, Silicon Technology Corp., is described in the October 1986, copy of INC. magazine in an article entitled "Kachajian's Rebellion".

The article tells the story of George Kachajian and his fight against the unnecessary and cumbersome export control regulations that burden some of America's most competitive exporters.

Export controls are those regulations governing whether U.S. high technology can be shipped abroad. Export controls exist primarily to protect our national security.

Let us be clear about something from the start. We all strongly support national security. We must restrict some exports to ensure that militarily sensitive technology does not fall into the wrong hands.

But this administration has unnecessarily burdened U.S. exporters who want to sell low-level technology that is generally available throughout the world. And that is undermining our competitiveness.

George Kachajian's story makes this clear. During the 1970's, Kachajian exported wafering saws, which are used to cut silicon chips, to the Soviet Union and Poland. These saws were readily available from Switzerland, so if Kachajian did not sell them, Switzerland would.

In other words, it was not a question of whether these countries would get the saws; it was only a question of whether the United States or some other country would make the sales.

From 1974 to 1980, Kachajian had sold 57 saws to Eastern bloc countries. But in August 1980, the Commerce Department suddenly denied his application for an export license based solely upon redtape and bureaucracy, claiming, however, it was for national security reasons. As a result, the Swiss got the sales Kachajian lost.

But our friend Kachajian did not give up, a testament to the determination of American competitors, despite government roadblocks.

Kachajian generated 1,000 pages of correspondence, made 30 trips to Washington, and spent $60,000 in legal fees. That is $60,000 he could have spent on research and development, but he was forced to spend it on overcoming barriers the Government was erecting to trade.

Because of Kachajian's efforts, the White House finally decontrolled the saws for sale to non-Communist countries, but sales to Communist countries must still get final approval from COCOM.

After 6 years, Kachajian is still unable to sell to the one market he had requested in the first place. Meanwhile, the Swiss are penetrating and monopolizing markets that should be ours. Moreover, they have used their strength to penetrate the U.S. market, eroding Kachajian's sales here.

Mr. President, George Kachajian's story is not unusual. High technology exporters throughout this country each have their litany of horror stories connected with seeking export licenses.

□ 0950

Export controls are justified on the basis of national security. That is important. But is it not time we recognized that economic security is an equally important component of national security?

President John Kennedy once observed that the true strength of a nation was not reflected in its list of weapons but in its balance of trade. We must recognize that maintaining economic strength is central in the long run to funding our military strength.

I would not support revision of our export controls if I thought it would undermine in any sense our military strength.

I must say that in the case of George Kachajian there was no compelling national security reason given for refusing to grant him his license. It was redtape and bureaucracy.

The case of George Kachajian demonstrates that we can and must persevere to upgrade our export control policies. The case demonstrates in personal terms the competitiveness gap that we face in relation to other countries. That competitiveness gap is getting wider every day, as foreign competitors make inroads into markets that once were ours.

I hope George Kachajian's persuades us of the need to reverse the policies that led to that competitiveness gap. If we do not, we will find someday that not only our economic security, but also our national security, will have been seriously eroded.

Mr. President, I ask unanimous consent that the article from INC magazine be printed in the RECORD.

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

KACHAJIAN'S REBELLION

(By Lucien Rhodes)

Welcome to George Kachajian's Theater of the Absurd.

You will know you have arrived when you see the marquee, there above the front door of his corporate headquarters at the end of Spruce Street in Oakland, N.J. No, it wasn't planned that way, but it does capture the spirit and essence of the whole long, involved, and contentious drama that's been six years in the making and not finished yet.

Once, those large blue letters announced the company he started 16 years ago as Silicon Technology Corp. (STC). But some months ago, this sign broke in the middle, as if unable to stand the weight of the company's aching frustration any longer: the letters spelling "TECH" fell and shattered on the parking lot below. Now each morning when Kachajian sees this symbol of his plight, he cannot help but mentally review the script as he's lived it thus far. In a rising spiral of incredulity, he will recall how an abrupt shift in American foreign policy suddenly denied him access to foreign markets, and how a foreign competitor used the opportunity both to fill the vacuum overseas and to raid his market in the United States. And he will remember with bitterness the layoffs of workers in Oakland, and the mounting financial losses, and his long hegira through the federal bureaucracy in search of relief.

So it is that George Kachajian comes to work, his $10-million company still dangerously close to collapse. Looking at the marquee, he asks himself, "Who took the 'tech' from my technology?" to which he answers, amazed at the improbability of his own response: "My own government, that's who."

But please come inside: the featured attraction has a lot more to offer—senators, congressional subcommittees, the Western Alliance; also the Soviet Union and the Warsaw Pact. You will see that the story of George Kachajian's quest for an export license is really only a small vignette played out against a vast backdrop of international trade deficits, East-West competition, and political feuding within the Reagan Administration. Still, it is vignette that raises disturbing questions: Do the complex controls regulating U.S. exports sacrifice the international competitiveness of American companies, particularly hightech companies? If our export-control system causes our companies to lose markets, and worse yet, industries, to foreign competitors, then, in the long run are they really protecting our national security? With a trade deficit of $170 billion, can the United States afford to forgo exports that surely run into the billions of dollars that are lost each year to export controls?

The controversy has by no means spent its force, although George Kachajian has now won a victory of sorts against the deadening hand of the Export Administration Act—the first of its kind in history. And as the news of this victory spreads through the hightech community, he is being praised as the underdog who beat city hall. But Kachajian never wanted to star in his own melodrama. He wanted to be a businessman.

For 18 years, George S. Kachajian had worked for Dow Corning Corp. in various sales and marketing jobs, first selling silicones for oils, greases, and paint resins, and then silicon, the pure crystalline element used exclusively in the manufacture of semiconductors. His contacts within this new, rapidly growing industry were broad, he was well paid, and his prospects were very promising. But in 1969, he decided to quit. That fall, at a company plant in Hemlock, Mich., Kachajian watched an employee at work on an internal diameter wafering saw, which cuts silicon ingot into thin wafers, one of the first steps in creating semiconductors. For a second, the operator looked away from his work and the saw's diamond blade sliced through the back of his hand and cut off his fingers. Horrified and splattered with blood, Kachajian pulled the man away from the machine and applied a tourniquet. Then and there he decided that "there had to be a better way."

With almost $20,000 in personal savings, Kachajian turned to a machine-tool company in Massachusetts and financed the development of a prototype for a new saw that changed the orientation of the cutting blade, added a protective shield, and rearranged the work flow. In the fall of 1970, funded by $220,000 from friends and relatives and the refinancing of his house, he began to manufacture and sell his new machine. And it was not long before Kachajian realized that he would have to comply with U.S. export regulations, the vagaries of which could hardly be factored into any rational business plan or production schedule.

These days, business on the international level is rarely "strictly business," especially when it involves high tech. During World War II, export controls were used to ensure an adequate supply of various goods and commodities needed to sustain the war effort. But contrary to the original expectations, those controls were left in place long after peace had been declared—a weapon of the Cold War. The Export Control Act of 1949 finally made official what had been administrative practice, banning the export to communist countries of not only bona fide military equipment, but also dual-use commodities that might have military as well as commercial value. Beginning in 1969, Congresses and Presidents began relaxing those export restrictions, turning a more congenial and expansive face to trade with the Soviet Union and its allies. But this period of détente came to an abrupt halt with the Soviet invasion of Afghanistan in 1980. Caught up in the ebb and flow of the tensions between the superpowers was a small machine-tool company at the end of Spruce Street in Oakland, N.J.

During the 1970s, STC had prospered, controlling 80% of the domestic market in wafering saws. At the same time, Kachajian, encouraged by the prevailing attitude toward open East-West trade, had turned his attention to the demand coming from foreign markets, particularly from the Eastern Bloc, to which he traveled more than 20 times from 1974 to 1980. Because his saw is an integral part of the semiconductor manufacturing line whose end products are, in turn, essential to sophisticated weapons systems, the saws were classified as dual-use commodities requiring a validated export license. In those days, however, the only problems Kachajian encountered in the licensing procedure were delays—after a wait of up to nine months, his applications were all approved. As a result, he sold 53 wafering saws to the Soviet Union and 4 to Poland, machines that today go for $100,000 apiece.

Then suddenly, in August 1980, the U.S. Department of Commerce, for the first time, denied an export license application from STC. "One minute I was selling," Kachajian recalls, "and the next minute I was screwed. And there you are. You don't want to break the law, so you have to live with it." During the next year and a half, he made one futile call after another to the Commerce Department, only to be told cryptically that his licenses were being denied for national security reasons. Kachajian allowed himself brief interludes of opti-

mism in which he fantasized making up his lost sales with redoubled efforts in the U.S. market. But these, it turned out, were tranquil delusions, only possible because he had not yet heard all the bad news.

By mid-1981, Kachajian discovered that STC was losing not just overseas business, but domestic customers as well. His major competitor, Meyer & Burger A.G., in Switzerland, had suddenly appeared in the United States offering comparable wafering saws for less than STC's cost of production. At first, Kachajian could not understand how the Swiss firm could sustain such suicidal dumping, but he soon learned: lacking any competitive restraint, the Swiss company was selling saws in the Eastern Bloc for prices as much as triple those that had prevailed before the export controls went into effect. "They were using those excess profits to buy market share here and drive me out of business—and I couldn't fight back," Kachajian says. "It was absurd. It was outrageous. My hands were being tied by my own government."

What's more, Kachajian could not see how the country's national-security interests were served by denying him export licenses on a product that the Soviets could get in comparable quality and quantity from the Swiss. Instead, he felt he was the victim of capricious regulations, which, in effect, doomed him to extinction. Determined to correct the obvious illogic of his situation, Kachajian screwed up his courage and marched directly into the maw of the netherworld of export licensing.

What he found was a forbidding tangle of categories and classifications, or processes and procedures, of laws, regulations, and inscrutable interpretations. At its center was the Commodity Control List (CCL), which presents those commodities, goods, and technologies requiring export licenses for any of five criteria: national security, foreign policy, short supply, human rights, and nuclear nonproliferation. In many instances, the CCL is constructed not of products, per se, but of entries calculated according to general technical or performance standards. As a result, no one really knows how many specific products are, in fact, controlled, although estimates range to the hundreds of thousands. While nobody would argue that critical high technology should be sold to the Soviet Bloc, critics from industry, academia, and Congress have charged that the list is far too broad and that it includes items long since rendered technologically obsolete.

The complexity and ungainly sprawl of the CCL is replicated in the bureaucracy that has grown up around it. Today, an application to export a product that might be covered by the CCL is scrutinized not only by several divisions within the Department of Commerce, but frequently by several intelligence agencies and the Departments of State, Defense, and Energy. Nor is that the end of it. Even after applications for certain items have been reviewed by the appropriate roster of U.S. authorities, licenses still cannot be granted unless they are also approved by the 15 allies of the Coordinating Committee for Multilateral Export Controls (COCOM), a regulatory body headquartered in Paris. The intent of COCOM is to coordinate export controls with our allies, which is certainly understandable. But exporters complain that it adds yet another layer of uncertainty to the licensing system, causing delays that drive customers to the arms of competitors, either in non-COCOM countries or, even worse, in COCOM countries that interpret its restrictions more liberally than the United States. In fact, some American businesspeople charge that our allies have, on occasion, used the licensing apparatus to give a competitive advantage to their own manufacturers.

Admittedly, it is unclear how any government bureaucracy can effectively administer such a convoluted system. The General Accounting Office, the investigative arm of the Congress, once descibed the export controls as a "licensing system characterized more as a paper exercise than as an instrument of control." But should you get caught shipping items on the CCL without a valid license, the penalties for violating the export regulations are very real indeed: up to five years in jail, a minimum fine of $50,000, and the loss of all export privileges.

It was this phantasmagoria of licensing that nearly overwhelmed Kachajian's sensibilities. But the more he learned about it, the more he knew he was fighting for a cause that was not only empirically just, but one that was defensible under the law as well. Provisions of the Export Administration Act of 1979 had instructed the Commerce Department to establish a division of foreign availability. If this division were to determine that a product manufactured by a U.S. company was also available to proscribed countries in comparable quality and quantity, it could decontrol that product, and the exporter could ship without a license. If there ever were a case of foreign availability, Kachajian figured, his was it. What he did not figure was that it would take him nearly four more years to get the government to admit it.

Looking back, George Kachajian's plan of attack now seems fairly obvious: compiling the information needed to prove the matter of foreign availability; seeking the testimony of industry colleagues who found themselves in similar straits; enlisting the political support of the New Jersey congressional delegation. But at the time, the process was confusing, unpredictable, and enormously frustrating. When he has the need, Kachajian will arrange on the top of his office conference table, in eight indexed stacks, seemingly every piece of correspondence he has ever sent or received to or from anybody regarding some aspect of his case. If this collection were put under one cover, its more than 1,000 pages would tell a story roughly comparable, in its own way, to the voyage of Ulysses. In Kachajian's Bureaucrats' Baedeker, there are letters addressed to the chief of the policy division of the munitions control directorate, the deputy assistant secretary of commerce for export administration, the deputy to the deputy assistant secretary for export administration, the licensing officer of the electronic instrumentation branch of the office for export administration, the special assistant to the President for public liaison, the U.S. special trade representative, the special assistant to the President for intergovernmental affairs, the director of the office of International Economic Affairs, the director of the office of Investigations of the U.S. International Trade Commission, and the undersecretary of state for political affairs—to name just a few. Then, of course, there were all those phone calls beyond counting and some 30 trips to Washington, which cost him nearly $20,000 in hotel and travel expenses. And throw in maybe $60,000 in legal fees.

But Kachajian's odyssey was much more than inconvenient and expensive. It was also desperate. While the whole involved process—the dead-end leads, the false promises, the interminable discussions—dragged on and on, Kachajian's company was slowly bleeding to death, the victim of Meyer & Burger's persistent dumping. After a decade of growth in sales and profits, STC began to lose money—nearly a million dollars to date. In 1983, Kachajian was forced to lay off almost half his employees, and even as late as July 1986, he had to sell an acre and a quarter of land the company owned across the street just to bolster cash flow. "For six years," he says, "the upside of my business has been survival and the downside was bankruptcy. I never even thought about growth."

What he was thinking about most often was the Pentagon, which had persistently used the national-security issue in connection with the export of his wafering saws. Between 1982 and 1984, Kachajian had half a dozen meetings with various Defense Department officials, including Stephen D. Bryen, the deputy undersecretary for trade security policy. At each meeting, Kachajian would lay out his case, a Swiss competitor driving him out of business with the help of Eastern Bloc profits and counterproductive U.S. government restrictions. And at each meeting, Defense officials would tell him that an export license would jeopardize "national security." Kachajian was prepared to meet their argument head-on. He would first point out that his saws were really "glorified salami slicers" whose technology was so well known that they could hardly be considered a threat to national security. And furthermore that the Eastern Bloc could already get as many saws as it wanted from the Swiss. Then he would go on to say that the United States was in danger of losing its semiconductor manufacturing capability to foreign companies—where there were once five companies manufacturing saws in the States, now only two remained. That, he concluded, was the real threat to national security.

The Pentagon was not impressed, however, and Kachajian finally gave up in disgust. Says Wesley E. Charles, STC's president, who attended one such meeting: "They don't care about anything else, just don't give the Soviet Union anything. They wouldn't sell them a handful of sand. And if they could control that, they would."

Fortunately, as one door closed, another one opened. In the fall of 1984, Kachajian got a call from an investigator in the division of foreign availability, which only then had finally been staffed and funded as Congress had ordered back in 1979. Kachajian, hearing for the first time that a study was being done on internal diameter saws, was ecstatic. "Man, that was exciting," he says. "I had someone who was interested. I mean the guy asked questions for two hours." During the six months that it took the investigator to complete the study, Kachajian peppered the Commerce Department with information and stumped around Washington. "Because of George's involvement," says Toli Welihozkiy of the Office of Foreign Availability (OFA), "everybody became aware that this was an agenda item that needed to be moved quickly." But "quickly" has a special meaning in Washington. It was the spring of 1985, more than five years after the rejection of his first license, that the OFA determined that there was, in fact, foreign availability of wafering saws and that the item should be decontrolled.

With the OFA determination, Kachajian had established a beachhead within the bureaucracy, but the battle had only just begun. Under the procedures of the Export

Administration Act of 1985, OFA sent a draft of its report detailing its findings to the Department of Defense for review and comment, and, not surprisingly, Defense disagreed strongly with the specific findings, with their interpretation, and particularly with the impulse to decontrol the saws. The reaction touched off a fierce interagency squabble within an Administration equally committed to fighting back the Russians and fighting back government restrictions on business.

"Our view," explained deputy undersecretary Bryen, "is that we have very good intelligence, incontrovertible intelligence, that the items . . . will be put to use by the Soviets directly in military. You know, in the '70s we had this great experiment: we were going to trade with the Russians and try to improve relations. But the basic bottom line is that the bulk of this stuff went right to the Soviet military, and it was used by them to modernize their military forces."

Replied Paul Freedenberg, assistant secretary of Commerce for trade administration: "The Commerce Department sees to it that you have to make a balance in these types of cases. You have to decide to balance off immediate national security against the long-term loss of the defense-industrial base, which, in itself, has a national-security implication. If you lose, for example your semiconductor manufacturing capability, ultimately you're undermined, because you no longer have that defense base to build semiconductors. Now we're just talking in this case about one specific company, but it's a microcosm of a danger—not something that's immediate, but certainly something that, long range, could be very deleterious."

Confronted with implacable opposition from Defense once again, Kachajian's spirits wilted, but only for a moment. In September 1985, his forces were joined by fresh troops. Stanley T. Myers, president and chief executive officer of California-based Siltec Corp. and a member of the Semiconductor Technical Advisory Committee (TAC), one of nine such committees advising the Commerce Department in various high-tech areas, wrote a letter about STC's predicament to his fellow members. Myers, whose company uses wafering saws, knew firsthand about Meyer & Burgers's tactics. And in his letter, he carefuly outlined STC's plight and urged the committee to action on STC's and all U.S. manufacturers' behalf, ending with: "Unless we act quickly and decisively, we will face the ironic circumstance of having controlled an American technology into extinction."

The Advisory Committee did act quickly, using its powers under the Export Administration Act to force a decision on Kachajian's case, supposedly within 90 days. Kachajian responded by redoubling his lobbying efforts, enlisting New Jersey's two senators, Bill Bradley and Frank R. Lautenberg, and Representative Marge Roukema to put pressure on Commerce Secretary Malcolm Baldrige and his aides. "I was in the wilderness for four years," Kachajian recalls," and now I had big names."

Commerce was leaning toward a favorable decision, both because of the merits of Kachajian's case and because a positive decision was important to the credibility of the Office of Foreign Availability. Up to that point, the OFA had not produced one single case leading to the decontrol of any item or technology listed on the CCL. The business community was becoming openly critical. So was Congress, which had ordered the establishment of the office six years earlier. But there was still the problem of the Pentagon's unrelenting opposition. Finally, the standoff between an immovable object and an irresistible force had reached an impasse, and the case of George Kachajian and his little company at the end of Spruce Street in Oakland, N.J., was taken all the way to the White House.

On May 15 at 10:30 a.m., Kachajian was attending a meeting of the Semi-conductor Technical Advisory Committee in the huge Commerce building on Pennsylvania Avenue. As Kachajian remembers it, the 20 members of TAC were in their places around a large conference table while assorted guests and observers chatted from their seats around the edges of the room. Suddenly, assistant secretary Freedenberg came in and everyone fell silent as he announced that, earlier that morning, he had recommended to the National Security Council at the White House that wafering saws be decontrolled for reasons of foreign availability. "Everybody turned to look at me," Kachajian says. "Then they got up and started to congratulate me. I just sat there like the cat who swallowed a canary, but I was afraid to smile. I still couldn't believe it. . . . This happened after six years of busting my chops. When I left that place, I thought I was walking on air."

For the next month, Kachajian kept up his pressure with telephone calls, visits, and a letter campaign that involved all 45 employees of his company. Then, in late June, he got a call from a staff person in Representative Roukema's office. The congresswoman had just received a letter, the caller said, from John M. Poindexter, the assistant to the President for national-security affairs, which stated that the council had agreed with the Commerce Department's position that the internal diameter saws should be immediately decontrolled.

Kachajian's first reaction was to shout for joy, but he knew better. Long experience with the government had taught him that seldom were problems that easily dispatched. And he was right. The saws, the letter continued, would, in fact, be decontrolled immediately for sale only to noncommunist countries such as Sweden and South Korea. The letter went on to say that, "Subsequently, we will begin working with our allies to arrive at a mutually agreed upon and orderly removal of COCOM controls on these saws to controlled countries."

In short, Kachajian, who views the reopening of Eastern Bloc markets as the key to the survival of his company, still could not sell his saws to the one market he wanted in the first place. And, at this moment, that is still where he is: one hand clutching the collar of his company to keep it from going under, the other with all its fingers crossed while he waits for COCOM to consider the issue sometime this year.

Yet as painful as it is for him, Kachajian's current limbo is entirely expressive of the lack of consensus that the current Administration brings to the issue of export controls. And it is particularly expressive of a regulatory environment in which the word "resolution" seems oddly to imply a more or less permanent state of contentiousness.

At the Commerce Department, for example, James K. Pont, the director of the OFA, speaks for many of his colleagues when he says that the Kachajian case establishes an important precedent. Claiming that the OFA has finally "found a path through the bureaucratic jungle," he predicts that over the next three to six months there may be several more positive findings.

But at the Defense Department, the feeling is that if there is any kind of precedent involved, it is only of the worst possible kind. Pointing out that the Kachajian case involves "the most sensitive technology that the Bloc can acquire," deputy undersecretary Bryen sees the handling of the issue as an example of "poor leadership" that ignored "the national interest." In his opinion, Commerce should have negotiated aggressively with the Swiss to get them to stop sales in the Eastern Bloc rather than decontrolling U.S. shipments. "There are plenty of things the Swiss want from us," he argues, "and it's outrageous that what we have is the Commerce Department laying back and saying, 'Well, we informally asked them and they said no.' I mean, that's nonsense. They [the Swiss] don't informally ask when they want something."

Bryen also makes it quite clear that George Kachajian's long ordeal is far from over, at least as far as the Pentagon is concerned. "Some of them [the saws] he will be allowed to sell," he says, "but there will be restrictions, at least if we have anything to say about it, or what types of saws he will be able to sell, and for what size ingot, and so on. It won't be any open door."

Thus, while George Kachajian's victory has drawn the attention of the export community, it has not engendered much hope for a significantly more balanced export-control policy. If anything, many of Kachajian's fellow exporters look at his six-year ordeal and wonder if it only confirms their worst fears about controls and the future competitiveness of American manufacturers abroad. Larry L. Hansen, executive vice-president of Varian Associates Inc., manufacturers of such items as ion implanters and chemical vapor deposition reactors, responds to the Kachajian case with a mixture of admiration and horror: "George put in an enormous amount of effort to get that, and that's a very mundane piece of equipment. I mean who in the hell can't make a crystal slicer? For him to have had to put in that much effort, and get that many people involved to get the relief that he got is an incredible thing, absolutely incredible."

"Sometimes there's a little voice inside me," says Kachajian, "that asks: 'What are you so happy about? All this means is that you can do what you should've been able to do all along.' " Maybe.

WORLD INSPECTION OF NUCLEAR FACILITIES

Mr. COCHRAN. Mr. President, I am rising today to bring to the attention of the Senate a report which I am filing for the record describing my observations at the International Atomic Energy Agency meeting in Vienna last August where the report of the Soviet delegation on the Chernobyl accident was received and discussed by delegates from about 47 different countries. There were approximately 500 people—scientists and technicians mainly—who participated in this review of the facts surrounding the accident at Chernobyl. I am filing this report because to me it indicates that we need to assess the need for an international safety regime which would involve minimum standards and

onsite inspection of nuclear powerplants.

Mr. President, the International Atomic Energy Agency, which hosted this meeting in Vienna, was the agency that you may remember immediately after the Chernobyl accident was looked to for information and assistance by the Soviet Union. The Director General, Dr. Hans Blix, and two of his deputies were invited by the Soviets to actually inspect and review the situation at Chernobyl. These were the first visitors from outside the Soviet Union who were permitted at the site.

The International Atomic Energy Agency has as one of its primary functions the monitoring of safeguards to prevent the proliferation of nuclear weapons and the diversion of nuclear fuels for the purpose of weapons construction. It has worked in a very expert way, in a way that has attracted the support of nations all over the world. To me this is the agency that ought to have the additional authority and the additional resources that would enable it to adopt a set of minimum standards for international nuclear powerplant construction operation and to conduct onsite inspections to ensure that those standards are complied with by those who construct nuclear powerplants.

There are hundreds of nuclear powerplants around the world. Two are being constructed by the Soviet Union in Cuba right now. They do not have the same standards we have in the United States to protect safety and health and to ensure the proper operation of the reactors and powerplant. The Nuclear Regulatory Commission in the United States is the Federal agency with responsibility for policing and monitoring these activities. But enforcement of international standards is nonexistent. It has been the practice up until now that each nation which elects to construct and operate nuclear powerplants is responsible for its own regulations and enforcement. But Chernobyl showed us, and the whole world, that, as someone said, "A nuclear accident anywhere is a nuclear accident everywhere." So this is an international concern. We are concerned in the United States about the standards, or the lack of standards, surrounding the construction and operation of the nuclear plants in Cuba. An accident there could very easily jeopardize health and safety here in the United States. We learned in the accident last April at Chernobyl the damage was not just confined to the Soviet Union but extened to other nations.

So that is why, Mr. President, I think this report should be reviewed. It indicates the interest at least of this Senator as chairman of the subcommittee of the Governmental Affairs Committee that has jurisdiction over energy and nuclear proliferation issues that a greater role be assigned to the IAEA. It was under the auspices of the Governmental Affairs Committee that this trip to the meeting in Vienna was undertaken. I hope that the Senate will look at this issue area and adopt legislation, maybe a resolution at the beginning of our session next year, which would put us on record as favoring additional authority for the International Atomic Energy Agency and additional resources to help it do this job.

During the past 12 months, I have chaired five hearings on nonproliferation, nuclear safety, and the IAEA before the Governmental Affairs Subcommittee on Energy, Nuclear Proliferation, and Government Processes. Those hearings have convinced me that if nations are determined to construct nuclear power facilities, it is essential that they promise to abide by minimum international standards enforced by onsite inspections to ensure that those facilities are safe. Although technical and political objections will be heard from some, I am convinced that this is an idea whose time has come, one that merits the support of the U.S. Senate.

I was very encouraged by what I saw and heard in Vienna. The Soviet Union was surprisingly forthcoming in its Chernobyl report, and there was much discussion of improved nuclear safety. The task now is to turn this talk into concrete programs that will work. The visit confirmed my view that the IAEA is the organization to serve the nations in meeting this challenge.

Mr. President, I ask unanimous consent that my report on the visit to the International Atomic Energy Agency by printed in the RECORD.

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

REPORT OF THE VISIT OF SENATOR THAD COCHRAN TO THE INTERNATIONAL ATOMIC ENERGY AGENCY, AUGUST 24-29, 1986

PURPOSE

For the past thirty years, a major international effort has been made to protect materials at nuclear power reactors from diversion for the purpose of making explosives. The International Atomic Energy Agency (IAEA) has been effective in enforcing nonproliferation safeguards to give the world this protection.

The Chernobyl accident has made nuclear safety another international concern. Because of its nonproliferation experience, observers generally agree that IAEA is the logical body to develop an improved international nuclear safety regime.

The main purpose of the visit reported here was to discuss with IAEA officials the existing international nonproliferation effort and the evolving international nuclear safety regime. Another objective was to attend sessions of the Post Accident Review Meeting being held in Vienna the week of the visit.

AN OVERVIEW OF THE INTERNATIONAL ATOMIC ENERGY AGENCY

IAEA, which now has 113 Member States, was established in 1957 as an outgrowth of President Eisenhower's "Atoms for Peace" initiative. It assists nations in the peaceful development of nuclear energy throughout the world. It advises governments on their nuclear programs, prepares studies of the market for nuclear plants and equipment, arranges the loan of equipment, finances research, and acts as an intermediary in arranging the supply of nuclear materials. It also advises Member States on the physical protection of such matter, and applies safeguards to materials at nuclear reactors to ensure that they are used only for their intended peaceful purposes. It organizes conferences and training courses, awards fellowships for advanced study, issues technical publications, establishes safety standards for all types of nuclear activity, and operates three laboratories.

The work of the Agency is directed by a General Conference, representing the entire membership, and by a 35-member Board of Governors. The General Conference is convened once a year for debate on the Agency's policies, programs, and budget. As the principal policy-making organ, the Board of Governors considers all major questions, including applications for membership and the Agency's program of work. Under its own authority, the Board approves all safeguards agreements, important projects, and safety standards. The Agency's annual budget requires approval by the Board before submission to the General Conference.

The Board holds two main meetings each year in February and June. it also meets immediately before and after regular sessions of the General Conference, usually held in September. The General Conference elects 25 of the Board's 35 members in accordance with rules prescribing a wide geographical distribution (11 of these seats fall vacant each year). The remainder are designated by the Board itself from among Member States which are advanced in nuclear technology.

Member States make assessed contributions to finance the regular budget. They may, in addition, make voluntary contributions to finance the technical assistance program.

The Secretariat is headed by a Director General responsible for overall administration and program implementation. He is assisted by five Deputy Directors General who head five Departments (Administration, Research and Isotopes, Safeguards, Technical Cooperation, and Nuclear Energy and Safety). The Director General consults on scientific and technical matters with a Scientific Advisory Committee, and a Standing Advisory Group on Safeguards Implementation advises him on technical aspects of safeguards.

MEETING WITH DIRECTOR GENERAL HANS BLIX

The Director General expressed pleasure for my visit, especially since it coincided with the week-long Chernobyl assessment. The accident and its consequences continue to attract enormous international interest and to influence public opinion on nuclear power in several countries. While Dr. Blix is convinced that nuclear power, which provides 15% of the world's electricity, will remain an important energy source, there is no doubt that in some nations public confidence has been seriously affected by Chernobyl. To restore this confidence will re-

quire prolonged safe operation of nuclear power plants worldwide as well as measures to minimize the health and environmental consequences of any future accidents. Dr. Blix said that over the following months IAEA would host other important international meetings to consider suggestions of ways to achieve greater safety.

The Director General noted that IAEA responded to Chernobyl in two ways: it was a center for information and analysis regarding the accident, and it sought to encourage the application and improvement of essential international response measures.

A week after the accident, he and two other Agency officials were invited to the Soviet Union and viewed the reactor destruction from the air. During the visit Soviet authorities declared their willingness to provide information to an IAEA post-accident symposium. In May and June, the Board of Governors and the International Nuclear Safety Advisory Group considered the accident's implications for the Agency, deciding upon a number of activities to be undertaken in 1986 and agreeing to consider an expanded nuclear safety program for 1987 and 1988. In July and August governmental experts met in Vienna and drafted two conventions on early notification and emergency assistance.

The Director General anticipated that the Post Accident Review Meeting would result in an authoritative factual base for use in discussions of future actions to be taken. After the review, the International Nuclear Safety Advisory Group and other experts would draft a report for submission to the Board of Governors, which would then decide what further Agency measures might be desirable.

The Director General noted that there is general agreement that nuclear safety is primarily the task of individual nations, since they possess both governmental power and direct responsibility to citizens. International measures can never be a substitute for essential national regulations. If governments and public opinion agree, however that certain safety standards should be implemented everywhere—and this might be a result of Chernobyl—more international cooperation will be indispensable.

After the meeting with the Director General I toured facilities at the Vienna International Center with Mr. Hans-Friedrich Meyer of the Division of Public Information. I also met with Deputy Director General Maurizio Zifferero for a briefing on the work of the Department of Research and Isotopes.

MEETING WITH DEPUTY DIRECTOR GENERAL NELSON SIEVERING

Mr. Sievering, an American with extensive prior U.S. governmental experience directs the IAEA Department of Administration in a complex institutional environment.

The Agency shares many of the organizational problems of other international bodies. The majority of its members are developing countries, and some resent technical programs, including plant safety initiatives, which they perceive as favoring richer nations. In the past, some highly political proposals have threatened to politicize IAEA and to divert attention and resources from the Agency's vital technical mission. The civil servants from various nations who come to work in Vienna often bring differing administrative perspectives to their new assignments.

Further complicating the administrative task is the fact that IAEA has operated on a "zero growth" budget since 1984. Tight management has preserved essential services, but there is little surplus on which the agency can draw as it attempts to improve nonproliferation safeguards on the growing number of nuclear facilities worldwide.

Mr. Sievering emphasized that IAEA needs more resources if there is to be a substantial increase in nuclear safety responsibilities. The quality and quantity of services will depend largely upon whether the United States, the Soviet Union, and other industrialized countries provide the necessary additional funds and political support to enable the Agency to keep pace with world nuclear development.

MEETING WITH DIRECTOR OF NUCLEAR SAFETY MORRIS ROSEN

Dr. Rosen was one of the IAEA officials invited to visit Chernobyl after the accident, and he presented a clear and detailed account of the circumstances surrounding the incident. He also reviewed the progress of the ongoing accident assessment sessions.

He noted that the principal IAEA nuclear safety programs are directed toward establishing safety standards, giving assistance to Member States, and fostering the exchange of information. The current Agency role is principally advisory, and each country is ultimately responsible for its own nuclear safety activities.

Guidelines for nuclear safety have been published since 1974. These are composed of codes of practice and safety guides developed for the areas of governmental organization, siting, design, operation, and quality assurance. Although voluntary, they are used widely by countries as a basis for developing their domestic safety regulations.

IAEA maintains a voluntary Incident Reporting System for the collection and examination of significant safety-related events. The United States participates in this system, but until Chernobyl the Soviet Union did not. The system is especially important to developing countries, who learn from the experiences of advanced nuclear nations.

IAEA has in place a voluntary program for reviewing nuclear power plant safety. Up to the present, neither of the superpowers has taken advantage of this Operational Safety Review Team program, in which Agency experts and outside consultants spend two to three weeks consulting with operators at a nuclear facility at the request of the host country. It is anticipated that by the end of 1986, reviews will have been held in Brazil, Finland, France, Mexico, the Netherlands, Pakistan, the Philippines, South Korea, Sweden, West Germany, and Yugoslavia. Dr. Rosen noted with pleasure that Czechoslovakia has agreed to receive a safety review team in the very near future, the first Eastern bloc nation to do so.

With enhanced resources over the near term, about 20 reviews per year will be feasible. The existing safety operation has a staff of approximately 50 professionals. Personnel will be increased somewhat as the result of Chernobyl, with $2 million more for safety activities in the 1987 budget. Major portions of this increase will be devoted to increased safety team inspections, creation of an IAEA emergency control center in 1987, and procurement of equipment for measuring radioactive contaminants.

Over the longer term, several safety developments are probable, including an improved reporting system for the feedback of operating experience; broader coverage and greater impact for the Operational Safety Review Team program; examination of existing safety standards with a view to implementing lessons learned from Chernobyl and other accidents; and consideration of the feasibility of transforming some safety standards into minimum binding rules which countries would commit themselves to follow.

At the conclusion of our conversation, Dr. Rosen introduced me to a panel of specialists with experience on Operational Safety Review Teams. The panel, composed of Agency personnel from Canada, Finland, the United States, and West Germany, discussed various aspects of a typical team operation and answered questions concerning the scope and effectiveness of the program.

MEETING WITH DEPUTY DIRECTOR GENERAL PETER TEMPUS

Dr. Tempus reported that his Department of Safeguards is a major component of the Agency's activities and accounts for over 25 percent of the budget. It is the product of a new form of international collaboration, combining simple techniques of nuclear materials accountancy with physical surveillance measures. The objective is to ensure that nuclear materials and equipment intended for peaceful use are not diverted to military purposes. There are 180 safeguards inspectors organized into three divisions based upon blocs of countries.

The basic nonproliferation approach has been to make nuclear material and technology available to countries in return for nonproliferation commitments which are verified through safeguards inspections. Safeguards are applied in such a way that industrial secrets are protected, and there is minimum intrusion into the operation of plants.

Safeguards are applied to facilities and materials in individual Member States in accordance with the provisions of bilateral or multilateral agreements or those of the Tlatelolco Treaty and of the Treaty on the Non-Proliferation of Nuclear Weapons. The latter treaty, which came into force in 1970, requires non-nuclear-weapon signatories to conclude safeguards agreements with the Agency covering nuclear materials in all their peaceful nuclear activities. The Treaty currently includes 134 nations.

Dr. Tempus believes that safeguards are effective and afford countries the opportunity to show they are living up to their nonproliferation commitments. Since the most difficult part of the fuel cycle to safeguard is reprocessing, especially close surveillance is required at reprocessing facilities. Another important question requiring attention and clarification is the matter of Agency liability for any damage to a plant during a safeguards inspection.

The Deputy Director General suggested that the evolution of safeguards will depend upon the rate of growth of nuclear power, future developments in the fuel cycle, and changes in safeguards concepts and approaches. The major refinements are expected to include greater standardization of safeguards procedures, the strengthening of safeguards requirements in connection with exports of nuclear material, and improved cost-effectiveness.

Following this visit Dr. Tempus, I met with staff members of the Department of Safeguards to discuss fundamental objectives and approaches used in safeguards inspections. The personnel were from Britain, Canada, East Germany, Finland, Nigeria, and the United States.

OTHER MEETINGS

The U.S. Mission to the United Nations System Organizations in Vienna (UNVIE),

headed by Ambassador Bruce Chapman, provides permanent U.S. representation to the U.N. organizations located in the Austrian capital. At two luncheons hosted by Ambassador Chapman, I heard presentations from representatives of the U.N. Industrial Development Organization, devoted to promotion of industrialization in the developing countries; the U.N. Relief and Works Agency, charged since 1949 with direct assistance to Palestinian refugees; the U.N. Fund for Drug Abuse Control, which receives voluntary contributions to help furnish assistance to national and international agencies in the field of drug control, the Division of Narcotic Drugs, the staff arm of the U.N. Commission on Narcotic Drugs; and the U.N. Center for Social Development and Humanitarian Affairs, which provides limited technical assistance to developing countries in such fields as women's affairs, aging, youth, and crime prevention.

Before leaving Vienna, I had a very informative meeting on U.S.-Austrian relations at the U.S. Embassy with Ambassador Ronald Lauder. On the morning of my departure, I was briefed by Ambassador Richard Kennedy and members of the U.S. delegation to the Post Accident Review Meeting on the outlook for the final plenary session scheduled for later that day, and I was given their assessment of the presentation the Soviet delegation had made to all the delegates.

CONCLUSION

The Chernobyl accident has increased public uncertainty concerning the safety of nuclear power. Each country must decide for itself whether it will develop nuclear energy; if it chooses to do so, it has an obligation to assure the entire international community that its power plants are operating safely. There is no better method for such assurance than creation of an international nuclear safety regime which includes inspections of all civilian nuclear power plants worldwide.

This trip confirmed that the International Atomic Energy Agency is the organization best suited to lead in the building of such a regime. It has for thirty years been the mainstay in the international nonproliferation effort, and it should be the forum for the consideration and implementation of improved nuclear safety standards and policies.

In order to serve this need, the Agency merits the continued and increasing moral and financial support of the nuclear nations, including the United States. The valuable insights gained and the views exchanged on this trip should enhance within our Government the cooperation so necessary to insure that the IAEA receives that support.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. MELCHER. Mr. President, it is my understanding that morning business is extended until 10 o'clock; is that correct?

The PRESIDING OFFICER. The Senator from Montana is correct.

Mr. MELCHER. Mr. President, I have a short statement but I would like to ask unanimous consent that morning business be extended 2 minutes beyond 10 o'clock.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

FARM INCOME TAX AVERAGING

Mr. MELCHER. Mr. President, a dozen or more of us in a bipartisan effort are sponsoring an amendment to the tax bill that earlier passed this Congress. It involves income tax averaging for farmers. That is the amendment. The reason we attempt to do that and catch up with the tax bill that has just passed is the obvious need of this provision in the current code which would be wiped out under the tax reform bill. The reason that it is so important is this, Mr. President. Because of the changes and the vagaries of nature, whether it is drought or flood or hail or fire, the incomes of farmers and ranchers vary considerably. More correctly put, their losses in a given year vary considerably.

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This year we have had the drought in the South, in the Southeast. We have had the flooding situation in over half of the country, in various States. Even our own State of Montana was affected by some very serious flooding in several of our counties this fall, which caused an unusual amount of loss at an unusual time of year. Fire and hail are easily understood, and that has happened in various localities throughout the country every year.

So the fact is that income averaging for farmers is extremely important. We thought we would offer this tax amendment to the technical corrections bill that has been at the desk whenever it was called up. Last night, in seeking to get unanimous consent to bring it before the Senate, the chairman of the Senate Finance Committee, the Senator from Oregon [Mr. PACKWOOD], very correctly and very considerately advised the Senate that he would ask for such unanimous consent. After having given that notice for at least an hour or two, he made that unanimous-consent request, making an order that there be a half-hour taken, equally divided, for consideration of this particular amendment.

At that time, the Senator from Iowa [Mr. HARKIN] brought forward his proposal as an amendment to be offered to this technical corrections bill, and that delayed the process. That was eventually worked out, to give the Senator from Iowa [Mr. HARKIN] a separate time for him to bring up his provision on Nicaragua.

So, at the last minute, after 3 or 4 hours of floating the unanimous-consent request by Senators, there was an objection from our side to my offering, on behalf of myself and the numerous cosponsors, the income averaging.

I do not want to further delay the process, and that is why I earlier announced that I would offer this amendment to some other piece of legislation before we adjourn. I only take this time now to describe why we think it is so important to offer that income-averaging amendment and let the Senate vote on it. It has been voted on before, and it carried before, and we would like to see if it will carry again, and the House might accept it—but not on the technical corrections bill.

Mr. PACKWOOD. Mr. President, I thank the Senator from Montana. He has correctly and accurately described what happened last night. We were within an iota of having an agreement.

As he is aware, the longer we stay and the more people are here and the later it gets at night, the more people want to add other things. I had two phone messages in my pocket last night, beyond the Senators on the floor, and they have amendments they want to offer if the Senator from Montana is going to offer his amendment. If he can offer his and they cannot offer theirs, they will object, and there would be no technical corrections tag bill on the tax bill.

There are about 30 States affected which have perfectly legitimate provisions. The Senator from Montana is very gracious to withdraw his amendment so that we can go ahead. If others will be as charitable as he is, we can go ahead with the technical corrections part.

Mr. MELCHER. I thank the Senator from Oregon [Mr. PACKWOOD] for his considerateness and graciousness and for his valiant efforts to bring the technical corrections bill to the floor and get it passed. I hope, as he does, that that can be done very promptly.

Mr. PACKWOOD. I thank my good friend.

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

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

The bill clerk proceeded to call the roll.

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

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

CONCURRENT RESOLUTION RELATING TO TAX REFORM ACT OF 1986—CORRECTION OF ENROLLMENT

Mr. PACKWOOD. Mr. President, I am going to propose a unanimous-consent request. It is a package unanimous-consent request relating to House Concurrent Resolution 395, otherwise referred to as the concurrent resolution which is the tag bill

following the tax bill which has numerous corrections in it. I will read it.

I ask unanimous consent that when the Senate turns to the consideration of House Concurrent Resolution 395, it be considered under the following agreement:

That the only amendment in order shall be an amendment to be offered by Senator PACKWOOD, limited to 20 minutes, to be equally divided, in the usual form, and that following the conclusion or yielding back of time, the amendment be considered agreed to.

I further ask unanimous consent that following the disposition of the Packwood amendment, the Senate proceed to final passage of House Concurrent Resolution 395, without any intervening action, motion, or debate.

I ask unanimous consent that no motions to commit with or without instructions be in order.

Finally, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 395.

Mr. BYRD. Mr. President, reserving the right to object, do any of my colleagues wish to reserve the right to object?

Mr. HARKIN. Mr. President, reserving the right to object——

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, I just want to be assured that the Senator from Ohio will have 5 minutes to discuss the matter.

Mr. PACKWOOD. I will be happy to assure that. If it is not available from the managers on the other side, the Senator may have it from my time.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request?

Mr. BYRD. Mr. President, reserving the right to object, will the Chair indulge me?

Mr. President, I withdraw my reservation.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to.

The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 395) to correct technical errors in the enrollment of H.R. 3838.

AMENDMENT NO. 3467

(Purpose: Making further technical corrections)

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

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

The amendment is as follows:

On page 3, strike lines 9 through 18.

On page 6, strike lines 1 through 7, and insert: comma and "and", and add at the end thereof the following new subparagraph:

(D) such facility is to serve Haverhill, Massachusetts.

On page 10, line 9, strike "1983" and insert "1993".

On page 13, line 20, strike "or (C)".

On page 14, line 10, strike "Samuel A. Hardage Enterprises" and insert "Interests of Samuel A. Hardage".

On page 16, between lines 16 and 17, insert:

(E) Subsections (c) and (d) of section 49 of the Internal Revenue Code of 1986 shall not apply to property described in section 204(a)(4) of this Act.

On page 19, line 10, insert "Pittsburgh," after "in".

On page 19, between lines 17 and 18, insert:

(NN) Old Louisville Trust Project, Louisville, Kentucky.

(OO) Stewarts Rehabilitation Project, Louisville, Kentucky.

(PP) Bernheim Officenter, Louisville, Kentucky.

On page 25, after line 24, insert the following flush sentence:

In no event shall sections 382 (a) and (b) of such Code (as so in effect) apply to any ownership change described in subparagraph (A).

On page 27, line 9, strike "stock in such corporation" and insert "such stock".

On page 27, line 20, after "1989" insert ", without regard to whether such corporation is completely liquidated".

On page 36, strike lines 16 through 18.

On page 38, beginning with line 21, strike through page 39, line 19, and insert :

(116) On page 322, in subsection (d) (relating to treatment of certain market discount bonds)—

(A) strike "28 percent" in paragraph (1) and insert "32 percent", and

(B) strike paragraph (2) and insert:

(2) QUALIFIED LIFE INSURANCE COMPANY.—for purposes of paragraph (1), the term "qualified life insurance company" means any life insurance company subject to tax under part I of subchapter L of chapter 1 of the Internal Revenue Code of 1986.

On page 40, between lines 21 and 22, insert:

(c) REVENUE LOSS LIMITED.—The decrease in the amount of Federal revenue by reason of the amendment made by his section shall not exceed $300,000 per year.

On page 41, strike lines 1 through 4, and insert:

(B) in subparagraph (A)—

(i) strike out "a deferred compensation plan" and insert "employees on August 16, 1986,", and

(ii) insert "maintaining a deferred compensation plan" after "Alabama", and

On page 41, line 7, insert "to" before "individuals".

On page 47, line 8, strike "(b)(2)(D)" and insert "(b)(2)(B)".

On page 47, line 9, strike "884(b)(2)" and insert "884(d)(2)".

On page 52, strike lines 4 through 18.

On page 60, line 25, before "projects" insert "the construction of such diagnostic and treatment center, or to finance construction and renovation".

On page 62, beginning with line 21, strike through page 63, line 25.

On page 66, line 17 strike "subparagraphs (A) and (B)" and insert "subparagraphs (A), (B), and (C)".

On page 71, strike lines 4 through 7, and insert:

(243) On page 76, in paragraph (11) (relating to certain aircraft)—

(A) strike "aircraft" each place it appears in the text and heading and insert "airplane",

(B) strike "Kansas, Florida, Georgia, or Texas" in subparagraph (A) and insert "the United States";

(C) strike ", the date of conference committee action)" in subparagraph (B); and

(D) strike subparagraph (C) and insert:

(C) The aircraft is—

(i) purchased on or after August 16, 1986, and before January 1, 1987, or

(ii) is subject to a binding contract which was in effect on August 16, 1986, or entered into on or after August 16, 1986, and before January 1, 1987, and

is delivered and placed in service pursuant to such purchase or contract before July 1, 1987.

Any airplane which is one of 7 airplanes with respect to which an airline signed an airplane purchase agreement on January 20, 1986 (with respect to which the financing contingency was removed no later than February 7, 1986), the estimated cost of which is $2,900,000, and which was delivered before May 23, 1986, and placed in service by May 27, 1986, shall be treated as described in this paragraph.

On page 72, line 4, after "Industries" insert "after December 31, 1988".

On page 72, line 8, strike "paragraph" and insert "paragraphs".

On page 73, after line 25, insert the following:

(39) The amendments made by section 201 shall not apply to any facility for the manufacture of an improved particle board if a binding contract to purchase such equipment was executed March 3, 1986, such equipment will be placed in service by January 1, 1988, and such facility is located in or near Moncure, North Carolina.

On page 74, line 16, insert "(including repairs and maintenance)" before "of".

On page 74, line 20, strike "during 1986" and insert "(and allowable as a deduction) during 1986 and shall be treated as qualified rehabilitation expenditures made during 1986".

On page 76, between lines 17 and 18, insert:

(W) South Carolina Family Farm Development Authority.

(X) Clemson University Continuing Education and the Component Housing Project.

On page 78, strike lines 1 through 16, and insert after "1986" in line 17 "and the amendments made by section 1301 of the Tax Reform Act of 1986".

On page 80, line 12, strike "each place it appears" and insert "the second place it appears".

On page 80, between lines 19 and 20, insert the following:

( ) On page 31, in paragraph (4) of subsection (b) (relating to miscellaneous itemized deductions)—

(A) strike "deduction" and and insert the "deductions", and

(B) strike the comma at the end and insert "and section 642(c) (relating to deduction for amounts said or permanently set aside for a charitable purpose),".

( ) On page 32, in the heading of subsection (e), strike "Determination of Adjusted Gross Income in Case of" and insert "Special Rules for".

( ) On page 32, after the period at the end of subsection (e) and before the close quotation marks, insert "For purposes of

this section and section 56(b)(1), the deductions allowable to an estate or trust under sections 651 and 661 shall not be treated as itemized deductions.".

( ) On page 56, in subsection (b) (relating to system used for purposes of earnings and profits)—

(A) strike "Paragraph (3)" and insert:

(1) IN GENERAL.—Paragraph (3), and

(B) insert at the end of the following new paragraph:

(2) CONFORMING AMENDMENT.—Section 312(k)(4) is amended—

(A) by striking out "paragraphs (1) and (3)" and inserting in lieu thereof "paragraph (1)", and

(B) by striking out the last sentence.

( ) On page 61, immediately before section 202 (relating to expensing of depreciable assets), insert the following new paragraph:

(15) Subparagraph (D) of section 46(e)(4) is amended by striking out "paragraph (8) and (9) of section 168(j)" and inserting in lieu thereof "paragraphs (5) and (6) of section 168(h)".

( ) On page 62, the last line, insert after the end period the following new sentence: "No election may be made under this subparagraph with respect to property to which section 168 of the Internal Revenue Code of 1986 does not apply by reason of section 168(f)(5) of such Code."

( ) On page 65, at the end of subsection (d) (relating to mid-quarter convention), insert: "The preceding sentence shall only apply to property which would be taken into account if such amendments did apply."

( ) On page 67, in subparagraph (F), insert "either" after "if".

( ) On page 68, in the 21st line, strike "1993" and insert "1998".

( ) On page 81, in paragraph (29)—

(A) strike "January 18" in subparagraph (A) and insert "January 25", and

(B) strike "law suits filed on June 22, 1984, and November 21, 1985" in subparagraph (B) and insert "a law suit filed on October 25, 1985".

( ) On page 84, strike subparagraph (J) and insert the following:

(J) a 25.85 megowatt alternative energy facility located in Deblois, Maine, with respect to which certification by the Federal Energy Regulatory Commission was made on April 3, 1986, and".

( ) On page 84, immediately before subsection (b), insert the following new paragraph:

(40) The amendments made in section 201 shall not apply to trucks, tractor units, and trailers which a privately held truck leasing company headquartered in Des Moines, Iowa, contracted to purchase in September 1985 but only to the extent the aggregate reduction in Federal tax liability by reason of the application of this subparagraph does not exceed $8,500,000.

( ) On page 85, the first 12 lines—

(A) insert "and" at the end of subparagraph (B),

(B) strike subparagraph (C), and

(C) redesignate subparagraph (D) as subparagraph (C).

( ) On page 108, in subparagraph (B) of paragraph (3) (relating to certain additional rehabilitations), strike "Pontabla" and insert "Pontalba".

( ) On page 110, in subparagraph (T) of paragraph (4), strike "Louisville" and insert "Covington".

( ) On page 124, in paragraph (1) of subsection (k) (relating to application of at-risk rules)—

(A) strike "subparagraph (D)(iv)(I)" and insert "subparagraphs (D)(11)(II) and (D)(iv)(I)", and

(B) strike "qualified basis" and insert "eligible basis".

( ) On page 125, the 5th line, before the end period insert: ", except that this subparagraph shall not apply in the case of a Federally-assisted building described in subsection (d)(6)(B) if—

"(i) a security interest in such building is not permitted by a Government agency holding or insuring the mortgage secured by such building, and

"(ii) the proceeds from the financing (if any) are applied to acquire or improve such building."

( ) On page 127, in the third line, strike the period and insert ", and except for any building described in paragraph (2)(B), subsection (h)(4) shall not apply to any building placed in service after 1989.".

( ) On page 141, immediately before subsection (c) (relating to effective date) insert:

(14) Subparagraph (B) of section 172(d)(4) is amended by striking out ", (2)(B),".

( ) On page 167, between the fourth and fifth lines, insert:

(4) SPECIAL RULE FOR CERTAIN RURAL HOUSING.—In the case of any interest in a qualified low-income housing project which—

(A) is assisted under section 515 of the Housing Act of 1949 (relating to the Farmers Home Administration Program), and

(B) is located in a town with a population of less than 10,000 and which is not part of a metropolitan statistical area,

paragraph (1)(B) shall be applied by substituting "35 percent" for "50 percent" and subsection (b)(1) shall be applied by substituting "5th taxable year" for "6th taxable year". The preceding sentence shall not apply to any interest unless, on December 31, 1986, at least one-half of the number of payments required with respect to such interest remain to be paid.

( ) On page 177, the 11th line, insert "amount or" before "payment".

( ) On page 177, strike the last 4 lines, and insert:

"(B) except as provided in regulations, the only earnings and profits of such corporation were earnings and profits—

"(i) accumulated by such corporation (or any predecessor corporation) during such period, and

"(ii) not attributable to distributions from any other corporation unless the stock of such other corporation (or of any predecessor corporation) was held by such corporation during the entire period such other corporation (or predecessor corporation) was in existence, and

( ) On page 190, lines 8 and 9, strike "deposits described in subclause (II)" and insert "the amount of deposits in the new loss corporation immediately after the change".

( ) On page 190, in paragraph (6) (relating to special rule for insolvency transactions), strike "be the value of the new loss corporation immediately after the ownership change" and insert "shall reflect the increase (if any) in value of the old loss corporation resulting from any surrender or cancellation of creditor's claims in the transaction".

( ) On page 193, in the sentence immediately preceding paragraph (5) (relating to bankruptcy proceedings) strike "with respect to domestic building and loan transactions" and insert "with respect to transactions (including firm commitment underwritings) by institutions described in section 591 of such Code".

( ) On page 201, immediately before section 632 (relating to treatment of C corporations electing subchapter S status), insert the following new paragraph:

(18) Section 334(b)(2) is amended by striking out "332(c)" each place it appears in the text and heading and inserting in lieu thereof "337(b)(1)".

( ) On page 203, immediately before subsection (b) (relating to treatment of distributions), strike the end quotation marks and insert the following new paragraph:

"(5) TREATMENT OF TRANSFER OF ASSETS FROM C CORPORATION TO S CORPORATION.—

"(A) IN GENERAL.—Except to the extent provided in regulations, if—

"(i) an S corporation acquires any assets from a C corporation, and

"(ii) the S corporation's basis in such assets is determined (in whole or in part) by reference to the basis in the hands of the C corporation,

then this section (other than subsection (c)(1)) shall apply to any recognized built-in gain on the disposition of any such asset.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) paragraphs (1), (2), and (3) shall be applied by substituting the taxable year in which the assets were acquired for the taxable year referred to in such paragraphs, and

"(ii) the net unrealized build-in gain shall be computed by taking into account only such assets."

( ) On page 206, in paragraph (8), strike "becomes an S corporation for a taxable year beginning" and insert "makes an election to be an S corporation under section 1362 of such Code".

( ) On page 206, redesignate subsections (d) and (e) as subsections (e) and (f), respectively.

( ) On page 208, redesignate subsection (f) as subsection (g).

( ) On page 225, the 10th line, strike "contractual option" and insert "contractural obligation".

( ) On page 253, strike subparagraph (E) (relating to standard deduction not allowed) and insert:

"(E) STANDARD DEDUCTION AND PERSONAL EXEMPTION NOT ALLOWED.—The standard deduction under section 63(c) and the deduction for personal exemptions under section 151 shall not be allowed.

( ) On page 264, on paragraph (6)(A) (relating to appreciated property charitable deduction) insert "or 642(c)" after "section 170".

( ) On page 268, the 5th line from the bottom, strike the end quotation marks.

( ) On page 268, between the 4th and 5th lines from the bottom, insert:

"(1) TAXABLE INCOME FOR CERTAIN ORGANIZATIONS.—If the tax imposed by chapter 1 on any organization is determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such organization for purposes of this part."

( ) On page 269, fifth line from the bottom, strike "earnings and profits" and insert "current earnings".

( ) On page 273, before the last line, insert:

(L) Section 511 is amended by striking out subsection (d).

( ) On page 295, the 7th line from the bottom, strike "Section 267(a)" and insert "Section 267(a)(2)."

( ) On page 313, in paragraph (3)(C) (relating to limitation on issuer), strike "qualified" the second place it appears.

( ) On page 315, strike subparagraph (P) and insert:

(P) Homewood, Alabama, the Club Apartments.

( ) On page 321, the 6th line, strike "June 20, 1986" and insert "the date of the enactment of this Act".

( ) On page 349, in clause (iv) of paragraph (4)(B) (relating to information required to be supplied), strike "with or within which the taxable year ends" and insert "in which the taxable year begins".

( ) On page 350, in subparagraph (C) of paragraph (2) (relating to special rules for applying section 72), strike "with or within which the taxable year ends" and insert "in which the taxable year begins".

( ) On page 383, the 9th line from the bottom, strike "414(f)(1)(B)" and insert "3(37)(A)(ii)".

( ) On page 384, the first line, strike "Section 202(B)(i)" and insert "Section 202(a)(1)(B)(i)".

( ) On page 398, in section 4979(c) (defining excess contributions), strike "408(k)(8)(B)" and insert "408(k)(6)(C)".

( ) On page 419, line 11, strike "at the end thereof" and insert "after section 4981".

( ) On page 419, line 13, strike "SEC. 4981." and insert "SEC. 4981A.".

( ) On page 421, line 18, strike "at the end thereof" and insert "after the item relating to section 4981".

( ) On page 421, in the matter following line 18, strike "Sec. 4981." and insert "Sec. 4981A.".

( ) On page 429, the 9th line, strike "(E)" and insert "D".

( ) On page 448, immediately before part II (relating to other provisions), insert:

(6) CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—If an educational organization described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986 makes an election under this paragraph with respect to a plan described in section 125(c)(2)(C) of such Code, the amendments made by this section shall apply with respect to such plan for plan years beginning after the date of the enactment of this Act.

( ) On page 451, in section 134(b)(1) of the Internal Revenue Code of 1986, as added by section 1168(a) of the Act, insert "(other than personal use of a vehicle)" after "in-kind benefit".

( ) On page 453, in paragraph (1) of section 2057(b) (relating to qualified sale), strike "is".

( ) On page 455, in subclause (II) of paragraph (2)(B)(i) (relating to effective date for subsection (b)), strike "July 18" and insert "May 23".

( ) On page 463, in clause (ii) of subparagraph (I) (relating to transitional rule), strike "1986" and insert "1987".

( ) On page 484, immediately above subsection (d) (relating to effective dates), insert the following new subparagraph:

(D) Paragraph (1) of section 2195(b) (relating to bank deposits and certain other debt obligations) is amended by striking out "section 861(c), if any interest thereon would be treated by reason of section 861(a)(1)(A) as income from sources without the United States" and inserting in lieu thereof "section 871(i)(3), if any interest thereon would not be subject to tax by reason of section 871(i)(2)".

( ) On page 488, in subparagraph (C) (relating to special rule), strike "to interest expenses paid or accrued".

( ) On page 511, in paragraph (2) of subsection (e) (relating to certain basis, etc. rules made applicable), strike "who was not" and insert "who was".

( ) On page 517, in the matter added by subsection (b) (relating to coordination of section 1246 with section 1248), strike "section 1248(g)(3)" and insert "section 1248(g)(2)".

( ) On page 543, immediately before part III (relating to cover of income taxes), insert the following new paragraph:

(9) Section 1444 is amended by striking out "(as modified by section 934A)".

( ) On page 546, insert immediately after subsection (e) the following new subsection:

(f) EXEMPTION FROM WITHHOLDING.—Notwithstanding subsections (b) and (c), the modification of section 884 of the Internal Revenue Code of 1986 by reason of the amendment to section 881 of such Code by section 1273(b)(1) of this Act shall apply to taxable years beginning after December 31, 1986.

( ) On page 606, in paragraph (2) of subsection (b) (relating to section 1301(f)), insert "with respect to non-issued bond amounts elected" after "issued".

( ) On page 610, immediately after subparagraph (F), insert the following new subparagraph:

(G) Except as provided in the last sentence of subsection (c)(2) of this section, the requirements of section 145(b) (relating to $150,000,000. limitation on bonds other than hospital bonds).

( ) On page 615, in line 8, insert "and as having a carryforward purpose described in section 146(f)(5) of such Code," immediately before "but".

( ) On page 653, in clause (ii) of paragraph (33)(A) (relating to application of $150,000,000 limitation for certain qualified 501(c)(3) bonds)—

(A) strike "on" in subclause (II) thereof and insert "dated", and

(B) insert "dated on December 1, 1985" after "(Series 1985 A and 1985 B)" in subclause (III) thereof.

( ) On page 656, the last line, strike "$80,000,000" and insert "$400,000,000".

( ) On page 658, in the second item in the table in paragraph (44) (relating to New Mexico Hospital pool bonds), strike "Bonds Pool" and insert "Equipment Loan Council".

( ) On page 662, strike the end quotation marks at the end of section 673 (relating to reversionary interests).

( ) On page 662, immediately before section 1402(b) (relating to conforming amendments), insert:

"(c) SPECIAL RULE FOR DETERMINING VALUE OF REVERSIONARY INTEREST.—For purposes of subsection (a), the value of the grantor's reversionary interest shall be determined by assuming the maximum exercise of discretion by the fiduciary in favor of the grantor."

( ) On page 682, the fifth line, insert "(or revocable trust)" after "will".

( ) On pages 723 and 724, strike section 1608 and conform the table of contents.

( ) On page 744, in the matter inserted by subparagraph (G)—

(A) strike "Registry of Deeds" each place it appears and insert "Register of Deed", and

(B) strike "May 7, 1985" and insert "May 7, 1984".

( ) On page 758, in paragraph (9)(B), strike "1986" and insert "1954".

On page 784, sixth line from the bottom, strike "1985" and insert "1986".

( ) On page 833, in clause (i) of subparagraph (B) (relating to operating corporation), strike "placement period" and insert "replacement period".

( ) On page 886, strike paragraph (8) (the first 31 lines).

( ) On page 910, the 13th line, strike "401(a)(11)" and insert "205".

( ) On page 910, in subparagraph (B) of paragraph (7) (relating to clarification of nonforfeitable accrued benefit), strike "Subparagraph (C) of section 205(b)(1)" and insert "Clause (1) of section 205(b)(1)(C)".

( ) On page 911, in clause (i) of subparagraph (B) of paragraph (9) (relating to amendments of ERISA), strike "nonforfeitable accrued benefit" and insert "nonforfeitable right (within the meaning of section 203)".

( ) On page 917, the 10th line, strike "means earlier of" and insert "means the earlier of".

( ) On page 917, the 12th line, strike "in".

( ) On page 917, the 14th line, strike "in".

( ) On page 918, the 7th line, strike "section 203" and insert "section 203(e)".

Mr. PACKWOOD. Mr. President, this is the amendment we talked about yesterday. I think the Senator from Ohio is fully aware of what it is. Some of the objections he had have been stricken out. I have talked with his aide. There is nothing in this amendment that was not there last night.

I know of no objections on either side to what is in the amendment. After the Senator from Ohio finishes, if there is no other request for time on his side, I will be prepared to yield back time on our side and go to a vote.

□ 1010

Mr. METZENBAUM. Mr. President, the Senator from Oregon states it very accurately.

When this matter was originally proposed as a unanimous-consent agreement yesterday, the Senator from Ohio indicated that I was not opposed to the general thrust of the concurrent resolution but did have some concerns about some of the specific provisions.

In discussions had with the manager of the bill as well as some of his staff and my staff as well, we were able to agree to delete certain of the provisions, and I believe that they are appropriate deletions.

One of them we had originally agreed to in the original tax bill. I guess it was in the corrections bill. We agreed that in connection with an item having to do with a Physician's Mutual that some change would be made amounting to $300,000. When we then submitted that to determine the actual value from the Joint Tax Committee, we were told it was $10 million. It now has a provision in it providing for limitation of $300,000 a year and that was our original understanding.

Under those circumstances, we have no objection.

Mr. PACKWOOD. I thank the Senator from Ohio.

I might say there was no change in the amendment from the time we had the original estimate on it until it suddenly cost $10 million.

Mr. METZENBAUM. That is absolutely correct.

Mr. PACKWOOD. I cannot explain why it once cost $300,000 and then it cost $10 million when it was the same amendment.

Mr. METZENBAUM. At least we are in the same agreement now.

In all fairness to the Senator from Nebraska, who was the proponent of the amendment, Senator EXON, he made it clear right from the beginning that he was talking about $300,000, not $10 million.

Mr. PACKWOOD. On this one there was no attempt by any Senator on either side of the aisle to blind-side any other Senator on the other side of the aisle.

Senator EXON from Nebraska was gracious last night saying he did not need $10 million, so we agreed to the $300,000 a year limit.

Mr. METZENBAUM. That is correct.

There are some provisions in the transition rules that provided for certain provisions having to do with WPPSS, the Washington Public Power Supply System.

There was some new language inserted by the House when that would have cost the Government $50 million additional. After our discussions, I am pleased to report that the Senator from Oregon, the manager of the bill, has agreed to drop that and that is part of this amendment.

Then there was a new lease-back arrangement for the Los Angeles library sale. That would have cost the Federal Government $2 million, and that would be an exemption from the current law. The manager of the bill has agreed to drop that.

Then there was a new project that the House put in—all of these projects I might say came from the House—the Tennessee solid waste project, I have no idea whether it is meritorious or not, but the point is it did not belong in this corrections measure, and that has been dropped for a total savings of $81 million plus the savings of $8½ million on the Physician's Mutual.

None of these matters were in either the House or Senate bill with exception of the Physician's Mutual matter.

Then in connection with the general aviation amendment, that amendment which originally was limited to certain aviation companies that were located in particular States, it was agreed that there was agreement that that would be generic but there were some provisions provided that as to the cost limitations and instead of it costing $25 million, it will not cost $14 million.

The total savings to the Treasury in all of them amounts to $92 million and that, around here, maybe is not a lot of money, but when you are trying to get $4 million for orphan drugs or a few million dollars for a WIC program or a few million dollars for some other research program, it is a lot of money, and to this Senator, and I am sure the manager of the bill, it is a lot of money, and I think we have agreed on that.

Then there was another measure that came into this bill and this is one of those unusual ones that nobody claims any parenthood, nobody is willing to describe where it came from, and that had to do with a freight forwarders amendment. It so happens that is a very good amendment and the manager of the bill indicated publicly the other day that he supports it. I support it.

It really does not belong in this bill because it sort of comes in from left field, but notwithstanding that, it was a very good amendment and I had hoped we could keep it in.

The chairman of the committee, Senator DANFORTH, has indicated and made a commitment, and I think I speak correctly, and I hope the manager will correct me since I see Senator DANFORTH is not on the floor at the moment, if I am wrong, that he agreed that if the matter is dropped there would be early hearings in the committee, that the matter would not only have hearings but would be brought to a vote in the committee or there would be a markup. On that basis, although I feel very strongly that the measure does have a lot of merit to it, I have agreed that I would not concern myself about that deletion.

Mr. PACKWOOD. The Senator from Ohio is correct. As a matter of fact, I even talked to the Senator from Missouri, Senator DANFORTH, last night and again reconfirmed that we would have hearings on it.

I agree with the Senator from Ohio. I think it is a good provision. I think on the merits it is a good provision. It was put in the bill by the method we have not yet determined. I felt badly. It was his jurisdiction, and I appreciate the Senator from Ohio, even though he and I agree on the merits, taking it out.

Mr. METZENBAUM. I say to the Senator from Oregon, the manager of the bill, that he has been very reasonable in our discussions that we had in connection with these negotiations and deletions. There was some effort on his part last night to move forward with this unanimous consent and there was, I think, some possible misunderstanding with my staff. I was out of the city for a couple of hours. But I appreciate his consideration and cooperation, and I think we are going forward and I think many of the problems that he wants to resolve in this concurrent resolution will now be resolved.

Mr. MOYNIHAN. Mr. President, there does not appear to be any Member on this side who wishes to speak.

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

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

Mr. PACKWOOD. Mr. President, what happened is that in the changing of the effective date on the insurance issues from June 20 to the date of the enactment of the act, the June 20 date appears in three places in the bill. The amendment that is before the body changes the date in only one place.

So I ask unanimous consent that my amendment may be modified on page 17, line 7, after the word "the" and before the number "Sixth" that the words "third, fourth, and" may be added.

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

Mr. MOYNIHAN. Mr. President, I take a moment just to thank the distinguished chairman and our indefatigable staff for having put together this collection of basically corrections to a large document which was inevitably subject to the kinds of drafting errors and typographical errors that will happen and also the simple oversights. In the interests of full disclosure which we have had throughout this, there are two provisions in this measure, one having to do with a development of the Flushing Center in the county of Queens in New York and the other the Eastman Place in Rochester, NY. Both have been fully agreed with in conference and there was no question about their appropriateness as transition rules. A piece of paper fell on the floor somewhere in the course of the drafting and these now are restored. I just want to make that point clear.

□ 1020

Mr. President, how much time do we have on this side?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. MOYNIHAN. I yield 1 minute to the Senator from Kentucky.

Mr. FORD. I thank my distinguished friend. Mr. President, I want to compliment the chairman, Mr. PACKWOOD, for his effort in resolving the problem we had as it relates to the technical corrections, and my distinguished friend from New York. I would like to thank Senator MELCHER for working out his problem that was delaying the consideration of this legislation today. He was amenable to the

concerns of his colleagues and I am grateful for that. And also Senator METZENBAUM for allowing it to go forward. I do thank all of those who are involved. It is an important piece of legislation for the people of my State and I am grateful.

Mr. MOYNIHAN. Mr. President, we yield back the balance of our time.

Mr. PACKWOOD. I yield back the balance of the time on our side.

The PRESIDING OFFICER. All time having been yielded back, in accordance with the terms of the unanimous-consent agreement, upon yielding back of all time, the amendment is considered agreed to.

The amendment (No. 3467) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the provisions of the agreement, the question now recurs on the adoption of the concurrent resolution, as amended.

The concurrent resolution (H. Con. Res. 395), as amended, was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I will just take 1 minute to thank the distinguished chairman of the Finance Committee for not giving up and we now have that behind us. So that is one thing off the list, one big item that is gone, disappeared in 10 minutes.

The immigration bill will be next. I hope we could complete that by noon. Then I assume we would turn to the continuing resolution which will probably take some time, but at least we are starting to move.

Mr. HATCH. Mr. President, the 1984 tax bill had the unintended effect of creating an incentive for U.S gold miners to use foreign refineries in order to qualify for foreign sales corporation tax benefits. This provision of the Tax Code threatens the existence of the precious metals refining industry in the United States. Unless Congress acts, our domestic industry will be harmed irreversibly, as more and more gold goes overseas for refining.

This challenge to our refining industry became apparent to domestic refiners only earlier this year. When the industry called this problem to my attention, it was too late for consideration by the Finance Committee, and relief was not included in the Tax Reform Act of 1986. I believe, however, that this problem deserves the attention of the Congress, and I will urge my colleagues to consider a resolution to it during the next session of Congress. In the meantime, I hope the gold mining, refining, and manufacturing industries themselves will consider the best way to accommodate the interests of individual companies with the goal of saving our domestic refining capacity.

Our mining industry has seen hard times in recent years, and to some profitable gold mining companies, FSC tax benefits are providing welcome financial support in the form of an income tax deduction. Gold prices are recovering, which should also help our miners. But regardless of the price of gold, I know that all U.S. mining companies support the concept of a healthy, competitive refining industry within our borders if for no other reason than because competition controls refining costs.

As another assist to the U.S. gold producers, Congress has approved an ambitious U.S. gold coin program, and required that newly mined U.S. gold be purchased to the fullest extent possible before U.S. gold reserves are tapped for coinage. It would undermine the purpose of the gold coin program, Mr. President, for the U.S. mint to be forced to buy U.S. gold abroad in the absence of domestic refining capacity, or to dig into our gold reserves, thereby increasing overall gold supplies and depressing gold prices.

There are only a handful of independent precious metals refineries in the United States and only one major precious metals refinery in the West, located in Salt Lake City. Even without the market distortion created by the Tax Code, the industry is intensely competitive. Yet the domestic refining industry cannot compete on an equal footing unless it is eligible for FSC benefits available for precious metals refined abroad.

Mr. President, let me provide some background about foreign sales corporations as they affect the domestic refining industry.

The 1984 Tax Reform Act established foreign sales corporations to replace DISC's. Reversing a policy established in the 1960's, Congress also made extracted minerals eligible for FSC benefits. Several gold miners have since transferred their business from domestic to foreign refineries in order to obtain the FSC tax benefits. Since gold is a fungible commodity, an equivalent amount of gold is soon reimported for use in the United States.

The United States is a net importer of precious metals. The United States produces 2 million ounces of gold and imports 7 million ounces annually. If FSC trends continue, the United States could actually export 2 million ounces of gold and import 9 million.

That is not what the Congress had in mind in 1984, Mr. President.

Just as the gold market is complex, so there is no simple solution to the refining crisis. Precious metals are totally fungible elemental commodities. Gold is seldom consumed. Rather, it is held and traded internationally for its intrinsic value. Physical gold is rarely shipped or delivered at time of sale. Gold enters the world market as soon as it reaches the refinery. A foreign buyer of gold from a western U.S. mine might actually receive title to physical gold stored in Toronto or London, even before the gold from the U.S. mine is refined.

The fungible nature of gold, and the impossibility of tracking any individual ounce of gold from the refinery gate to its ultimate user, make relief for the refiners difficult in the contest of foreign sales corporation requirements. One alternative would be to formally make U.S. refined gold eligible for FSC benefits. The Treasury Department, however, believes this legislative relief would undermine the fundamental FSC tests of delivery and use outside the United States.

Treasury would support excluding gold altogether from FSC benefits. But while the gold mining industry did not seek special export tax benefits in 1984, miners now using FSC's understandably do not want to give up the tax advantage. Others in the precious metals mining industry feel just as strongly that a U.S. capability to refine U.S. mined gold is in the public interest as well as in their economic interest.

Given the alternative of losing our domestic refining capacity—with the implications for the U.S. gold coin program—a solution must be found quickly. I urge the precious metals industry to consider the equities and counsel the Congress. And I look forward to working with my colleagues over the next several months to fashion a solution.

Mr. DOLE. Mr. President, I would like to take a few moments to address the issue of the general aviation transition rule contained in H.R. 3838 and modified in Senator PACKWOOD's amendment to the House concurrent resolution.

The transition rule, as originally drafted, was intended to allow our manufacturers of general aviation aircraft to offer buyers the investment credit and current law depreciation as an incentive to purchase planes before the end of the year. We intended to include all planes truly manufactured in the United States although the measure was drafted in a limited manner to satisfy the revenue estimators that the revenue loss would not be unexpectedly high.

As it turned out, we missed one major manufacturer by the way that

the conference report was drafted. The House concurrent resolution corrected that omission.

The modification proposed by the distinguished chairman of the Finance Committee would attempt to expand the transition rule to include aircraft which are not in any sense "manufactured" in the United States. I think this is wrong. However, I will not object to the unanimous-consent request because I know how important the truly technical corrections contained in this resolution are to many Members and their constituents.

Nevertheless, it is difficult for me to justify to myself or to explain to anyone else how we can consider a paint job, installation of part of an interior, or installation of some avionics to qualify an airplane for the benefits of this special rule. It seems to me to be a very strained definition of "final assembly" to allow planes that are flown over on their own from overseas to be considered "finally assembled" in the United States.

I can understand the desire of the chairman to adopt a generic rule that will not appear to prefer one State over another. However, I think that we should focus on why the provision exists in the first place. It was included in the bill because our domestic general aviation manufacturers are suffering from a severe recession. We are hoping that a short period when they can tell potential buyers that they will still be able to get an investment tax credit will give these manufacturers a chance to sell the planes they now have in inventory and those that they expect to complete before next July.

I would hope that the Internal Revenue Service will interpret the term "final assembly" in accordance with the common understanding of the term—that a plane will not qualify for this rule unless its final assembly is in the United States. It would seem odd that a plane could be considered finally assembled in the United States if it is capable of being flown and, in fact, is flown into this country from somewhere else.

THE ANTIDRUG BILL

Mr. DOLE. Mr. President, the Senate, in the truest sense of bipartisanship, passed the drug bill last night. It has been that way from the start. We had a couple of major differences, really only one. But we approved that bill by a voice vote last night.

I would just like to urge my House colleagues to take a hard look at that bill today and to accept it. It is very close to the House bill. There are some differences. I would just urge the House today to indicate that they are going to support the Senate bill which contains many of the provisions in the House bill. It is really a bicameral compromise, as well as a bipartisan compromise.

COMPARISON OF SENATE AND HOUSE ANTIDRUG BILLS

Mr. President, I have repeatedly stated that I believe Congress has a duty to approve antidrug legislation before we adjourn this year. The Senate has twice now addressed the issue—addressed it in a responsible and meaningful way.

On September 30, we approved the Drug Enforcement Act, and last night, after meeting the House more than half-way on a number of important issues, we passed a revised drug bill and sent it to the House for its consideration.

There never will be or could be a drug bill that would please every Member. Like any legislation that is as far-reaching and covers as many different concerns, there will be differences of opinion. But I believe the bill we passed last night is as close as we can come to a consensus between the two bodies. And I hope that the House, after looking at what we have done, will accept the Senate's bill.

Mr. President, I ask unanimous consent that a summary of the major differences in the bills be printed at this point in the RECORD.

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

MAJOR SENATE CHANGES TO HOUSE AMENDMENT

TITLE I—ENFORCEMENT

Adds back certain Senate provisions dropped by the House:

Authority to reduce statutory minimum sentences in return for cooperation with police and prosecutors.

Federal Drug Law Enforcement Agent Protection Act.

Common carrier operations under the influence of drugs or alcohol.

Retains Senate money laundering.

Authorizes $230 million for grants to State and local law enforcement agencies, as opposed to a House level of $350 million and Senate level of $115 million.

TITLE II—INTERNATIONAL

Restores Senate level of $63 million for International Narcotics Control Assistance.

Retains Senate language on the location where the repeal of the Mansfield Amendment applies.

Strikes the $1 million reduction in narcotics assistance to Mexico added by the House, and instead lists a series of actions the Congress may take unless progress is made in the investigations on the death of DEA agent Camarena and the torture of DEA agent Cortez.

TITLE III—INTERDICTION

Provides (2) E2C Hawkeye Surveillance aircraft to U.S. Customs Service and (2) identical aircraft to U.S. Coast Guard.

Specifies that funds provided through Department of Defense are new authority and not out of existing authority.

Restores Senate language on FCC license revocation and equipment seizure.

Provides "up to $7 million" for the Civil Air Patrol as opposed to $3.5 million.

Provides two C-130 surveillance aircraft to U.S. Coast Guard.

TITLE IV—DEMAND REDUCTION

Increases by $15 million the existing ADAMHA block grant to a total of $515 million.

Authorizes $186 million for drug and alcohol treatment and rehabilitation.

Retains Senate language reauthorizing NIAAA at $69 million and NIDA at $129 million.

Provides $200 million in new educational funds. This compares to an original Senate level of $150 million and House level of $250 million.

Mr. DOLE. Mr. President, again, I strongly urge the House to take the responsible route, to accept the Senate drug bill, which is itself a compromise between the original House and Senate versions. This is the best possible way to offer the American people some of the help they have called on us to provide—help to combat the terrible tragedy of drug abuse.

ORDER OF PROCEDURE

Mr. SIMPSON. Mr. President, I believe we have some business to conduct and, after conferring with the Democratic leader, we can do some housekeeping matters that are important to both bodies in these last hours.

RELEASING CERTAIN CONDITIONS AND RESERVATIONS CONTAINED IN A CONVEYANCE OF LAND TO THE STATE OF UTAH

Mr. SIMPSON. Mr. President, after conferring with the Democratic leader, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 5459, dealing with certain land in the State of Utah, and I ask for its immediate consideration.

Mr. BYRD. Mr. President, there is no objection to either the request to discharge from the committee or immediate consideration.

The PRESIDING OFFICER. Is there objection? There being no objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5459) to direct the release, on behalf of the United States, of certain conditions and reservations contained in a conveyance of land to the State of Utah, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Are there amendments? If not, the question is on the third reading and passage of the bill.

The bill (H.R. 5459) was ordered to a third reading, was read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

COAST GUARD AUTHORIZATION ACT

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 1086, H.R. 4208, the Coast Guard authorization bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4208) to authorize appropriations for the Coast Guard for fiscal year 1987, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wyoming?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That this Act may be cited as the "Coast Guard Authorization Act of 1986".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1987, as follows:

(1) For the operations and maintenance of the Coast Guard, $1,862,800,000, of which not more than $20,000,000 may be made available to the Commandant of the Coast Guard for discretionary use in meeting unanticipated demands and needs for Coast Guard operation and maintenance; and for increases in salary, pay, and other employee benefits authorized by law, such sums as may be necessary.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $267,000,000, to remain available until expended.

(3) For research, development, test, and evaluation, $20,000,000, to remain available until expended.

(4) For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, $364,000,000.

(5) If funds are appropriated to any other officer of the United States for carrying out the purposes described in paragraphs (1) through (4) of this section, such officer may transfer to the Secretary of the department in which the Coast Guard is operating the full amount of such funds. Such funds shall be allocated by the Secretary to such purposes.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING

SEC. 3. (a) For fiscal year 1987, the Coast Guard is authorized in end-of-year strength for active duty personnel of 39,200. The authorized strength does not include members of the Ready Reserve called to active duty under the authority of section 712 of title 14, United States Code.

(b) For fiscal year 1987, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 3,200 student-years.

(2) For flight training, 110 student-years.

(3) For professional training in military and civilian institutions, 441 student-years.

(4) For officer acquisition, 925 student-years.

TRANSFER OF FUNDS

SEC. 4. (a) Whenever the Secretary of the department in which the Coast Guard is operating determines it to be in the national interest, the Secretary may transfer not to exceed 5 percent of the funds appropriated for the purposes described in section 2(2) of this Act to the Commandant of the Coast Guard for discretionary use in meeting unanticipated demands and needs for Coast Guard operations and maintenance under section 2(1) of this Act.

(b) No transfer of funds may occur under subsection (a) of this section until 15 days after the Secretary has provided written notification to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Merchant Marine and Fisheries of the House of Representatives, and the Appropriations Committees of the Senate and House of Representatives stating the reasons for such determination and a description of the purposes for which the funds proposed to be transferred will be used.

LIMITATIONS ON CONTRACTING PERFORMED BY THE COAST GUARD

SEC. 5. (a)(1) It is in the national interest for the Coast Guard to maintain a logistics capability (including personnel, equipment, and facilities) to provide a ready and controlled source of technical competence and resources necessary to ensure the effective and timely performance of Coast Guard missions in behalf of the security, safety, and economic and environmental well-being of the United States.

(2)(A) The Secretary of the department in which the Coast Guard is operating shall identify those Coast Guard activities that are necessary to maintain the logistics capability described in paragraph (1) of this subsection. The Secretary shall provide a list of such activities to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives not later than January 31, 1987. If the Secretary does not provide such list by that date, no activity performed by Coast Guard personnel may be contracted for performance by non-government personnel after such date until the list is provided to such committees.

(B) The list submitted by the Secretary under this paragraph shall not include—

(i) any activity that is being performed under contract by non-government personnel on the date of enactment of this Act; or

(ii) any activity for which Congress received, prior to April 1, 1986, a written notification pursuant to section 14(b)(2) of the Coast Guard Authorization Act of 1984 (Public Law 98-557; 98 Stat. 2864) of intent to contract.

(b)(1) Except as provided in paragraph (2) of this subsection, performance of an activity identified by the Secretary under subsection (a)(2) of this section may not be contracted for performance by non-government personnel.

(2) The Secretary may waive paragraph (1) of this subsection with respect to any Coast Guard activity (other than an activity described in subsection (d) of this section), if the Secretary determines that the performance of such activity by Government personnel is no longer necessary to ensure the effective and timely performance of Coast Guard missions.

(3) A waiver under paragraph (2) of this subsection may not take effect until a period of 30 days in which either the Senate or House of Representatives is in session has expired after the Secretary has submitted in writing to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives a full and complete statement concerning the waiver and the reasons therefor.

(c) Before the beginning of fiscal year 1987, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives a list of Coast Guard activities that are to be considered for performance by contract by non-Government personnel under the procedures of Office of Management and Budget Circular A-76 during that fiscal year.

(d) The Secretary may not award any contract for the performance of any "commercial activity", as defined by paragraph 6.a. of the Office of Management and Budget Circular Memorandum A-76, which is performed by employees of the Coast Guard until at least 30 calendar days after the Secretary has presented, in writing, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a full and complete description of such proposed contract, together with supporting documentation. Such documentation shall include—

(1) a comparison of the cost of such activity as performed by employees of the Coast Guard and the cost of such activity as performed under the proposed contract;

(2) a comparison of the services performed by employees of the Coast Guard and the services to be performed under the proposed contract; and

(3) an assessment of the benefits to the Coast Guard of proceeding with the proposed contract.

(e)(1) Notwithstanding any other provision of law, each contract awarded by the Coast Guard in fiscal year 1987 for construction or services to be performed in whole or in part in a State which has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor) shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in that State, individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. The secretary of the department in which the Coast Guard is operating may waive the requirements of this subsection in the interest of national security or economic efficiency.

(2) As used in this subsection, the term "local resident" means an individual within daily commuting distance even if not a resident of the State which has an unemployment rate in excess of the national average rate of unemployment (as determined by

the Secretary of Labor), in accordance with paragraph (1) of this subsection.

MARITIME DEFENSE ZONE

SEC. 6. Section 2 of title 14, United States Code, is amended by inserting immediately before the period at the end thereof the following: ", including the fulfillment of Maritime Defense Zone command responsibilities".

BOAT SAFETY PROGRAM

SEC. 7. (a) Section 9503(c)(4) of title 26, United States Code, is amended—

(1) in subparagraph (A), by striking "$45,000,000" each place it appears and inserting in lieu thereof "$60,000,000"; and

(2) by adding at the end thereof the following:

"(E) DETERMINATION.—The amount of payments made under this paragraph after October 1, 1986 shall be determined by the Secretary in accordance with the Department of the Treasury's Report to Congress of June 1986 entitled 'Gasoline Excise Tax Revenues Attributable to Fuel Used in Recreational Motorboats'.".

(b) Section 13106 of title 46, United States Code, is amended—

(1) in subsection (a), by striking "two-thirds" and inserting in lieu thereof "one-half"; and

(2) in subsection (c), by striking "one-third" and inserting in lieu thereof "one-half".

(c) Section 13103 of title 46, United States Code, is amended by adding at the end thereof the following:

"(d) Before making any allocation under this section for a fiscal year, the Secretary shall retain not less than 1 percent nor more than 2 percent of the amount appropriated for that year for State recreational boating safety programs for the payment of costs of administration of this chapter.".

PAYMENT OF INTEREST TO COAST GUARD AUXILIARY

SEC. 8. Section 830 of title 14, United States Code, is amended—

(1) by inserting "(a)" before "Appropriations"; and

(2) by adding at the end thereof the following:

"(b) The Secretary may pay interest on a claim under this section in any case in which a payment authorized under this section is not made within 60 days after the submission of the claim in a manner prescribed by the Secretary. The rate of interest for purposes of this section shall be the annual rate established under section 6621 of the Internal Revenue Code of 1954.".

USE OF COAST GUARD AUXILIARY

SEC. 9. (a) It is the sense of the Congress that the Coast Guard Auxiliary performs a broad range of services in behalf of the safety and security of the American people, and that the continued strength and vitality of the Coast Guard Auxiliary is important to the United States.

(b)(1) The Secretary of Transportation shall investigate and submit to the Congress a report within 1 year after the date of enactment of this Act regarding—

(A) the extent to which membership of the Coast Guard Auxiliary has declined in recent years and the causes of such decline;

(B) the effect, if any, on the maritime community of any such decline in the performance levels of the Coast Guard Auxiliary in the areas of life-saving, assistance to persons in distress, safety patrols and inspections, and support missions for the Coast Guard;

(C) the effect, if any, of the Coast Guard's non-emergency assistance policy on the overall effectiveness of the Coast Guard Auxiliary.

(2) The report submitted by the Secretary under this section shall include such recommendations for legislative and administrative action as the Secretary considers appropriate to achieve and maintain the Coast Guard Auxiliary at its optimum strength.

MISCELLANEOUS AMENDMENTS TO TITLE 14 AND TITLE 46

SEC. 10. (a)(1) The analysis of parts, before section 1 of title 14, United States Code, is amended by striking

"II. Coast Guard Reserve and Auxiliary ..... 751"

and inserting in lieu thereof

"II. Coast Guard Reserve and Auxiliary ..... 701".

(2) The analysis of chapters of part II of title 14, United States Code, is amended by striking

"21. Coast Guard Reserve ..... 751"

and inserting in lieu thereof

"21. Coast Guard Reserve ..... 701".

(3) Section 82 of title 14, United States Code, is amended by striking "Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.)" and inserting in lieu thereof "Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.)".

(4) Section 91 of title 14, United States Code, is amended to read as follows:

"§ 91. Safety of naval vessels

"(a) The Secretary may control the anchorage and movement of any vessel in the navigable waters of the United States to ensure the safety or security of any United States naval vessel in those waters.

"(b) If the Secretary does not exercise the authority in subsection (a) of this section and immediate action is required, the senior naval officer present in command may control the anchorage or movement of any vessel in the navigable waters of the United States to ensure the safety and security of any United States naval vessel under the officer's command.

"(c) If a person violates, or a vessel is operated in violation of, this section or a regulation or order issued under this section, the person or vessel is subject to the enforcement provisions in section 13 of the Ports and Waterways Safety Act (33 U.S.C. 1232).".

(5) Section 146 of title 14, United States Code, is amended by striking "Postmaster General" and inserting in lieu thereof "United States Postal Service."

(6)(A) Sections 431, 433, 434, and 438 of title 14, United States Code, are repealed, except that the repeal of such section shall not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun under such sections before the date of enactment of this Act.

(B) The analysis of chapter 11 of title 14, United States Code, is amended by striking the items relating to sections 431, 433, 434, and 438.

(7) Section 432(g) of title 14, United States Code, is amended—

(A) by inserting "(1)" immediately after "(g)"; and

(B) by striking the last paragraph and inserting in lieu thereof the following:

"(2) The additional compensation authorized by this subsection shall be included in any computation of compensation under section 6 of the Act of June 20, 1918 (33 U.S.C. 763).".

(8) Section 829 of title 14, United States Code, is amended by striking "Section" and inserting in lieu thereof "section."

(9) The first section of the Act entitled "An Act to require authorization for certain appropriations for the Coast Guard, and for other purposes", approved June 21, 1963 (77 Stat. 68; 14 U.S.C. 92, note), is repealed.

(b)(1) Section 2102(11b) of title 46, United States Code, is amended by inserting "freezing," immediately after "icing,".

(2)(A) Chapter 75 of title 46, United States Code, is amended by adding at the end the following new section:

"§ 7504. Travel and expense reimbursement

"When a requirement to qualify for the issuance of, or endorsement on, a certificate, license, or document under this part is administered at a place at the request of an applicant or an applicant's representative, the applicant or representative may reimburse the Secretary for the travel and subsistence expenses incurred by the personnel assigned to perform the administration of the requirement. Amounts received as reimbursement under this section shall be credited to the appropriation for operating expenses of the Coast Guard.".

(B) The analysis of chapter 75 of title 46, United States Code, is amended by adding at the end the following:

"7504. Travel and expense reimbursement.".

(3) Section 10101 (1) and (3) of title 46, United States Code, is amended by striking "owned by a citizen of the United States".

(4) Sections 10313 (e) and (h), 10314(e), 10504(a), and 10505(d) of title 46, United States Code, are amended by striking the last sentence.

(5) Section 10504(d)(3) of title 46, United States Code, is amended by striking "(except a vessel taking oysters)".

MANNING REQUIREMENTS OF MOBILE OFFSHORE DRILLING UNITS

SEC. 11. (a) Section 2101 of title 46, United States Code, is amended by inserting immediately after paragraph (15) the following:

"(15a) 'mobile offshore drilling unit' means a vessel capable of engaging in drilling operations for the exploration or exploitation of subsea resources.".

(b) Section 8101(a) of title 46, United States Code, is amended to read as follows:

"(a) The certificate of inspection issued to a vessel under part B of this subtitle shall state the complement of licensed individuals and crew (including lifeboatmen) considered by the Secretary to be necessary for safe operation. A manning requirement imposed on—

"(1) a sailing school vessel shall consider the participation of sailing school instructors and sailing school students in the operation of that vessel; and

"(2) a mobile offshore drilling unit shall consider the specialized nature of the unit.".

(c) Section 8701(a) of title 46, United States Code, is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(8) a mobile offshore drilling unit with respect to individuals, other than crew members required by the certificate of inspection, engaged on board the unit for the sole purpose of carrying out the industrial business or function of the unit.".

(d) Section 8301(c) of title 46, United States Code, is amended by inserting ", a mobile offshore drilling unit when on location," immediately after "vessel".

TOWING LICENSE

SEC. 12. (a) Section 8904 of title 46, United States Code, is amended—

(1) by inserting "(a)" immediately before "A towing"; and

(2) by adding at the end thereof the following:

"(b) A vessel that tows a disabled vessel for consideration shall be operated by individual licensed by the Secretary to operate that type of vessel in the particular geographic area, under prescribed regulations.".

(b) The amendments made by subsection (a) of this section shall take effect on January 1, 1988.

FORFEITED VESSELS

SEC. 13. (a) Whenever a vessel is forfeited to the United States, the vessel may be donated, in accordance with procedures under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), to an educational institution with a commercial fishing vessel safety program or other vessel safety, education and training program, if the institution has certified to the Federal officer referred to in subsection (b) of this section that the program includes at a minimum the following courses in vessel safety:

(1) vessel stability;

(2) firefighting;

(3) shipboard first aid;

(4) marine safety and survival; and

(5) seamanship and rules of the road.

(b) The donation of a vessel under this section shall be made on terms and conditions considered appropriate by the Federal officer making such donation, including requirements that—

(1) the educational institution must accept the vessel as is, where it is, and without warranty of any kind and without any representation as to its condition or suitability for use;

(2) the educational institution shall be responsible for maintaining the vessel;

(3) the vessel shall be used only for instructing students in vessel safety education and training programs;

(4) if the vessel is eligible to be documented, it must be documented by the educational institution as a vessel of the United States under chapter 121 of title 46, United States Code, and the requirements of paragraph (5) of this subsection shall be noted on the permanent record of the vessel;

(5) the education institution must obtain the prior approval of the Administrator of General Services before disposing of the vessel, and any proceeds from the disposal of the vessel shall be payable to the United States Government; and

(6) the vessel shall be inspected or regulated in the same manner as a nautical school vessel under chapter 33 of title 46, United States Code.

(c) The United States shall not be liable in an action arising out of the transfer or use of a vessel that has been transferred under this section.

(d) Section 2101(17) of title 46, United States Code, is amended by inserting immediately before the period the following: "or an educational institution under section 13 of the Coast Guard Authorization Act of 1986".

(e) Section 3305(c) of title 46, United States Code, is amended by inserting immediately after "school" the second place it appears the following: "or by an educational institution under section 13 of the Coast Guard Authorization Act of 1986".

LIMITATION ON TRAINING

SEC. 14. Notwithstanding any other provision of law, no training or course of instruction may be provided by the Coast Guard to employees of the government or to members of the armed services of the Republic of South Africa during fiscal year 1987.

STATUS REPORTS ON POLAR ICEBREAKING VESSELS

SEC. 15. The Secretary of the department in which the Coast Guard is operating shall provide detailed reports to Congress concerning the status of design and construction plans for the procurement of at least two new polar icebreaking vessels. Such reports shall be included in the Cutter Plan required annually by section 663 of title 14, United States Code, and shall be submitted each year until at least two new polar icebreaking vessels have been delivered to the Coast Guard.

VESSEL SAFETY

SEC. 16. Section 4102 of title 46, United States Code, is amended by adding at the end thereof the following:

"(e) Each uninspected fishing, fish processing, or fish tender vessel operating on the high seas shall be equipped with the number and type of emergency position indicating radio beacons prescribed by regulation.".

PROSECUTIONS OF MARITIME DRUG TRAFFICKERS

SEC. 17. The Act entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes", approved September 15, 1980 (Public Law 96-350; 94 Stat. 1159) is amended by striking everything immediately after the enacting clause and inserting in lieu thereof the following:

"That this Act may be cited as the 'Maritime Drug Law Enforcement Act'.

"SEC. 2. The Congress finds and declares that trafficking in controlled substances aboard vessels is a serious international problem and is universally condemned. Moreover, such trafficking presents a specific threat to the security and societal well-being of the United States.

"SEC. 3. (a) It is unlawful for any person on board a vessel of the United States, or on board a vessel subject to the jurisdiction of the United States, to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

"(b) For purposes of this section a 'vessel of the United States' means—

"(1) a vessel documented under chapter 121 of title 46, United States Code, or a vessel numbered as provided in chapter 123 of that title;

"(2) a vessel owned in whole or part by—

"(A) the United States or a territory, commonwealth, or possession of the United States;

"(B) a State or political subdivision thereof;

"(C) a citizen or national of the United States; or

"(D) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States;

unless the vessel has been granted the nationality of a foreign nation in accordance with article 5 of the 1958 Convention of the High Seas; and

"(3) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

"(c)(1) For purposes of this section, a 'vessel subject to the jurisdiction of the United States' includes—

"(A) a vessel without nationality;

"(B) a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of article 6 of the 1958 Convention on the High Seas;

"(C) a vessel registered in a foreign nation where the flag nation has consented or waived objection to the enforcement of United States law by the United States;

"(D) a vessel located within the customs waters of the United States; and

"(E) a vessel located in the territorial waters of another nation, where the nation consents to the enforcement of United States law by the United States.

Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under subparagraph (C) or (E) of this paragraph may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

"(2) For purposes of this section, a 'vessel without nationality' includes—

"(A) a vessel aboard which the master or person in charge makes a claim of registry, which claim is denied by the flag nation whose registry is claimed; and

"(B) any vessel aboard which the master or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel.

A claim of registry under subparagraph (A) may be verified or denied by radio, telephone, or similar oral or electronic means. The denial of such claim of registry by the claimed flag nation may be proved by certification of the Secretary of State or the Secretary's designee.

"(3) For purposes of this section, a claim of nationality or registry only includes:

"(A) possession on board the vessel and production of documents evidencing the vessel's nationality in accordance with article 5 of the 1958 Convention on the High Seas;

"(B) flying its flag nation's ensign or flag; or

"(C) a verbal claim of nationality or registry by the master or person in charge of the vessel.

"(d) A claim of failure to comply with international law in the enforcement of this Act may be invoked solely by a foreign nation, and a failure to comply with international law shall not divest a court of jurisdiction or otherwise constitute a defense to any proceeding under this Act.

"(e) This section does not apply to a common or contract carrier, or an employee thereof, who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business or to a public vessel of the United States, or any person on board such a vessel who possesses or distributes a controlled substance in the lawful course of such person's duties, if the controlled substance is a part of the cargo entered in the vessel's manifest and is intended to be lawfully imported into the

country of destination for scientific, medical, or other legitimate purposes. It shall not be necessary for the United States to negative the exception set forth in this subsection in any complaint, information, indictment, or other pleading or in any trial or other proceeding. The burden of going forward with the evidence with respect to this exception is upon the person claiming its benefit.

"(f) Any person who violates this section shall be tried in the United States district court at the point of entry where that person enters the United States, or in the United States District Court of the District of Columbia.

"(g)(1) Any person who commits an offense defined in this section shall be punished in accordance with the penalties set forth in section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960).

"(2) Notwithstanding paragraph (1) of this subsection, any person convicted of an offense under this Act shall be punished in accordance with the penalties set forth in section 1012 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 962) if such offense is a second or subsequent offense as defined in section 1012(b) of that Act.

"(h) This section is intended to reach acts of possession, manufacture, or distribution committed outside the territorial jurisdiction of the United States.

"(i) The definitions in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) apply to terms used in this Act.

"(j) Any person who attempts or conspires to commit any offense defined in this Act is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

"SEC. 4. Any property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under this Act shall be subject to seizure and forfeiture in the same manner as similar property seized or forfeited under section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881).".

AUTHORITY TO ISSUE CERTAIN CERTIFICATES

SEC. 18. Notwithstanding sections 12105, 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels: Dunes Spirit, United States official number 690176; Kodiak Queen, United States official number 507891; La Reina, United States official number 230115; Northwind, United States official number 230147; and Wanderbird, United States official number 229607.

AMENDMENT NO. 3468

(Purpose: Amend provision regarding the awarding of contracts for the performance of commercial activities)

Mr. SIMPSON. Mr. President, on behalf of Senator STEVENS, I send an amendment to the committee substitute to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. STEVENS, proposes an amendment numbered 3468.

Strike subsection (d) of section 5, and redesignate subsection (e) of section 5 as subsection (d).

Mr. STEVENS. Mr. President, I am offering today for consideration H.R. 4208, a bill to authorize appropriations for the Coast Guard for fiscal year 1987. This legislation was reported by the Senate Committee on Commerce, Science, and Transportation without objection. I am also offering an amendment which has been cleared by the committee.

Congress has greatly expanded the Coast Guard's civilian and coastal defense responsibilities over the last 15 years, but actual funding to perform these activities has remained static. This has forced the Coast Guard to juggle numerous duties with limited funding and personnel.

This authorization corrects many of the more severe problems facing the Coast Guard by providing greater stability in the Coast Guard's funding for operations. H.R. 4208 as reported authorizes $2,513,000,000 for the Coast Guard in fiscal year 1987. This figure equals the President's request and is consistent with the levels set forth by the budget resolution.

The amendment relates to the contracting out of activities currently performed by Coast Guard personnel. It strikes section 5(d) from H.R. 4208 as reported by the committee. Section 5(d) would have required the Secretary of Transportation to report to Congress prior to the awarding of any contract to nongovernment personnel. This provision was in response to a growing concern that essential Coast Guard functions might suffer in the future if budgetary considerations become the driving force for these contract rewards in lieu of efficiency and performance.

I am withdrawing section 5(d) due to the objections of the administration and a fear expressed by Members of the House of Representatives that the provision will lead to a Presidential veto. I do intend to closely monitor the contracting out process next year to assure that essential Coast Guard functions are not eroded.

□ 1030

Mr. MATHIAS. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 3468) was agreed to.

AMENDMENT NO. 3469

(Purpose: Makes a technical amendment to section 10)

Mr. SIMPSON. Mr. President, I send an amendment to the desk in behalf of Senator STEVENS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. STEVENS, proposes an amendment numbered 3469.

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

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

The amendment is as follows:

On page 31, line 5, strike "2102(11b)" and insert in lieu thereof "2101(11b)".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 3469) was agreed to.

AMENDMENT NO. 3470

(Purpose: To correct the funding in the Wallop-Breaux fund)

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator WALLOP to the committee substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. WALLOP, proposes an amendment numbered 3470.

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

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

The amendment is as follows:

Strike section 7 and insert in lieu thereof the following:

SEC. 7. (a) Section 9503(c)(4) of title 26, United States Code, is amended—

(1) in subparagraph (A), by striking "45,000,000" each place it appears and inserting in lieu thereof "60,000,000 for Fiscal Year 1987 only and $45,000,000 for each Fiscal Year thereafter;" and (2) by adding at the end thereof the following:

"(E) DETERMINATION.—The amount of payments made under this paragraph after October 1, 1986 shall be determined by the Secretary in accordance with the methodology described in the Treasury Department's Report to Congress on June 1986 entitled 'Gasoline Excise Tax Revenues Attributable to Fuel Used in Recreational Motorboats.' Further, a portion of the payments made by the Secretary from Fiscal Year 1987 motorfuel excise tax receipts shall be used to increase the funding for boating safety programs during Fiscal Year 1987 only."

(b) Section 13106(c) of Title 46, United States Code, is amended by striking "one-third" and inserting in lieu thereof "one-half for Fiscal Year 1987 and one-third for each Fiscal Year thereafter."

(c) Section 13106(a) of title 46, United States Code, is amended by striking "two-thirds" and inserting in lieu thereof "one-half for Fiscal Year 1987 and two-thirds for each Fiscal Year thereafter."

"(d) Before making any allocation under this section for a fiscal year, the Secretary shall retain not less than one percent nor more than two percent of the amount appropriated for that year for State recreational boating safety programs for the payment of costs of administration of this chapter."

Mr. WALLOP. Mr. President, I move to add a new section 7 to the act.

This amendment would correct a funding problem which has recently arisen with the Federal Aid in Sport Fish Restoration Act. Moneys for this act are provided by the Wallop-Breaux fund, which was created through the efforts of Congressman JOHN BREAUX and myself in 1984. Funding comes from an excise tax on fishing equipment and motorboat fuel taxes. The trust fund provides support for fish restoration projects organized by State wildlife agencies and for boat safety programs. This year, $110.4 million will go to the State wildlife agencies for their projects.

Our efforts to ensure proper funding of the Wallop-Breaux program have been disrupted by OMB machinations to capture portions of the Wallop-Breaux fund, to be used for other purposes. We have successfully preserved the integrity of the program, but one problem has remained. There has been a longstanding disagreement on the allocation of the gasoline excise tax to the Wallop-Breaux fund. As my colleagues know, most of the excise tax is directed to the highway trust fund. However, a portion of the tax is collected from boaters who use motor fuel. It is this portion which is supposed to be directed to the Wallop-Breaux fund. For years, the Treasury Department has earmarked only 0.75 percent of the collections to Wallop-Breaux.

Five years ago, Treasury was directed to do an analysis of the tax to determine a more accurate assessment of the boaters' contributions. Finally, last summer, Treasury admitted that previous estimates had understated the contribution by 50 percent. A more accurate allocation, according to Treasury, is 1.08 percent of the excise tax. For fiscal year 1987, this would amount to an additional $31 million.

One would think that distribution of this additional money would be straightforward. However, that is not the case. OMB argues that there can be no shift in funds between the highway trust fund and the Wallop-Breaux funds for fiscal year 1987 because the budgets were set last spring with the presentation of the administration's budget. The fact that Treasury, several years late, has finally developed a more realistic allocation formula for Wallop-Breaux is irrelevant in OMB's eyes. The only way Wallop-Breaux can receive the $31 million for fiscal year 1987 is through legislative authorization.

The second problem is a dispute between the fish restoration advocates and the boaters over the proper division of the additional $31 million. Fortunately, there exists an umbrella organization, the American League of Anglers and Boaters [ALAB], which serves as a consensus-building forum for the various groups involved with the Wallop-Breaux fund. ALAB has reached agreement on the distribution of the $31 million for fiscal year 1987, and this is explained in the letter from ALAB which I would ask be inserted at the end of my remarks.

The amendment I have proposed provides a solution to the $31 million funding problem. It requires that the additional allocation to the Wallop-Breaux fund as a result of the revised formula for the gasoline excise tax be provided for fiscal year 1987. Of the additional funds, $15 million would go to the boating safety program. The remainder, about $16 million, would go to fish restoration. This split would be for fiscal year 1987. This would provide an opportunity to develop a permanent solution to the distribution of new revenues.

I would like to thank my colleague from Alaska, Senator STEVENS, and ALAB for their assistance in resolving this matter. I would urge the adoption of my amendment.

Mr. HOLLINGS. Mr. President, I strongly support the amendment offered today by the Senator from Wyoming. After several years of delay, the Department of the Treasury has completed its investigation of the amount of fuel used by the Nation's boaters. The review revealed that the prior estimate used to compute the transfer from the highway trust fund to the Wallop-Breaux trust fund was too low. In fact, it now appears that we were underestimating the amount by nearly 50 percent.

As a result, the Senator has proposed a 1-year fix that would more accurately reflect the amount of money being collected in motor boat fuel taxes, meaning that an estimated $31 million in additional revenues would be available in fiscal year 1987 for the Wallop-Breaux fund. One effect of this change would be to increase the authorized level for the boating safety portion of the fund by roughly half the additional amount, some $15 million. These funds will be available to the Coast Guard to help pay for its recreational boating programs.

The remaining $16 million will be allocated to the States for use in fish restoration work. These funds will be available to the States for fiscal year 1988.

This temporary solution will provide us the time necessary to review the program and establish a permanent, equitable division of the moneys between boating safety and fisheries enhancement.

I support the Senator's amendment and urge my colleagues to join us in its approval.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Wyoming.

The amendment (No. 3470) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

Mr. GORTON. Mr. President, I have one question that I would like to discuss with the distinguished chairman of the Commerce Committee, Senator DANFORTH. The House of Representatives included a provision in its authorization bill that would have prohibited the construction of Coast Guard vessels in foreign yards. This provision is not inlcuded in the Senate bill. I had planned to offer an amendment to include a provision similar to the House's in the Senate bill, but I understand that such a provision would be unacceptable to the chairman and to the administration at this time. I also understand that the House has agreed to accept the Senate bill without the "build-foreign" prohibition.

Bearing those things in mind, I am willing to withdraw my amendment if my colleagues can assure me that we will pursue this issue in the next Congress. At present, there is no such "build-American" requirement for Coast Guard vessels, although there is one for the Navy and other branches of the armed services. In light of the critical role that the Coast Guard plays in protecting our national security, and the need to maintain a viable, state-of-the-art shipbuilding industry, it is important to assure that future Coast Guard construction be done in this country.

My amendment would have provided that, during fiscal year 1987, no Coast Guard vessel, and no major component of the hull or superstructure of a Coast Guard vessel, may be constructed or contracted for construction in a foreign shipyard. It also would allow the President to waive this requirement if he determined that to do so would be in the national security interest of the United States. This is essentially the same provision that was included in the House bill, except that

it is limited to the 1-year authorization period of the bill.

As I mentioned earlier, in addition to its many other functions, such as maritime safety, search and rescue, and drug interdiction, the Coast Guard is a vital component in our overall national security picture. It participates in various Department of Defense activities, and in naval fleet and interservice exercises. It has participated in every national conflict as an arm of the U.S. Navy. I believe it is clear that we must retain the capability to build Coast Guard vessels at home. It makes no sense for us to leave open the possibility that our shipyards could lose this work, and the improvements in naval engineering that it will produce, when they are already reeling from the loss of other shipbuilding work to foreign yards.

There has been strong support in the Senate for efforts to maintain a viable U.S. shipbuilding industry and merchant marine fleet. I believe that this issue should be part of that effort. I therefore ask if the chairman would be willing to examine it further in the 100th Congress.

Mr. DANFORTH. I thank my colleague for his cooperation in expediting action on the Coast Guard authorization bill. As for the build foreign prohibition. I believe that it is bad trade policy and contrary to the national interest. I recognize, however, that national security considerations may require that some Coast Guard vessels be built in the United States. I assure my colleague that I would be prepared to consider during the 100th Congress the extent to which the national security interest might be jeopardized by construction abroad.

Mr. HOLLINGS. The Coast Guard has received its share of attention lately as one of the essential arms of defense in our war on drugs. This is only fitting. The Coast Guard is our chief maritime law enforcement agency and last year seized drugs valued at $4.1 billion.

The legislation we are considering today, H.R. 4208, provides the core authorizations for fiscal year 1987. We have already passed special authorizations to help beef up the Coast Guard's drug interdiction capability and to augment its capacity to carry out the coastal defense of the United States that is crucial to our national security. H.R. 4208 authorizes the appropriations needed for the Agency's full range of missions.

Under the bill, $1.862 billion is authorized for operating expenses. Together with operating funds provided for under the anti drug and Defense Department authorization bills, this amount will permit vital drug interdiction work in the Caribbean to continue without interruption. It will also enable the Coast Guard to carry out its many other important missions—from search and rescue activities in aid of distressed ships and aircraft, to such impromptu assignments as salvaging the debris from the *Challenger* accident or maintaining order and security at the Statue of Liberty celebrations in New York Harbor on July 4. Further, the bill authorizes $267 million in support of the congressional effort to modernize the Coast Guard's vessels, aircraft, and shore stations, plus $20 million to conduct research, development, testing, and evaluation activities.

This legislation includes in section 17 an amendment that was added to the Senate anti drug bill (H.R. 5484) at the Commerce Committee's request. This provision will further strengthen Public Law 96-350, which has been very successful in facilitating convictions for maritime drug trafficking. That law, which I strongly supported, was enacted in 1980 because existing criminal statutes did not explicitly prohibit the high seas possession of illegal drugs with intent to manufacture or distribute. With the increasing use of foreign-flag vessels and vessels of no registry (known as stateless vessels), which were manned by foreign crews, the 1980 law was carefully crafted to reach beyond U.S. citizens and U.S.-flag vessels.

The enactment of Public Law 96-350 made a major difference in the effective prosecution of drug smugglers. Prior to its enactment, only 64 percent of those apprehended by the Coast Guard were accepted for prosecution, and then only 45 percent of those tried were convicted. In contrast, Coast Guard statistics for 1985 in the seventh district, which is where most of the maritime drug prosecutions occur, indicated that 83 percent of those apprehended were accepted for prosecution, and of those cases, 94 percent resulted in guilty verdicts in Federal court. The law was particularly effective for prosecutions of foreign offenders, who, before 1980, were virtually all deported or repatriated to their countries of origin without punishment—at U.S. taxpayer expense.

Despite its clear success, Public Law 96-350 has encountered several difficulties in the courtroom. One such problem was brought to the Congress' attention last year. This involved a Federal district court ruling that threatened to undermine the Coast Guard's enforcement practices with respect to foreign-flag vessels suspected for drug trafficking.

The typical situation arises after the master of a foreign vessel refuses a Coast Guard cutter's request to board. The captain of the cutter then must send his boarding request and supporting information up the chain of command to Coast Guard Headquarters and the State Department. The State Department in turn, through the affected American Embassy, seeks the cooperation of the country whose registry is being claimed. The necessary consent for boarding and possible seizure normally consists of oral communications by the flag nation, confirmed by subsequent messages or diplomatic notes. The court ruling in question indicated that oral consent was insufficient and that a more formal agreement with the flag nation was required prior to Coast Guard enforcement action.

The less formal procedures now in place often consume days, sometimes enabling the suspect vessel to escape Coast Guard surveillance. Under the more formal consent system envisioned in the court ruling, these days of delay could turn into weeks. Enforcement against foreign vessels would be nearly impossible.

To correct this potentially calamitous legal interpretation, I cosponsored legislation last session to make clear that foreign boarding and seizing authority granted by agreement via telephone, radio, or similar means is a fully valid consent. I added that provision to H.R. 739, an omnibus Coast Guard and maritime bill that passed the Senate on April 24 and was signed into law on May 19 of this year.

The language set forth in the bill we are considering today will address a broader problem that has plagued prosecutions under Public Law 96-350 from its inception. I understand that Federal prosecutors in cases involving drug seizures more than 12 miles off the U.S. coast spend the lion's share of their time before and during trial ensuring that they can prove that the United States had jurisdiction to seize the illegal drugs. In the past 3 or 4 years, cases involving over $200 million in contraband resulted in plea bargains for minimum sentences or were dropped altogether because of difficulties in obtaining foreign documents to prove jurisdiction. it is estimated that acquiring the requisite documentation in cases entailing seizure of a foreign or stateless vessel consumes from 2.5 to 8 days of U.S. Government personnel time for each case.

In my view, these contests over the U.S. Government's international jurisdiction to carry out enforcement actions are inappropriate for the courtroom. International law does not call for the United States to provide compliance with international standards in a domestic criminal prosecution.

The nation whose flag a vessel is flying at the time of a Coast Guard seizure would naturally have a legitimate complaint if the U.S. Government has failed to obtain its prior consent. But what has been happening is that criminal defendants from seized vessels are using jurisdictional complexities as a device for escaping conviction. They have been insisting at trial that the Government present ju-

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dicially-admissible documentary evidence from the affected foreign nation to prove consent. Prosecutors are thus compelled to ensure that documents relating to the consent are sufficient to withstand evidentiary objections. This can be a tall order when a foreign government, unfamiliar with U.S. legal procedures, has to generate the required documents. And on occasion, delays by foreign governments in providing the necessary documents have jeopardized cases because of the U.S. constitutional requirement to afford defendants with a speedy trial.

This legislation will eliminate the need to prepare for battle over these jurisdictional questions every time a maritime drug smuggling case comes to trial. It declares clearly that trafficking in controlled substances aboard vessels is a serious international problem, is universally condemned, and presents a specific threat to the security and societal well-being of the United States.

And it permits questions of international jurisdiction to be raised only by a foreign nation, not by an individual defendant. Yet the Coast Guard and other law enforcement agencies will not be relieved of their obligation to follow international law in carrying out a seizure. Approval of the flag country will still have to be obtained before a boarding can commence. The current practice of going through the State Department to the foreign government to obtain consent should continue without alteration. Our purpose is not to relieve U.S. agencies of the need to acquire flag-nation consent. Rather, it is to allow prosecutors to concentrate less on technicalities and more on proving the commission of a crime: possession of an illegal substance with intent to manufacture or distribute. This bill will enable them to focus on the right things.

We have also added a new offense under Public Law 96-350. This makes it unlawful to possess with intent to distribute a controlled substance aboard a vessel located within the territorial sea of another country where that country affirmatively consents to enforcement action by the United States.

Mr. President, I urge Senate approval of H.R. 4208 as reported by the Commerce Committee, as well as the additional amendments offered today here on the Senate floor. The Coast Guard is an invaluable national asset and this authorization legislation will help it to maintain its standards of excellence.

Mr. SARBANES. Mr. President, I support H.R. 4208, the Coast Guard Authorization Act of 1986. The Coast Guard has served our country with pride and distinction for over 200 years. It has played a major role in maintaining navigational safety, enforcing environmental standards, and protecting our Nation's coastline and harbors. It must have the personnel, equipment and training to carry out its important missions and this bill provides the resources the Coast Guard needs to do its job.

The Coast Guard must also, in my view, maintain core logistics and industrial capabilities sufficent to ensure the timely and effective performance of its many important missions. Earlier this year, I had urged the committee to approve the restrictions on contracting out of industrial and logistics activities of the Coast Guard and specifically of the Coast Guard's Curtis Bay Yard, included in section 5 of H.R. 4208, as passed by the House on May 6.

These restrictions are similar to those which currently apply to the other armed services. They are particularly critical to the Coast Guard Yard at Curtis Bay because of the unique importance of the industrial activities carried out there. The Curtis Bay Yard is the only shipbuilding and repair facility operated by the service and is responsible for the construction, repair, and renovation of both vessels and aids to navigation peculiar to the Coast Guard. It is also the location of the service's ship inventory control point and provides worldwide logistics support for the Coast Guard. It enjoys an enviable reputation for the quality of its work and for the efficiency of its work force and I am certain that the contracting out of the functions currently being performed at Curtis Bay would result in a significant deterioration of the Coast Guard's ability to perform its mission.

While the limitations contracting approved by the Senate Commerce Committee are not as far-reaching as those contained in the House bill, I look forward to working with my colleagues on the Commerce Committee to ensure that the Coast Guard retains control of basic logistic and industrial capabilities and urge adoption of this authorization bill.

The PRESIDING OFFICER. Is there further debate on the bill? If not, the question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4208), as amended, was passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

PUEBLO OF ZIA LAND BILL

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 5167, the Pueblo of Zia land bill, and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. There is no objection.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5167) to declare that the United States hold certain public domain lands or trusts for the Pueblo of Zia.

There being no objection, the Senate proceeded to the consideration of the bill.

AMENDMENT NO. 3471

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator DOMENICI and Senator BINGAMAN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. DOMENICI and Mr. BINGAMAN, proposes an amendment numbered 3471.

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

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

The amendment is as follows:

On page 1, line 10, strike "situated within Sandoval County, New Mexico, which is under the jurisdiction of the Bureau of Land Management of the Department of the Interior," and insert in lieu thereof "under the jurisdiction of the Bureau of Land Management of the Department of the Interior situated within Sandoval County, New Mexico,".

On page 4, strike lines 8 through 16 and insert in lieu thereof:

"(2) Plains Electric Generation and Transmission Cooperative, Inc. and its successors and assigns, shall be permitted to renew the right-of-way described in paragraph (1) under rules and regulations of the Secretary to the same extent and in the same manner that such permit could have been renewed if this Act had not been enacted.".

On page 5, line 8, strike the word "subsisting" and insert in lieu thereof "existing".

On pages 5 and 6, strike paragraph (2) and insert in lieu thereof:

"(2) Subject to valid existing rights, the leases described in subsection 4(d)(1) shall be administered under rules and regulations of the Secretary to the same extent and in the same manner that such leases would be administered if this Act had not been enacted.".

The PRESIDING OFFICER. Is there debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 3471) was agreed to.

Mr. DOMENICI. Mr. President, after careful review and close scrutiny by the Members of the New Mexico congressional delegation, we agreed to seek passage of this important legislation for the Pueblo of Zia, NM.

On June 25, 1986, Senator BINGAMAN and I introduced S. 2599 in the Senate. On July 15, 1986, Congressmen LUJAN, SKEEN, and RICHARDSON introduced a companion bill in the House of Representatives. The House Committee on Interior and Insular Affairs held hearings and a markup in August 1986. The Senate Subcommittee on Public Lands held a hearing on September 19, 1986. House passage with two amendments occurred on September 16, 1986.

PURPOSE OF S. 2599 AND H.R. 5167

These bills transfer 1,844 acres of BLM land to the Pueblo of Zia to be held in trust by the United States of America. The Pueblo of Zia is the current permit holder of this "Parada Piedra ("Standing Rock") Allotment."

This allotment is completely surrounded by the Zia Pueblo Indian Reservation. Passage of this bill as amended consolidates the Zia Pueblo lands, now totalling 118,000 acres.

Existing interests on the land are fully protected and no new water rights are given.

Several religious shrines will be protected by enactment of this bill. The two oil and gas leases on this land are also protected along with rights of access to conduct exploration and related activities. These claims have been inactive for several years. The Plains Electric easement is also protected and permission is given for renewal of this important right-of-way.

The House of Representatives passed H.R. 5167 on Tuesday, September 16, 1986, with two committee amendments:

First. The first amendment is a technical correction to the land description after the BIA survey was completed.

Second. The second amendment strikes section 3 of the bill. This section provided that the land to be held in trust not be subject to taxation. This language is redundant as, by current law, trust lands held by the United States for an Indian tribe are not subject to taxation.

PURPOSE OF THE SENATE AMENDMENT

The administration expressed concern in the Public Lands Subcommittee hearing and in the House hearing about the management of the above-named easements and leases. Since the trust land will managed by the Bureau of Indian Affairs at the U.S. Department of Interior, the Bureau of Land Management felt that the leases and easements should also be administered by the BIA. Our amendment accomplishes this purpose by requiring that NIA manage the easements and leases "to the same extent and in the same manner" that such permit or lease would have been renewed under the BLM. Thus, the terms of the renewal agreements are subject to existing BLM rules and regulations for the existing easement and leases.

The entire New Mexico delegation supports this legislation for the Pueblo of Zia. The Pueblo has come to us in good faith with a just request. We are happy to support this effort and we urge our colleagues to agree to final passage of H.R. 5167 as amended.

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 of the amendment and the third reading of the bill.

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

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it Pass?

So the bill (H.R. 5167), as amended, was passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

IMMIGRATION OF NAUM MEIMAN AND INNA KITROSSKAYA-MEIMAN

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of House Concurrent Resolution 404, dealing with the immigration of Naum Meiman and Inna Kitrosskaya-Meiman, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 404) expressing the sense of the Congress that the Soviet Union should immediately provide for the immigration of Naum Meiman and Inna Kitrosskaya-Meiman and for the resolution of all divided family and emigration cases.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mr. HART. Mr. President, I am grateful to Chairman LUGAR and Senator PELL for bringing House Concurrent Resolution 404 to the floor today. This measure was introduced by Congressman TIM WIRTH and was passed by the House of Representatives on October 8. I introduced a similar measure which now has the cosponsorship of 28 Senate colleagues.

This resolution has special meaning for all Coloradans. It deals with the case of Dr. Naum Meiman and his wife who have been trying for years to leave the Soviet Union. Their daughter, Olga Plum, is a constituent of mine in Colorado. The Meimans repeatedly have been denied emigration visas to seek medical treatment and to be reunited with their daughter. They have been told repeatedly that Mrs. Meiman is too ill to travel; that satisfactory medical treatment for Mrs. Meiman is already available in the Soviet Union; that a Ministry of Health certificate, stating that treatment abroad is necessary, must be presented to Soviet emigration officials—only to be told by the Ministry of Health that such certificates do not exist.

Now it has become clear that treatments no longer exists in the Soviet Union which can effectively treat Inna Meiman's cancer. But the technology does exist in the West. And yet she is still denied an exit visa. It is beyond my understanding what the Soviet authorities have to gain by continuing to deny the necessary exit visas to the Meimans. The time is running short for Inna and Naum Meiman, while the climate is ripe for a humanitarian gesture from the Soviet Union.

In the past I have raised the Meiman's case directly with Soviet Foreign Minister Gromyko and other Soviet officials when I visited Moscow; I have pursued the case with Soviet Ambassador Dobrynin and have written to General Secretary Mikhail Gorbachev asking his help in securing an exist visa for the Meimans. Because time is such a critical factor, it is appropriate that the Senate is joining our call to the General Secretary to intervene on behalf of the Meimans.

It is of the greatest importance that the Meimans and other Soviet Jews who wish to emigrate be reminded constantly that they have friends and supporters around the world. It is equally important the Soviet Government be constantly reminded of that fact.

The House author of this measure is Congressman WIRTH. Congressman WIRTH has been a leader in the struggle for human rights and the battle to permit Soviet citizens to emigrate to freedom throughout his career in the Congress. We have worked together on the Meiman case, and I was pleased to introduce the Senate version of this resolution several months ago.

Mr. President, passage of this resolution will be a candle in the window for all Soviet refuseniks, a message of hope for the Meiman family, and a statement of conscience by the U.S. Congress. I urge its adoption.

Mr. SIMON. Mr. President, on October 9, 1986, the House of Representatives passed a resolution which urges the Soviet Union to allow Naum and Inna Meiman to emigrate to Israel.

The Senate has just done the same in passing House Concurrent Resolution 404. I want to commend my colleagues for their concern. The Congress of the United States could not send a stronger message of support of the Meimans to the Soviet Union.

The Meimans troubles began when they applied to emigrate to Israel 10 years ago. Applying to emigrate from the Soviet Union results in termination of employment, ostracism from Soviet society and harassment by the Government. Inna is now critically ill with cancer. She desperately needs medical treatment only available to her in the West.

This case demands immediate attention. Inna is slipping each day. Let us hope that the Government of the Soviet Union will grant Inna and Naum another chance at life.

I strongly urge the Soviets to heed the Congress' call and resolve the Meiman's case by permiting them to emigrate to Israel.

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

The concurrent resolution (H. Con. Res. 404) was agreed to.

The preamble was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table was agreed to.

ROBERT F. KENNEDY MEMORIAL STADIUM

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar 459, H.R. 2776, the RFK Stadium bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2776), to amend the District of Columbia Stadium Act of 1957 to direct the Secretary of the Interior to convey title to the Robert F. Kennedy Memorial Stadium to the District of Columbia government.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3472

(Purpose: To strike out provisions relating to the transfer of title of the stadium except for the building itself and to authorize the lease only of the stadium parking facilities)

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator McCLURE, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. McCLURE, proposes an amendment numbered 3472.

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

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

The amendment is as follows:

On page 2, beginning with line 7, strike out all through line 16 on page 4 and insert in lieu thereof the following:

"(b)(1) Not later than 180 days after the date of enactment of this subsection, the Secretary of the Interior shall—

"(A) convey without consideration to the government of the District of Columbia all right, title, and interest of the United States in and to the building comprising the stadium constructed under this Act; and

"(B) lease without consideration to the government of the District of Columbia—

"(i) the ground under; and

"(ii) the parking facilities associated with the stadium construction under this Act.

"(2) The lease authorized by paragraph (1)(B) shall be for a period of 50 years.

"(c) The conveyance and lease of real property under subsection (b) shall be subject to such terms and conditions (which shall be set forth in the instrument of conveyance) as will ensure that title to the property shall not be transferred by the District to any person or entity other than the United States or any political subdivision or agency of the District of Columbia or the United States and that the property will be used only for—

"(1) stadium purposes;

"(2) providing recreational facilities, open space, or public outdoor recreation opportunities;

"(3) such other public purposes for which the property was used prior to June 1, 1985; and

"(4) such other public purposes for which the property was approved for use by the Secretary with the concurrence of the National Capital Planning Commission prior to June 1, 1985.

"(d)(1) The instrument of conveyance and the lease referred to in subsection (c) shall provide that all right, title, and interest conveyed to the District of Columbia pursuant to such instrument of conveyance shall revert to the United States and the lease shall terminate if—

"(A) the terms and conditions referred to in subsection (c) have not been complied with, as determined by the Secretary, and

"(B) such noncompliance has not been corrected within ninety days after written notice of such noncompliance has been received by the Mayor of the District of Columbia.

Such noncompliance shall be treated as corrected if the District of Columbia and the Secretary enter into an agreement, with the concurrence of the National Capital Planning Commission, which the Secretary considers adequate to ensure that the property will be used in a manner consistent with the purposes referred to in subsection (c).

"(2) No person may bring an action respecting a violation of any term or condition referred to in subsection (c) before the expiration of ninety days after the date on which such person has notified the Mayor of the District of Columbia of the alleged violation. The notice shall include notice of such person's intention to bring an action to declare a reversion and termination of the lease under paragraph (1) of this subsection.

"(3) The conveyance of real property under subsection (b) shall be made subject to the condition that the District of Columbia shall bear the cost of removing structures or rehabilitating the land or stadium should the stadium revert to the United States pursuant to this subsection.

"(4) Any property which reverts to the Secretary under this subsection shall be administered by the Secretary as part of the Park System of the Nation's Capital in accordance with the provisions of the Act of August 25, 1916 (16 U.S.C. 1, 2-4), and other provisions of law generally applicable to units of the national park system.".

SEC. 2. TECHNICAL AMENDMENT.

Section 11 of the District of Columbia Stadium Act of 1957 (D.C. Code, sec. 2-330) is amended by inserting "(including any area designated A, B, C, D, or E on the revised map entitled 'Map to Designate Transfer of Stadium and Lease of Parking Lots to the District', prepared jointly by the National Park Service (National Capital Region) and the District of Columbia Department of Public Works for site development and dated October 1986 (NPS drawing number 831/87284-A))," after "property of any kind".

The PRESIDING OFFICER. Is there debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 3472) was agreed to.

Mr. WARNER. Mr. President, I rise in support of H.R. 2776, as amended, authorizing the Secretary of the Interior to convey title of the Robert F. Kennedy Memorial Stadium to the District of Columbia government.

I wish to express my heartfelt appreciation to the Senator from Oregon [Mr. HATFIELD], for his willingness to work with me to draft some modifications to the bill, which I introduced and was earlier passed by the House of Representatives, that are acceptable to the Senate and the District of Columbia government.

This legislation as modified preserves the core of my original legislation to transfer title of the Robert F. Kennedy Memorial Stadium to the District of Columbia. It will enable the District to compete fairly for a major league baseball franchise for our Nation's Capital.

A favorable stadium lease, including needed repairs, is a critical ingredient in determining the site of the new franchise.

This bill satisfies the District's full requirements for tax-exempt bond financing to pay for an estimated $16 million in stadium modifications to accommodate a baseball franchise.

Further, the bill directs the Secretary of the Interior to enter into a 50-year lease arrangement with the city on the property under and surrounding the stadium comprising the parking lots.

This bill brings to fruition a proposal that originated several years ago.

President Carter's Task Force on the District of Columbia in 1977 laid the foundation, and now the Department of the Interior and the District of Columbia government have supported this step to complete a transfer.

Although this bill does not fully comprise the recommendations of the 1977 Task Force on the District of Columbia, I believe the District has made a substantial financial investment in the stadium. The District has operated and maintained the stadium since its construction, and has financed two-thirds of the stadium costs—$22.7 million of the total $36.2 million.

Let me state for my colleagues that the Congressional Budget Office, in a letter to the House District of Columbia Committee on June 18, 1985, has determined that this transfer "will not affect the budgets of either the Federal Government or the District of Columbia."

I want to assure my colleagues that this title transfer will not be a departure from the normal use of the stadium, or its operating procedures.

Provisions are included which require the District of Columbia to operate the stadium for purposes previously approved by the Department of the Interior.

Should the terms and conditions of this agreement be violated, an orderly process for returning ownership to the Federal Government is provided.

Mr. President, first and foremost, the Federal Government is getting out of the business of operating a stadium facility, and returning to the District of Columbia a facility for which it has been financially responsible.

Second, assisting to return major league baseball to our Nation's Capital will be a unifying force for the entire Metropolitan Washington area.

I urge my colleagues to adopt this bill, as amended.

Mr. WARNER. If the distinguished Senator from Oregon, Mr. HATFIELD, would be willing to engage in a colloquy with me to clarify the intent of section (d) of the amendment. Section (d) provides for a reverter clause that would cause title to the property to revert to the Federal Government in the event that specified public purpose uses are not complied with by the District of Columbia.

If a reversion does occur, there is a question of the contractual rights of persons who have purchased bonds sold to finance the improvements to the stadium, or the rights of leaseholders who are using the stadium, are altered or nullified. I want all Senators, the administration, and the District of Columbia to understand that it is clearly not our intention to change the terms of the bonds sold to finance the improvements in the stadium.

May I inquire of the Senator from Oregon if that is his understanding of section (d) of his amendment?

Mr. HATFIELD. The Senator from Virginia, Mr. WARNER's understanding of section (d) of the amendment is correct. It is my intention that the bondholders and leaseholders will continue to have recourse in the unlikely event that the reversion clause is activated. If the Federal Government does take title to the stadium, such action does not disturb or impair those existing contracts, provided the contracts themselves are not the cause of the reversion.

Mr. McCLURE. I wish to concur in the remarks offered by the gentleman from Oregon, Senator HATFIELD, that section (d) will not interrupt the terms of the bonds or adversely affect the bondholders or leaseholders.

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 of the amendment and third reading of the bill.

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 2776), as amended, was passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

IMPROVEMENT OF THE HEALTH STATUS OF NATIVE HAWAIIANS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1089, S. 2243, to improve the health status of native Hawaiians.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2243) to improve the health status of native Hawaiians, and for other purposes, reported with an amendment in the nature of a substitute.

At the appropriate place in the committee amendment, insert the following:

PACIFIC BASIN DISEASE RESEARCH INSTITUTE

SEC. . (a) The Secretary shall make a grant under section 720(a)(1) of the Public Health Service Act to the University of Hawaii in Honolulu, Hawaii, for the construction of a building for a Pacific Basin disease research institute. Notwithstanding sections 702(b) and 721(c) of such Act, the Secretary is not required to secure the advice of the National Advisory Council on Health Professions Education with respect to such grant.

(b) The Federal share of the necessary costs of construction, as determined by the Secretary, of the building described in subsection (a), shall be 50 percent.

(c) To carry out this section, there are authorized to be appropriated $5,000,000. Amounts appropriated under this section shall remain available until expended.

Mr. INOUYE. Mr. President, the amendment which Senator MATSUNAGA and I are offering today would provide $5 million for the construction of a Pacific Basin Disease Research Institute at the University of Hawaii.

This proposal follows up on a special hearing which the Senate Appropriations Committee held in Honolulu, HI. The facility is necessary for the University of Hawaii to continue its efforts throughout the Pacific basin and, given the pressing Federal interest involved, I honestly do not feel that it is appropriate that the State legislature be required to provide all of the funds necessary.

Mr. President, I would also like to express my personal appreciation to Senator ORRIN HATCH, chairman of the Senate Labor and Human Resources Committee, who earlier this session agreed with me that the establishment of this institute would be in our Nation's best interest.

The Pacific basin region is geographically quite remote from our Nation's Capital and I do appreciate the time Senator HATCH's committee took, not only to visit the State of Hawaii, but to discuss with the leadership of those who provide necessary health care for the region, the importance of providing an integrated approach to the underlying Federal responsibility.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (No. 3473) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

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

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

S. 2243

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

FINDINGS

SECTION 1. The Congress finds that—

(1) the Federal Government retains the legal responsibility to enforce the administration of a public trust responsibility for the betterment of the conditions of Native Hawaiians by the State of Hawaii;

(2) in furtherance of the State of Hawaii's public trust responsibility for the betterment of the conditions of Native Hawaiians, contributions by the Federal Government to the provision of health education and health services to maintain and improve the health status of Native Hawaiians are con-

sistent with the historical and unique legal relationship of the Federal Government with the government that represented the indigenous native people of Hawaii;

(3) it is the policy of the Federal Government to raise the health status of Native Hawaiians to the highest possible level and to encourage the maximum participation of Native Hawaiians in the planning and management of health services in order to achieve this objective;

(4) Federal support for programs that provide health care to Native Hawaiians has resulted in a reduction in the prevalence and incidence of preventable illnesses among Native Hawaiians and in a reduction in premature deaths of Native Hawaiians; and

(5) further improvement in the health status of Native Hawaiians is necessary on the basis of findings that—

(A) Native Hawaiians experience the highest age-sex standardized mortality rate in the State of Hawaii,

(B) Native Hawaiians experience a lower life expectancy than any other population group in the State of Hawaii,

(C) Native Hawaiians experience a higher rate of infant mortality, congenital abnormalities and underweight infants than any other population in the State of Hawaii,

(D) Native Hawaiians have the greatest risk of diabetes, heart disease, and some forms of cancer than any other population in the State of Hawaii,

(E) Native Hawaiians experience the onset of diabetes, heart disease, and hypertension at earlier ages than other populations in the State of Hawaii,

(F) Native Hawaiians have significantly higher rates of heart disease and hypertension than other populations in the State of Hawaii,

(G) Native Hawaiians have one of the highest cancer rates of any population in the United States and Native Hawaiians have the poorest survival rates from cancer than any other population in the State of Hawaii,

(H) Native Hawaiian pregnant women rank the highest of all populations of pregnant women in the State of Hawaii in—

(i) receiving late or no prenatal care,

(ii) smoking and alcohol consumption during pregnancy,

(iii) toxemia and urinary tract infections during pregnancy, and

(iv) complications of pregnancy over age 35,

(I) Native Hawaiians have higher rates of suicide among young adult and elderly males than the statewide population as a whole,

(J) Native Hawaiian children have one of the highest periodontal disease rates and the poorest dental hygiene of any other population in the State of Hawaii,

(K) Native Hawaiians have higher proportion of alcohol and narcotics use and school performance impairment than the statewide population as a whole,

(L) Native Hawaiians have higher levels of stress than the statewide population as a whole based on leading stress indicators,

(M) Native Hawaiians are underrepresented in rates of participation in health education, health promotion, screening, and referral programs,

(N) utilization of mental health services by Native Hawaiians is significantly below that of other populations in the State of Hawaii, and

(O) Native Hawaiians are underrepresented in the health professions.

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) The term "disease prevention" includes—

(A) immunizations,

(B) control of high blood pressure,

(C) control of sexually transmittable diseases,

(D) prevention and control of diabetes,

(E) pregnancy and infant care, including prevention of fetal alcohol syndrome,

(F) control of toxic agents,

(G) occupational safety and health,

(H) accident prevention,

(I) fluoridation of water, and

(J) control of infectious agents.

(2) The term "health promotion" includes—

(A) cessation of tobacco smoking,

(B) reduction in the misuse of alcohol and drugs,

(C) improvement of nutrition,

(D) improvement in physical fitness,

(E) family planning, and

(F) control of stress.

(3) The term "Native Hawaiian" means any individual who has any ancestors that were natives, prior to 1778, of the area that now comprises the State of Hawaii.

(4) The term "Native Hawaiian organization" means any organization—

(A) which serves and represents the interests of Native Hawaiians,

(B) which is recognized by the Office of Hawaiian Affairs of the State of Hawaii and E Ola Mau for the purpose of planning, conducting, or administering programs (or portion of programs) authorized under this Act, and

(C) in which Native Hawaiian health professionals significantly participate in the planning, management, monitoring, and evaluation of health services.

(5) The term "Native Hawaiian educational institution" means any educational institution that—

(A) serves and represents the interests of Native Hawaiians, and

(B) has as a primary and stated purpose the provision of educational services to Native Hawaiians.

(6) The term "Advisory Board" means the Native Hawaiian Health Promotion and Disease Prevention Advisory Board established under section 3(b).

(7) The term "Secretary" means the Secretary of Health and Human Services.

HEALTH PROMOTION AND DISEASE PREVENTION

SEC. 3. (a)(1) For fiscal year 1989, and for each fiscal year thereafter, the Secretary shall, in consultation with the Advisory Board established under subsection (b), enter into contracts with Native Hawaiian organizations under which the Secretary shall provide funds to Native Hawaiian organizations to establish and administer programs of health promotion and disease prevention designed to serve Native Hawaiians.

(2) The program that is to be established and administered under each contract entered into under paragraph (1) shall—

(A) provide necessary preventive-oriented health services, including maternal and child health care and mental health care, through the establishment of community health centers, subject to the availability of appropriations authorized under section 4(a)(3)(B);

(B) provide for the collection of data related to the prevention of diseases and illnesses among Native Hawaiians, including the prevention of fetal alcohol syndrome, hypertension, heart disease, and diabetes;

(C) provide for medical and general health-related research into the diseases that are most prevalent among Native Hawaiians including, but not limited to, heart disease, hypertension, cancer, and diabetes;

(D) provide for research into the mental health problems that are most prevalent among Native Hawaiians including, but not limited to, alcoholism, substance abuse, reduction of stress, and child abuse;

(E) provide for education in health promotion and disease prevention in the Native Hawaiian population by Native Hawaiian community outreach workers and Native Hawaiian nurses;

(F) provide for health planning in areas which shall include, but not be limited to, health planning in maternal and child health, nutrition, disease prevention, health promotion, health education, and mental health; and

(G) provide training for Native Hawaiian community health outreach workers as paraprofessionals in the provision of health care and health education in Native Hawaiian communities by means of a curriculum which—

(i) combines education in the theories of health care with supervised practical experience in the provision of health care,

(ii) provides instruction and practical experience in health promotion and disease prevention activities, particularly—

(I) nutrition,

(II) physical fitness,

(III) weight control,

(IV) cessation of tobacco smoking,

(V) stress management,

(VI) control of alcohol and substance abuse, including prevention of fetal alcohol syndrome,

(VII) control of high blood pressure,

(VIII) prevention and control of diabetes,

(IX) prevention of lifestyle related accidents,

(X) prenatal and postnatal infant health care, and

(XI) maternal health care, and

(iii) provides instruction in the most current and effective social, educational, and behavioral approaches to the establishment and maintenance of good health habits.

(b)(1) There is hereby established the Native Hawaiian Health Promotion and Disease Prevention Advisory Board.

(2)(A) The Advisory Board shall be composed of—

(i) an individual appointed to the Advisory Board by the Secretary from among nominations submitted to the Secretary by the Governor of the State of Hawaii, and

(ii) individuals representing each of the following organizations who are appointed to the Advisory Board by the Secretary from among nominations submitted by each of the following organizations:

(I) Alu Like, Inc.;

(II) the Office of Hawaiian Affairs of the State of Hawaii;

(III) E Ola Mau or any other organization composed of Native Hawaiian health care professionals;

(IV) the University of Hawaii School of Medicine;

(V) the University of Hawaii School of Public Health;

(VI) the University of Hawaii School of Nursing;

(VII) the Hawaii State Department of Health;

(VIII) the Kamehameha Schools, Bernice Pauahi Bishop Estate;

(IX) the Liliuokalani Trust;

(X) the Hawaii Nurses Association;

(XI) the Hawaii Medical Association;
(XII) the Hawaii State Department of Social Services and Housing;
(XIII) the Waianae Coast Comprehensive Health Center, or its successor organization, the Hawaii State Association of Community Health Centers;
(XIV) the Hawaii Psychological Association;
(XV) the Hawaii Psychiatric Association;
(XVI) the Hawaii Social Work Association;
(XVII) the Hawaii Society of Public Health Educators;
(XVIII) the Hawaii Dietetic Association;
(XIX) the Hawaii State Board of Education;
(XX) the Department of Hawaiian Home Lands;
(XXI) the Hawaii Dental Association; and
(XXII) any other organization designated by the Secretary for purposes of this subparagraph.

(B)(i) Except as provided in clause (ii), the term of office for each member of the Advisory Board shall be 3 years.

(ii) Of the initial members of the Advisory Board—

(I) the member representing the Governor of Hawaii and the members representing organizations listed in clauses (I), (II), (III), (IV), (V), and (VI) of subparagraph (A)(ii) shall have a term of 3 years,

(II) the members representing the organizations listed in clauses (VII), (VIII), (IX), (X), (XI), (XII), and (XIII) of subparagraph (A)(ii) shall have a term of 2 years, and

(III) the members representing all other organizations listed in subparagraph (A)(ii) shall have a term of 1 year.

(C) A vacancy on the Advisory Board shall be filled in the same manner in which the original appointment was made. A member so appointed shall serve for the remainder of the term of office to which such member is appointed.

(D) Individuals nominated for, and appointed to, the Advisory Board under subparagraph (A) should, to the extent feasible, be Native Hawaiians.

(E) The members of the Advisory Board shall elect a chairman from among the members of the Advisory Board.

(3) The Advisory Board—

(A) shall oversee—

(i) the awarding of contracts under subsection (a)(1),

(ii) the administration of programs for which contracts are entered into under subsection (a)(1), and

(iii) the grants awarded under subsection (c), and

(B) shall prepare and submit to the Secretary reports for each calendar quarter on the oversight conducted under subparagraph (A), and

(C) shall prepare and submit to the Congress, through the Secretary, annual reports containing recommendations on activities that—

(i) are designed to address the health care needs of Native Hawaiians, and

(ii) may be conducted by—

(I) the State of Hawaii,

(II) the Federal Government,

(III) community health centers,

(IV) Native Hawaiian organizations, or

(V) private health care providers.

(4) The provisions of section 14 and subsections (e) and (f) of section 10 of the Federal Advisory Committee Act (5 U.S.C. Appendix 2) shall not apply with respect to the Advisory Board.

(c)(1) Subject to the availability of funds appropriated under the authority of paragraph (3), the Secretary shall provide grants to Native Hawaiian organizations for the purpose of developing the management capabilities of such organizations to plan and operate the health promotion and disease prevention program that is to be established under contracts entered into in subsection (a).

(2) The total amount of grants that may be made to any Native Hawaiian organization under paragraph (1) shall not exceed $75,000.

(3) There are authorized to be appropriated $600,000 for fiscal year 1987, and each fiscal year thereafter, for the purpose of funding grants under paragraph (1).

(d)(1) The Secretary is authorized to enter into an agreement with any Native Hawaiian organization (or any Native Hawaiian educational institution) under which the Secretary is authorized to assign personnel of the Department of Health and Human Services with expertise identified by such Native Hawaiian organization (or such Native Hawaiian educational institution) to such Native Hawaiian organization (or to such Native Hawaiian educational institution) on detail for the purpose of providing education in health promotion and disease prevention to Native Hawaiian children who are underserved.

(2) Any assignment of personnel made by the Secretary under any agreement entered into under the authority of paragraph (1) shall be treated as an assignment of Federal personnel to a local government that is made in accordance with subchapter VI of chapter 33 of title 5, United States Code.

(e)(1) The Secretary shall establish in the State of Hawaii, as a demonstration project, a Native Hawaiian Program for Health Promotion and Disease Prevention for the purpose of exploring ways to meet the unique health care needs of Native Hawaiians.

(2) The demonstration program that is to be established under paragraph (1) shall—

(A) provide necessary preventive-oriented health services, including health education and mental health care,

(B) develop innovative training and research projects,

(C) establish cooperative relationships with the leadership of the Native Hawaiian community, and

(D) ensure that a continuous effort is made to establish programs which can be of direct benefit to other Native American people.

(3) The Secretary is authorized to enter into contracts with Native Hawaiian organizations for the purpose of assisting the Secretary in meeting the objectives of the demonstration program that is to be established under paragraph (1).

(4) The Secretary shall submit to the Congress an annual report on the status and accomplishments of the program during each of the fiscal years 1987, 1988, and 1989.

(5) There are authorized to be appropriated $500,000 for each of the fiscal years 1987, 1988, and 1989, for the purpose of carrying out the provisions of this subsection.

(f)(1) The Secretary shall include in any contract which the Secretary enters into with any Native Hawaiian organization under this section such conditions as the Secretary considers necessary to ensure that the objectives of such contract are achieved.

(2) The Secretary shall develop procedures to evaluate compliance with, and performance of, contracts entered into by Native Hawaiian organizations under this section.

(3) The Secretary shall conduct an annual onsite evaluation of each Native Hawaiian organization which has entered into a contract under this section for purposes of determining the compliance of such organization with, and evaluating the performance of such organization under, such contract.

(4) If, as a result of the evaluations conducted under paragraph (3), the Secretary determines that a Native Hawaiian organization has not complied with or satisfactorily performed a contract entered into under this section, the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such organization and is authorized to enter into a contract under this section with another Native Hawaiian organization that serves the same population of Native Hawaiians which is served by the Native Hawaiian organization whose contract is not renewed by reason of this paragraph.

(5) In determining whether to renew a contract entered into with a Native Hawaiian organization under this section, the Secretary shall—

(A) review the records of the Native Hawaiian organization and the reports submitted by the Advisory Board under subsection (b)(3)(B) with respect to such organization, and

(B) shall consider the results of the onsite evaluations conducted under paragraph (3).

(6) All contracts entered into by the Secretary under this section shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provision of the Act of August 24, 1935 (40 U.S.C. 270a, et seq.).

(7) Payments made under any contract entered into under this section may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this section.

(8) Notwithstanding any other provision of law, the Secretary may, at the request or consent of a Native Hawaiian organization, revise or amend any contract entered into by the Secretary with such organization under this section as necessary to carry out the purposes of this section, except that whenever such organization requests retrocession of any contract entered into under this section, such retrocession shall become effective upon a date specified by the Secretary that is not more than 120 days after the date of the request by such organization or at such later date as may be mutually agreed to by the Secretary and such organization.

(9)(A) For each fiscal year during which a Native Hawaiian organization receives or expends funds pursuant to a contract entered into under this section, such organization shall submit to the Secretary a quarterly report on—

(i) activities conducted by the organization under the contract,

(ii) the amounts and purposes for which Federal funds were expended, and

(iii) such other information as the Secretary may request.

(B) The reports and records of any Native Hawaiian organization which concern any contract entered into under this section

shall be subject to audit by the Secretary and the Comptroller General of the United States.

(10) The Secretary shall allow as a cost of any contract entered into under this section the cost of an annual private audit conducted by a certified public accountant.

(11) The authority of the Secretary to enter into contracts under this section shall be to the extent, and in amounts, provided for in appropriation Acts.

COMMUNITY HEALTH CENTERS; NATIONAL HEALTH SERVICE CORPS PROGRAM

SEC. 4. (a)(1) The Secretary is authorized—

(A) to designate Native Hawaiians as a medically underserved population for purposes of section 330 of the Public Health Service Act (42 U.S.C. 254c),

(B) to provide planning grants (no more than 8 and of no more than $100,000 per grant) to Native Hawaiian organizations, or to any organization of health care professionals serving Native Hawaiians, for the purpose of planning community health centers to serve the health needs of Native Hawaiian communities, and

(C) to establish community health centers under section 330 of such Act to serve the health needs of Native Hawaiian communities.

(2) The Secretary shall consult with the Governor of Hawaii regarding any grants that may be made under section 330(c)(1) of the Public Health Service Act (42 U.S.C. 254c(c)(1)), or under paragraph (1)(B), for the planning and developing of community health centers to serve the health needs of Native Hawaiian communities.

(3) In addition to any other amounts authorized to be appropriated for carrying out section 330 of the Public Health Service Act, there are authorized to be appropriated for fiscal year 1987—

(A) $800,000 for the purpose of providing planning grants authorized under paragraph (1)(B), and

(B) $2,800,000 for the purpose of establishing under section 330 of the Public Health Service Act no more than 8 community health centers to serve the health needs of Native Hawaiian communities,

such sums to remain available until expended, without fiscal year limitation. No more than $350,000 of the funds authorized to be appropriated under subparagraph (B) may be expended for each community health center.

(b) The Secretary is authorized to designate Native Hawaiians as a population group which has a health manpower shortage for purposes of subpart II of part C of title III of the Public Health Service Act.

HEALTH SERVICE SCHOLARSHIP PROGRAM

SEC. 5. (a) Subject to the availability of funds appropriated under the authority of subsection (c), the Secretary shall provide scholarship assistance to students who—

(1) meet the requirements of section 338A(b) of the Public Health Service Act (42 U.S.C. 254l(b)), and

(2) are Native Hawaiians.

(b) The scholarship assistance provided under subsection (a) shall be provided under the same terms and subject to the same conditions, regulations, and rules that apply to scholarship assistance provided under section 338A of the Public Health Service Act (42 U.S.C. 254l).

(c) There are authorized to be appropriated $1,800,000 for fiscal year 1987, and for each fiscal year thereafter, for the purpose of funding the scholarship assistance provided under subsection (a).

HEALTH CARE REFERRAL SERVICES FOR NATIVE HAWAIIANS

SEC. 6. (a)(1) The Secretary shall enter into contracts with Native Hawaiian organizations for the provision of health care referral services for Native Hawaiians. Any such contract shall include requirements that the Native Hawaiian organization successfully undertake to—

(A) determine the population of Native Hawaiians who are, or could be, recipients of health care referral services,

(B) determine the current health status of Native Hawaiians served by the Native Hawaiian organization,

(C) determine the current health care needs of Native Hawaiians served by the Native Hawaiian organization,

(D) identify all public and private health services resources which are, or could be, available to Native Hawaiians,

(E) determine the use of public and private health services resources by Native Hawaiians,

(F) assist such health services resources in providing services to Native Hawaiians,

(G) assist Native Hawaiians in becoming familiar with such health services resources and in utilizing such health services resources,

(H) provide basic health education to Native Hawaiians, including education in health promotion and disease prevention through a community health outreach program that uses Native Hawaiian community health outreach workers,

(I) establish and implement manpower training programs to accomplish the referral and education tasks set forth in subparagraphs (F), (G), and (H),

(J) identify any disparity between the health needs of Native Hawaiians that are not being met and the resources available to meet such needs, and

(K) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of Native Hawaiians.

(2) The Secretary shall prescribe regulations which provide the criteria for selecting Native Hawaiian organizations to enter into contracts under this subsection. Such criteria shall, among other factors, include—

(A) the extent of the health care needs of Native Hawaiians served by the Native Hawaiian organization that are not being met,

(B) the size of the Native Hawaiian population served by the Native Hawaiian organization,

(C) the accessibility to, and utilization of, health care services by Native Hawaiians served by the Native Hawaiian organization,

(D) the extent, if any, to which the activities that are required to be undertaken under paragraph (1) would duplicate—

(i) any previous or current public or private health services project that was, or is, funded by any means other than a contract entered into under this section, or

(ii) any project funded by means of a contract entered into under this section,

(E) the capability of the Native Hawaiian organization to—

(i) perform the activities that are required to be undertaken under paragraph (1), and

(ii) enter into a contract with the Secretary under this subsection,

(F) the satisfactory performance and successful completion by the Native Hawaiian organization of other contracts entered into with the Secretary under this section,

(G) the appropriateness and likely effectiveness of conducting the activities that are required to be undertaken under paragraph (1), and

(H) the extent of existing participation, or likely future participation, in the activities that are required to be undertaken under paragraph (1) by appropriate health and health-related Federal, State, local, and other agencies.

(b)(1) The Secretary may enter into contracts under this subsection with Native Hawaiian organizations which have not entered into a contract with the Secretary under subsection (a). The purpose of entering into a contract under this subsection shall be to determine—

(A) the matters described in paragraph (2) in order to assist the Secretary in assessing the health status and health care needs of Native Hawaiians served by the Native Hawaiian organization, and

(B) whether the Secretary should enter into a contract under subsection (a) with the Native Hawaiian organization.

(2) Any contract entered into by the Secretary under this subsection shall include requirements that the Native Hawaiian organization—

(A) document the health care status and health care needs of Native Hawaiians served by the Native Hawaiian organization,

(B) with respect to Native Hawaiians served by the Native Hawaiian organization, determine the matters described in subparagraphs (B), (C), (D), and (H) of subsection (a)(2), and

(C) complete performance of the contract within one year after the date on which the Secretary and the Native Hawaiian organization enter into such contract.

(c)(1) The Secretary shall include in any contract which the Secretary enters into with any Native Hawaiian organization under this section such conditions as the Secretary considers necessary to encourage the establishment of programs which make health care services more accessible to Native Hawaiians.

(2) The Secretary shall develop procedures to evaluate compliance with, and performance of, contracts entered into by Native Hawaiian organizations under this section. Such procedures shall include provisions for carrying out the requirements of this section.

(3) The Secretary shall conduct an annual onsite evaluation of each Native Hawaiian organization which has entered into a contract under subsection (a) for purposes of determining the compliance of such organization with, and evaluating the performance of such organization under, such contract.

(4) If, as a result of the evaluations conducted under paragraph (3), the Secretary determines that a Native Hawaiian organization has not complied with or satisfactorily performed a contract entered into under subsection (a), the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such organization and is authorized to enter into a contract under subsection (a) with another Native Hawaiian organization that serves the same population of Native Hawaiians which is served by the Native Hawaiian organization whose

contract is not renewed by reason of this paragraph.

(5) In determining whether to renew a contract entered into with a Native Hawaiian organization under subsection (a), or whether to enter into a contract with a Native Hawaiian organization under subsection (a) which has completed performance of a contract entered into under subsection (b), the Secretary shall—

(A) review the records of the Native Hawaiian organization and the reports submitted under subsection (e), and

(B) in the case of a renewal of a contract entered into under subsection (a), shall consider the results of the onsite evaluations conducted under paragraph (3).

(d)(1) No contract entered into under this section may provide for a total amount of payments under the contract by the Federal Government that exceeds $125,000.

(2) All contracts entered into by the Secretary under this section shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provision of the Act of August 24, 1935 (40 U.S.C. 270a, et seq.).

(3) Payments made under any contract entered into under this section may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this section.

(4) Notwithstanding any other provision of law, the Secretary may, at the request or consent of a Native Hawaiian organization, revise or amend any contract entered into by the Secretary with such organization under this section as necessary to carry out the purposes of this section, except that whenever such organization requests retrocession of any contract entered into under this section, such retrocession shall become effective upon a date specified by the Secretary that is not more than 120 days after the date of the request by such organization or at such later date as may be mutually agreed to by the Secretary and such organization.

(5) All contracts entered into under this section with Native Hawaiian organizations, and all regulations prescribed under this section, shall include provisions to assure the fair and uniform provision to Native Hawaiians of health care referral services and assistance under such contracts by such organizations.

(e)(1) For each fiscal year during which a Native Hawaiian organization receives or expends funds pursuant to a contract entered into under this section, such organization shall submit to the Secretary a quarterly report on—

(A) in the case of a contract entered into under subsection (b), disparities identified and recommendations made under subparagraphs (J) and (K) of subsection (a)(1),

(B) activities conducted by the organization under the contract,

(C) the amounts and purposes for which Federal funds were expended, and

(D) such other information as the Secretary may request.

(2) The reports and records of any Native Hawaiian organization which concern any contract entered into under this section shall be subject to audit by the Secretary and the Comptroller General of the United States.

(3) The Secretary shall allow as a cost of any contract entered into under subsection (a) the cost of an annual private audit conducted by a certified public accountant.

(f)(1) The authority of the Secretary to enter into contracts under this section shall be to the extent, and in an amount, provided for in appropriation Acts.

(2) There are authorized to be appropriated $625,000 for fiscal year 1987, and for each fiscal year thereafter, for the purpose of funding contracts entered into under this section.

ACCESS TO MEDICARE AND MEDICAID SERVICES

SEC. 7. (a) The Secretary shall, in consultation with Native Hawaiian organizations, conduct a study of any barriers which may exist to the participation of Native Hawaiians in programs established under title XVIII of the Social Security Act (medicare) or under title XIX of the Social Security Act (medicaid).

(b) By no later than the date which is one year after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the study conducted under subsection (a). Such report shall include—

(1) recommendations for legislation which—

(A) would remove any barriers to participation identified in such study, and

(B) would encourage participation by Native Hawaiians in the programs described in subsection (a), and

(2) estimates of—

(A) the potential number of Native Hawaiians eligible for medicare,

(B) the potential number of Native Hawaiians eligible for medicaid,

(C) the number of Native Hawaiians participating in the medicare program, and

(D) the number of Native Hawaiians participating in the medicaid program.

GENERAL AUTHORIZATION

SEC. 8. There are authorized to be appropriated for fiscal year 1987, and for each fiscal year thereafter, such sums as may be necessary to carry out the provisions of this Act for which a specific authorization of appropriations is not otherwise provided for in this Act.

PACIFIC BASIN DISEASE RESEARCH INSTITUTE

SEC. 9. (a) The Secretary shall make a grant under section 720(a)(1) of the Public Health Service Act to the University of Hawaii in Honolulu, Hawaii, for the construction of a building for a Pacific Basin disease research institute. Notwithstanding sections 702(b) and 721(c) of such Act, the Secretary is not required to secure the advice of the National Advisory Council on Health Professions Education with respect to such grant.

(b) The Federal share of the necessary costs of construction, as determined by the Secretary, of the building described in subsection (a), shall be 50 percent.

(c) To carry out this section, there are authorized to be appropriated $5,000,000. Amounts appropriated under this section shall remain available until expended.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

AMENDMENTS TO THE WASHINGTON METRO AREA TRANSIT REGULATION COMPACT

Mr. SIMPSON. Mr. President, I send the enclosed joint resolution to the desk on behalf of Senators MATHIAS, SARBANES, and others, and ask for its immediate consideration.

□ 1040

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 428) granting the consent and approval of Congress for the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the joint resolution.

Mr. MATHIAS. Mr. President. I am today introducing, for myself and Senators SARBANES, WARNER, and TRIBLE, legislation which gives consent to the amendments passed by Virginia, Maryland, and the District of Columbia modifying the Washington Metropolitan Area Transit Authority's interstate compact. I am inserting for the record background information on the WMATA compact.

These changes to the compact will facilitate the continuation of WMATA's current activities in a more efficient and orderly way.

They involve the public hearing requirements on matters relating to service changes and emergency situations; WMATA financial investments; Metro's procurement policies; and improvements in public safety.

With regard to the public hearing requirements, the amendments permit WMATA to make minor or experimental bus service changes, provide for emergency situations, and experiment with particular buslines without holding a public hearing. For example, if Maryland planners detect a market for a particular line, they can provide the service for a couple of months without having to go through the public hearing process. This change allows a more efficient method of sampling transit markets in the Washington metropolitan region.

These amendments also allow WMATA to deposit funds in a branch or subsidiary of any bank which operates within the transit zone. The present compact now says that WMATA can only deposit funds in the headquarters bank.

The Metro board currently is required to advertise for bids on any supply purchases above $2,500. These amendments raise the threshold for advertising contracts for supplies and equipment from $2,500 to $10,000 and for construction and reconstruction from $10,000 to $25,000. Raising the thresholds will increase procurement efficiency and reduce staff time and associated costs. The new thresholds will also make WMATA procurement policies more consistent with the practices of the Federal Government,

other transit agencies, and many local governments.

Finally, the public safety amendments to the compact in general permit the transit authority to have police jurisdiction at the Metrobus stops. Currently, Metro has no official authority to interfere with criminal acts at its bus stops and therefore can not adequately protect patrons or employees at the bus stops. The District of Columbia, Maryland, and Virginia police departments all support giving Metro jurisdiction at its bus stops. These amendments clarify and simplify the enforcement of WMATA rules.

It has been cleared on both sides of the aisle by the Judiciary Committee, which has jurisdiction over interstate compacts, and the Governmental Affairs Committee, which has substantive jurisdiction over Metro.

The purpose of the amendments to title III and a letter follow:

BACKGROUND AND PURPOSE OF THE 1986 AMENDMENTS TO TITLE III OF THE WASHINGTON METROPOLITAN AREA TRANSIT REGULATION COMPACT.

PURPOSE

The purpose of the legislation is to amend Title III of the Washington Metropolitan Area Transit Regulation Compact, (WMATA Compact) Articles XIII and XVI, in order to (1) provide the Washington Metropolitan Area Transit Authority with more flexibility in instituting service changes on an emergency or experimental basis or in making minor changes in service, (2) permit deposits in banking institutions headquartered outside the Transit Zone but having branches located within the Transit Zone, (3) increase the dollar threshold at which the advertising of contracts for the purchase of supplies and equipment and construction, reconstruction and improvement of facilities is required, and (4) expand the jurisdiction for the Metro Transit Police to include bus stops, as defined in the bill.

BACKGROUND

This is the fourth time that the WMATA Compact has been amended. It was originally approved on November 6, 1966 (Washington Metropolitan Area Transit Authority Compact. Pub. L. 89-774, 80 Stat. 1324). In 1972 it was amended twice (National Capital Transportation Act of 1972. Pub. L. 92-349, 86 Stat. 464, and National Capital Area Transit Act of 1972, Pub. L. 92-517, 86 Stat. 999). Generally, those amendments were required to (1) make those necessary changes to the Compact to permit WMATA to provide transit service directly, (2) govern labor relations at WMATA, (3) provide for public acquisition of the then privately owned bus companies, (4) make other needed changes to the Compact with respect to definitions, temporary borrowing, interest on bonds, sale of bonds and reduced fares. The Compact was amended the third time in 1976 (Metro Transit Police Act of 1976, Pub. L. 94-306, 90 Stat. 672). In order to promote the safety of the riding public and to protect its employers and transit facilities, WMATA was authorized to establish a sworn police force fully empowered to enforce the signatory law on transit facilities owned, or operated or controlled by WMATA.

MAJOR PROVISIONS

The amendments Congress is consenting to in this resolution are summarized below:

Public hearings

Section 62(a).—This amendment provides that minor service changes, experimental service and emergency situations do not require a public hearing. The amendment clarifies current language, negates any potential challenges to current practices and reflects Urban Mass Transportation Administration (UMTA) public hearing requirements.

Public safety

Section 76(a).—This amendment gives the Metro Transit Police jurisdiction at Metrobus bus stops. Currently, local police have jurisdiction at bus stops. This change allows Metro police to provide protection for transit patrons at bus stops, thus increasing patron protection and safety.

Investment flexibility

Section 69(a).—This amendment allows WMATA to deposit funds in a branch or subsidiary of any bank which has operations within the Transit Zone. The change permits WMATA to take advantage of the greater flexibility in the banking industry as a result of deregulation.

Procurement

Section 73.—This amendment raises the threshold for advertising contracts for supplies and equipment from $2,500 to $10,000, and for construction and reconstruction from $10,000 to $25,000. Updating the thresholds will increase procurement efficiency and reduce staff time and associated costs. The new thresholds will also make WMATA procurement policies more consistent with the Federal government, other transit properties and many local governments.

U.S. SENATE,
Washington, DC, September 29, 1986.

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

DEAR MAJORITY LEADER: We understand that Senator Mathias intends to introduce a resolution to approve the Washington Metropolitan Area Transit Authority's (WMATA) interstate compact.

Rather than referring this resolution to the Judiciary Committee, which has jurisdiction over interstate compacts, or the Governmental Affairs Committee, which has substantive jurisdiction over WMATA, we do not object to placing this legislation directly on the calendar for immediate action. Senator Mathias advises us that he will seek such an agreement, when the legislation is introduced.

Our view of this bill has found that the proposed amendments to WMATA's compact deal with noncontroversial, routine WMATA management activities. We agree that our Committee Members' scarce time would not be well served by further reviewing this legislation.

We appreciate your consideration of this legislation.

Sincerely,

JOSEPH R. BIDEN, Jr.,
THOMAS F. EAGLETON,
STROM THURMOND,
WILLIAM V. ROTH, Jr.,
U.S. Senators.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 428) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 428

Granting the consent and approval of Congress for the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact.

Whereas the State of Maryland, the Commonwealth of Virginia, and the District of Columbia have adopted amendments to the Washington Metropolitan Area Transit Regulation Compact relating to public hearing requirements, investment flexibility, procurement and public safety; and

Whereas the Congress has reviewed such amendments and is willing to consent to such amendments: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That consent of Congress is hereby given to the amendments of the State of Maryland (Chapters 674 and 675, 1984 Act of the Maryland General Assembly), the amendment of the Commonwealth of Virginia (Chapter 610, 1984 Acts of Assembly of Virginia), and the amendment of the District of Columbia (D.C. Law 5-122) to sections 62(a), 69(a), 73, and 76(a) of the Washington Metropolitan Area Transit Regulation Compact. Such amendments are as follows:

"62(a) The Board shall not make or change any fare or rate, nor establish or abandon any service except after holding a public hearing with respect thereto, except for service changes required by an emergency; minor service changes as defined by regulations promulgated by the Board; experimental service established to test the effect of such service, and in effect for not more than six months; and fare and service changes established for special events.

"69(a) The Board may provide for the creation and administration of such funds as may be required. The funds shall be disbursed in accordance with rules established by the Board and all payments from any fund shall be reported to the Board. Monies in such funds and other monies of the Authority shall be deposited, as directed by the Board, in any branch or subsidiary of any state or national bank which has operations within the Zone, and having a total paid-in capital of at least one million dollars ($1,000,000). The trust department of any such state or national bank may be designated as a depositary to receive any securities acquired or owned by the Authority. The restriction with respect to paid-in capital may be waived for any such bank which agrees to pledge federal securities to protect the funds and securities of the Authority in such amounts and pursuant to such arrangements as may be acceptable to the Board.

"73 Contracts for the construction, reconstruction or improvement of any facility when the expenditure required exceeds twenty five thousand dollars ($25,000) and contracts for the puchase of supplies, equipment and materials when the expenditure required exceeds ten thousand ($10,000) shall be advertised and let upon sealed bids to the lowest responsible bidder. Notice re-

questing such bids shall be published in a manner reasonably likely to attract prospective bidders, which publication shall be made at least ten days before bids are received and in at least two newspapers of general circulation in the Zone. The Board may reject any and all bids and readvertise in its discretion. If after rejecting bids the Board determines and resolves that, in its opinion, the supplies, equipment and materials may be purchased at lower price in the open market, the Board may give responsible bidder an opportunity to negotiate a price and may proceed to purchase the supplies, equipment and materials in the open market at a negotiated price which is lower than the lowest rejected bid of a responsible bidder, without further observance of the provision requiring bids or notice. The Board shall adopt rules and regulations to provide for purchasing from the lowest responsible bidder when sealed bids, notice and publication are not required by this section. The Board may suspend and waive the provisions of this section requiring competitive bids whenever:

"(a) the purchase is to be made from or the contract is to be made with the federal or any State government or any agency or political subdivision thereof or pursuant to any open end bulk purchase contract of any of them;

"(b) the public exigency requires the immediate delivery of the articles;

"(c) only one source of supply is available; or

"(d) the equipment to be purchased is of a technical nature and the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts in the public interest.

"76(a) The Authority is authorized to establish and maintain a regular police force, to be known as the Metro Transit Police, to provide protection for its patrons, personnel, and transit facilities. The Metro Transit Police shall have the powers and duties and shall be subject to the limitations set forth in this section. It shall be composed of both uniformed and plainclothes personnel and shall be charged with the duty of enforcing the laws of the signatories, and the laws, ordinances and regulations of the political subdivisions thereof in the Transit Zone, and the rules and regulations of the Authority. The jurisdiction of the Metro Transit Police shall be limited to all the transit facilities (including bus stops) owned, controlled or operated by the Authority, but this restriction shall not limit the power of the Metro Transit Police to make arrests in the Transit Zone for violations committed upon, to or against such transit facilities committed from within or outside such transit facilities, while in hot or close pursuit or to execute traffic citations and criminal process in accordance with subsection (c) below. The members of the Metro Transit Police shall have concurrent jurisdiction in the performance of their duties with the duly constituted law enforcement agencies of the signatories and of the political subdivisions thereof in which any transit facility of the Authority is located or in which the Authority operates any transit service. Nothing contained in this section shall either relieve any signatory or political subdivision or agency thereof from its duty to provide police, fire and other public safety service and protection, or limit, restrict or interfere with the jurisdiction of or the performance of duties by the existing police, fire and other public safety agencies. For purposes of this section, "bus stop" means that area within 150 feet of a metrobus bus stop sign, excluding the interior of any building not owned, controlled, or operated by the Washington Metropolitan Area Transit Authority.".

SEC. 2. The right of Congress to alter, amend, or repeal this act is hereby expressly reserved.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

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

The motion to lay on the table was agreed to.

AUTHORIZING MINTING OF COINS OF THE BICENTENNIAL

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 3415, the commemorative coin bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3415) to authorize the minting of coins in commemoration of the bicentennial of the United States Constitution.

AMENDMENT NO. 3474

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator GARN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] for Mr. GARN, proposes an amendment numbered 3474.

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

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

The amendment is as follows:

On page 4, line 22, strike out "December 31, 1987" and insert in lieu thereof "June 30, 1988."

At the end of the bill, add the following new section: No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title. Nothing in this section shall relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

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

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

The amendment (No. 3474) was agreed to.

Mr. McCLURE. Mr. President, the bicentennial of the United States Constitution is a day to be remembered by all. To help remind our citizens of this historic event, a Commission has been established to promote this day.

In addition to parades, educational seminars and picnics, the Congress will pass legislation which calls for the minting of commemorative coins. These coins may be purchased by the public and kept as a reminder of this historic event.

Mr. President, the bill before us requires the Secretary of the Treasury to mint and sell both gold and silver coins. The gold coins will be a $5 legal tender coin which contains 90 percent gold and 10 percent alloy. There will be a maximum of 1 million gold coins minted.

The silver coin will be a $1 legal tender coin which contains 90 percent silver and 10 percent alloy. There will be a maximum of 10 million coins minted and sold to the general public. The silver to be used in the coins will come from the National Defense Stockpile. It should be noted that the limitations of Public Law 96–41, as amended (50 U.S.C. 98d(b)) prohibiting disposal of material from the stockpile until the unobligated balance in the Transaction Fund falls below a certain statutory ceiling is inapplicable to the sale by the General Services Administration to Treasury authorized by H.R. 3415, and that any moneys received by the General Services Administration from Treasury shall be for deposit to the Transaction Fund.

Mr. President, I congratulate the great work of Chairman ANNUNZIO, the chairman of the House Banking Subcommittee on Consumer Affairs and Coinage, for his leadership in this matter. In addition, I appreciate the leadership of Senator GARN and his willingness to advance this important legislation.

Mr. President, I have been a strong advocate of coinage legislation and believe it is the solution to disposing of the National Defense Stockpile without further disrupting the silver markets. I am confident that many Americans will choose to purchase a gold or silver bicentennial coin as a reminder of this great Nation and in celebration of the Constitution.

● Mr. SYMMS. Mr. President, I commend my distinguished colleague, Senator GARN, the chairman of the Banking Committee for his willingness to call this measure up on short notice. This is important legislation and should be considered before the Congress recesses. Mr. ANNUNZIO introduced this bill in the other body and it passed by voice vote. This act is titled "Bicentennial of the Constitution Coins and Medals Act."

It grants the Secretary of the Treasury authority to issue gold and silver coins in honor of the bicentennial of our Constitution. It is entirely appropriate that these coins be struck to commemorate this great event. They will be a lasting reminder of this very important date in our history. This

bill authorizes the Secretary of the Treasury to mint 1 million $5 gold coins, weighing 8.359 grams each. In addition, the Secretary is authorized to issue 10 million $1 silver coins weighing 26.736 grams each.

The gold for the $5 coins will be minted under the authority the Secretary of the Treasury has under existing law. The silver coins will be minted from metal taken from the Strategic and Critical Minerals Stockpile.

Certainly, these metals will be of more benefit in coins than in a stockpile. The act fixes a $35 per coin surcharge on the $5 coins and a $7 per coin surcharge on the $1 coins. These surcharges will be deposited in the Treasury and used solely for the purpose of reducing the national debt. The Secretary is directed to take all actions necessary to ensure that this title shall result in no net cost to the United States Treasury.

In further recognition of the bicentennial of the Constitution the Secretary is instructed to strike and deliver to the Bicentennial Commission 750,000 medals with suitable emblems and inscriptions. The medals will be made from gold, silver, and bronze in sizes to be determined by the Bicentennial Commission.

Mr. President, this bill authorizes, in a modest way, commemoration of a major milestone in our development as a nation. I urge its adoption.●

Mr. McCLURE. Is it the understanding of the chairman that the limitations of Public Law 96–41, as amended (50 U.S.C. 98d(b)) prohibiting disposal of material from the stockpile until the unobligated balance in the Transaction Fund falls below a certain statutory ceiling is inapplicable to the sale by the General Services Administration to Treasury authorized by H.R. 3415, and that any moneys received by the General Services Administration from Treasury shall be for deposit to the Transaction Fund?

Mr. GARN. Yes; that is the intent of the committee.

Mr. McCLURE. I thank the chairman.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no further amendment, the question is on third reading and passage.

The bill was ordered to a third reading, was read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

S. 2928—TO PROVIDE FOR MORE EFFECTIVE REGULATION OF VEHICLES

Mr. BYRD. Mr. President, I ask unanimous consent that I may send a bill to the desk on behalf of Mr. INOUYE and Mr. RUDMAN. I ask unanimous consent that the bill be held at the desk pending further disposition.

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

Mr. INOUYE. Mr. President, I rise today with the distinguished Senator from New Hampshire [Mr. RUDMAN] to offer legislation to regulate the automobile gray market. This legislation is quite similar to the measure which was agreed to earlier this year by unanimous consent as title IV of S. 863, the reauthorization bill for the National Highway Traffic Safety Administration [NHTSA]. As you will recall, after extensive negotiations, Mr. RUDMAN and I agreed on this legislation to provide for more effective regulation of the gray market in automobiles, and on May 15, 1986, the Senate passed our compromise legislation.

The House passed comparable legislation on October 6, 1986, as part of H.R. 2248, their NHTSA reauthorization bill. Currently, negotiations are ongoing to reconcile the House and Senate versions of the NHTSA bill. However, as consideration of such a compromise is not assured before adjournment of the 99th Congress, and given the importance to the American public and NHTSA itself of putting a more workable system into place to regulate the gray market, Senator RUDMAN and I are offering this bill and seeking its passage separately. As I indicated, the measure is very similar to the legislation agreed to in May by the Senate and just recently by the House. In developing this legislation, the Senator from New Hampshire and I have sought to ensure that gray market importers and modifiers are brought within the existing regulatory framework that governs the manufacturing and the sale of vehicles through authorized dealers. In short, we have sought to level the playing field and to assist the Department of Transportation in its effort to get a handle on the problems created by the present unworkable situation.

The Administrator of NHTSA has indicated her support for this type of legislation. In a recent letter, she stated:

> One of the major problems with the gray market program as it is now constituted is that the importer, rather than the modifier, is legally responsible for bringing the vehicle into compliance with the safety standards. The modifier has no direct legal responsibility for the success of his activities unless he is also the importer of record. Currently, 73 percent of importation of gray market vehicles are by individuals where the vehicles are for their own use as opposed to commercial importations for resale. The number of individual importations has always been greater than the number of commercial importations. The problems this creates are (1) the large number of entities we must deal with, (2) the lack of expertise of the importers in dealing with the legal and practical requirements of vehicle importation, and (3) the financial hardship placed on the individual importers if the vehicles must be exported, returned to Customs to be destroyed, or if full bond must be forfeited.
>
> These problems, and most others in this area, would be solved if the gray market program were restructured along the lines proposed in S. 863, which recently passed the Senate. We also understand that a similar proposal is being considered in the House of Representatives. We support legislation that would concentrate the program on registered commercial importers, which would afford tighter supervision of the modification process.

Unless we act now on this legislation, I fear that the opportunity will pass to accomplish these objectives. If we have to wait until the next Congress, thousands of vehicles will have continued to enter the United States without our beginning to put the controls in place that I believe we all agree are necessary.

Mr. President, under the program we are establishing, gray market vehicles may generally be imported into the United States only if they are substantially similar to a model manufactured for the U.S. market and are modified by a registered importer. We have included a special provision to ensure that military personnel and foreign service personnel returning from abroad may import an automobile for personal use and have it modified to meet U.S. safety and emission standards here in the United States, even if no substantially similar vehicle has been approved by the Secretary of Transportation for importation. We also have included a provision providing that, even in those instances in which a substantially similar U.S.-made vehicle does not exist, a vehicle made for a foreign market may be imported and then modified if the Secretary determines that the vehicle can be modified to comply with all applicable Federal motor vehicle safety standards. Finally, to meet the concerns of the Ways and Means Committee, we have included a provision that allows individuals, not just registered importers, to import a vehicle for personal use, but not for resale, as long as they agree to have it modified by a registered importer.

To ensure that this new program does not drain taxpayer resources, registered importers must pay upon registration and annually thereafter whatever fee the Secretary calculates is necessary to cover the new, additional costs of administering the entire program. Such fees must cover, among other things, the cost of processing bonds and making determinations. We felt it was appropriate in this limited

instance to require the payment of such fees because this new program is being established solely for the benefit of registered importers and will continue to permit them to stay in business.

Let me explain in greater detail how this new process works. In short, the Secretary of Transportation makes a determination whether a vehicle can be modified to meet all applicable safety standards. The registered importer—or modifier—must make the modifications as approved by the Secretary and then file a statement confirming he has done so. At that point, the Secretary, if she approves the certification statement, provides the necessary paperwork authorizing release of the Customs bond on the vehicle.

Once a determination has been made by the Secretary of Transportation with respect to a particular line or model of vehicle that the vehicle can meet the applicable standards, any other registered importer may, on the basis of that approval, modify the same line or model of vehicle. Of course, such a registered importer must perform the work in the same manner provided for in the approved petition. This should help lessen the regulatory burden that otherwise might have been imposed on the agency. We trust the Secretary will ensure that this provision is not abused to allow registered importers to make modifications without regard for the precise methods and procedures in the petition on which the determination was premised. Moreover, we trust the Secretary will be vigilant in ascertaining whether vehicles modified pursuant to the description provided for in petitions actually meet all applicable Federal motor vehicle safety standards. If she finds, for example, that modifications are not being made, we expect appropriate actions will be taken to remedy the situation. Once a determination has been revoked, vehicles of the same model or line may not be modified after a new determination is made pursuant to the procedures established for making the initial determination.

With respect to this process, we have not required that the Secretary make such determinations through traditional notice and comment rulemaking. However, while we have minimized the regulatory burden, the Secretary nonetheless must include the public in the process prior to making any determination on the merits. We do not want these determinations made solely on the basis of information supplied by petitioners. The petitions must be made available to the public, including original equipment manufacturers, so that they may submit comments and information relevant to the determination before it is made.

To monitor compliance with the law, the Secretary must conduct inspections and tests, including destructive tests, of vehicles imported under this new program. The status quo, under which voluntary compliance has been assumed, has proven to be ineffective in ensuring compliance with existing laws and regulations. We trust the Secretary will vigorously carry out her responsibilities to ensure that this pattern of noncompliance is brought to an end.

This bill addresses other concerns aired in hearings held before the Commerce Committee. As my colleagues are aware, one of the principal concerns that has been raised is the failure of gray market importers to pay the applicable gas guzzler tax due on each imported low-mileage vehicle. Recently, the Internal Revenue Service issued a revenue ruling confirming that the law has always required the payment of gas guzzler taxes on gray market vehicles. The provisions we have included do not address the retroactive application of the revenue ruling. I am sympathetic to the plight of those individuals who are covered by the ruling and recognize its application may have harsh, perhaps inequitable, application. To ensure that this tax avoidance comes to an end in the future and individuals are not later unfairly penalized, we have included two provisions in the amendment. The first requires these importers to have fuel economy ratings established on the vehicles they import for purposes of calculating the gas guzzler tax due. Once those ratings have been established and provided to the relevant government agencies, no basis will exist for avoiding payment of gas guzzler taxes. The second provision requires registered importers to document payment of this tax in order to maintain their registration. This should clarify any existing ambiguity as to the law's coverage.

As a related matter, the amendment provides that each registered importer will be treated as a manufacturer for purposes of C.A.F.E. Each registered importer will calculate a fleet fuel economy average on the basis of the vehicle he modifies during each calendar year. Thus, his fleet will include not only the vehicles he imports and modifies, but those imported by individuals for which he makes modifications. To preclude registered importers from avoiding the responsibilities that come with being treated as a manufacturer under the Motor Vehicle Information and Cost Savings Act, the amendment specifically precludes them from claiming to be "small volume" manufacturers. To maintain a registration, each registered importer must document payment of any C.A.F.E. penalties due for the prior year. We leave it to the Secretary to determine precisely how to apply the many provisions of the C.A.F.E. to registered importers.

Mr. President, there also has been a great deal of concern raised about vehicles being released to consumers before modifications have been made or in violation of the terms and conditions of the Customs bond placed on each vehicle. To get at this problem, the bill provides that it shall be unlawful to release custody of a vehicle, operate it—other than for testing—or ignore the conditions imposed by the applicable bond until the registered importer has filed a certification statement with the Secretary that the vehicle has been properly modified, the Secretary has reviewed the certification as valid, the Secretary has confirmed a consumer disclosure label has been placed on the vehicle, and the fuel economy ratings for the vehicle have been established and provided to the relevant government agencies. We have further provided that the Secretary may demand to inspect any vehicle prior to release by the registered importer.

In an effort to reduce the opportunities for the unscrupulous to avoid making the modifications required under existing law, we have built a number of additional safeguards into the system.

First, the types of vehicles which may be imported generally are limited to those which are substantially similar to vehicles originally manufactured and certified for importation into the United States and which are capable of being readily modified to meet all U.S. standards. For certain safety features of a motor vehicle, such as the structural features protecting the passenger compartment, it is impossible to assess compliance with U.S. safety regulations merely by visual inspection. Destructive crash testing is needed. Because substantially similar gray market vehicles will not be crash tested before importation, these concealed safety features of the gray market vehicles must be substantially the same as those on U.S. certified models before importation and modification.

Second, before any vehicles may be modified, a registered importer must first establish—with respect to the particular line or model of vehicle involved—that the vehicle can be modified to meet all applicable Federal motor vehicle safety standards and that any modifications made for the purpose of compliance with any applicable law or regulation will not appear to create a violation of these standards or a defect relating to motor vehicle safety. We would hope that the petition submitted to the Secretary could include an analysis by a qualified professional engineer certifying that this is the case with respect to the safety features of the vehicle.

Third, the Secretary must approve a certification statement filed by each registered importer before issuing the bond release letter applicable to each imported motor vehicle.

Finally, the Secretary by regulation must establish requirements to ensure that the registered importers who will be making these modifications have the financial capability to meet their obligations under our safety laws and regulations. The posting of a prepaid surety bond on each vehicle would be one means of protecting consumers from financially irresponsible importers.

So that we can monitor how this new program works in operation, this legislation requires the GAO to provide us with a report within 3 years. Also, the Secretary must conduct a study of the effectiveness of the program 18 months after promulgation of the regulations implementing this legislation. With these reports, the Congress will be in a good position to assess whether modifications to the program are necessary.

In closing, I might add that we remain quite concerned that the provisions in this legislation may not be put into effect as a result of a delay in the promulgation of implementing regulations. Thus, this bill explicitly provides that the Secretary must publish regulations implementing this amendment within 8 months. This is more than adequate time. If the Secretary has not done so, the legislation provides that any person may commence a civil action in the U.S. Court of Appeals for the District of Columbia Circuit. We have directed that the court grant an expedited hearing. We also have indicated that the court should award reasonable attorney fees to private litigants if the Government fails to promulgate these regulations. We hope this will provide a sufficient incentive for the agency to comply with the law and meet the deadline we have set. We do not want to be in a position where through inadvertence or negligence the current, unworkable program remains in effect beyond the prescribed period set out in the bill. We believe this would be unacceptable.

Mr. President, I want to remind my colleagues that many months of negotiations were necessary to craft this compromise. We have addressed the concerns of gray market participants, as well as those of concerned Members of the House. My colleague from New Hampshire and I have put a great deal of work into developing this legislation and we urge our colleagues to support us in its passage.

Mr. RUDMAN. Mr. President, I rise to join my colleague, the distinguished senior Senator from Hawaii, Mr. INOUYE, in introducing legislation to improve the statutory and regulatory framework under which vehicles not originally manufactured for sale in the United States are brought into compliance with U.S. standards. This legislation represents a compromise intended to ensure that so-called gray market cars fully comply with applicable Federal motor vehicle safety standards.

Direct import cars, often referred to as gray market cars, are foreign-manufactured cars that are imported directly by independent importers. This activity is entirely legal provided that certain procedures are followed to ensure that these cars, which may be different than vehicles originally manufactured for distribution in the United States, are brought into conformity with our Federal environmental and safety standards.

The gray market generally arises when foreign manufacturers implement discriminatory pricing policies whereby American consumers are charged a higher price for a product than is charged for the same or comparable item sold overseas. Independent importers take advantage of this dual-pricing system by purchasing products at the world price and selling the product to the American consumer at a price considerably below that offered by the foreign manufacturer's U.S. distributor. It should be noted that there is a gray market for many products other than automobiles. In my view, the gray market provides enormous benefits to the consumers of this country by providing price and choice competition.

In the case of automobiles, my good friend, Senator INOUYE, has expressed concerns that the current regulation of direct import vehicles is not sufficient to protect safety. Frankly, although our views differ on this contention, we have worked together to improve enforcement in this area while preserving the right of independent importers to market these automobiles. In fact, this bill is essentially similar to an amendment we successfully offered to S. 863, the national highway traffic safety reauthorization bill, passed by the Senate earlier this year. We believe that this bill improves upon the Senate amendment to S. 863 and also addresses some concerns raised by the other body.

Our bill has three main features. First, the bill includes provisions to ensure that vehicles imported into the United States are capable of meeting U.S. safety standards. Thus, the Secretary of Transportation must determine, pursuant to the petition of a registered importer, that a model of a vehicle is capable of being modified to comply with applicable U.S. safety standards. The Secretary may make such determinations based on one of two findings: The Secretary may make a determination that a vehicle is substantialy similar to a vehicle originally manufactured for sale in the United States and that it can be modified to meet our standards. Alternatively, where there is no substantially similar domestic vehicle, the Secretary may make a determination based on destructive test data or other information which demonstrates that the vehicle is capable of meeting all applicable U.S. standards. It is presumed that in most cases destructive test data will be necessary to make this determination. In some cases, however, other evidence may suffice. For example, if a petitioner can demonstrate that a vehicle is largely similar to an earlier model of a U.S. model vehicle certified as meeting our standards, destructive test data may not be necessary. Once a determination is made, other importers or individuals may import that model vehicle provided that it is modified by a registered importer pursuant to an approved petition.

The second feature is the requirement that vehicles imported pursuant to this bill be modified by an importer who is registered with the Secretary of Transportation. The registered importer must also pay user-fees as necessary to cover the costs of administering the main provisions of this program where such costs exceed current expenditures. Thus, implementation of this program will allow the Department to meet its obligations without adding to the Federal budget deficit.

Third, the bill provides that a properly registered importer submit a certification to the Secretary for each vehicle modified. The Secretary is provided an opportunity to inspect any vehicle prior to approval. If the Secretary has not given notice of its intention to inspect the vehicle within 30 days, the Secretary shall provide for the prompt release of the importer's bond. It should be noted that although the bill permits importation of automobiles by individuals, such vehicle must be modified by a registered importer pursuant to an approved petition.

Our bill also provides that the registered importer will be responsible for recordkeeping, payment of any applicable gas guzzler tax for cars imported pursuant to this legislation, and compliance with CAFE requirements. We have also called for reports on the effectiveness of the new program by the General Accounting Office and the Department of Transportation. The Secretary is directed to promulgate regulations within 8 months after enactment of this legislation. The provisions of this bill will take effect 3 months after the effective date of regulations. This 3-month grace period is intended to ensure that importers will be able to continue to import vehicles after the effective date of the regulations and while the Secretary is making determinations and registering importers.

I believe that this bill represents a reasonable compromise to improve the

regulation of direct import automobiles while ensuring that the American consumer continues to benefit from the price and choice competition provided by direct imports.

RESOLUTION PROVIDING FOR A POINT OF ORDER AGAINST EXTRANEOUS MATERIAL IN CERTAIN RECONCILIATION MEASURES

Mr. SIMPSON. Mr. President, I send a resolution to the desk on behalf of Senators ROTH, DOMENICI, and CHILES, dealing with a point of order on the reconciliation bill.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 509) providing for a point of order against extraneous material in certain reconciliation measures.

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

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

Mr. ROTH. Mr. President, on December 19, 1985, the Senate adopted Senate Resolution 286, which I authored. The purpose of Senate Resolution 286 was to extend the prohibition against extraneous matter in reconciliation bills and resolutions, popularly known as the Byrd rule after its distinguished author, to House language coming over to us either in a conference report or as a House amendment. But for Senate Resolution 286, the Senate would have been in a position of imposing a much needed discipline on itself while facing the prospect that the House could load down reconciliation bills and resolutions with all kinds of extraneous matter.

When the Senate considered Senate Resolution 286, I noted its similarity to rule XXVIII of the House rules by which the House seeks to protect itself against Senate provisions that would violate House rules on germaneness if offered there. Under Senate Resolution 286, when the point of order against extraneous matter is made and sustained, the offending language is deemed stricken and the Senate is permitted to consider the remainder "under the rules and practices of the Senate and applicable law."

In contrast, in the analogous situation under rule XXVIII of the House rules, after the offending language is deemed stricken, the opportunity to debate and to make further amendments is restricted under the rule and the practices of the House. In practical terms this means that one making a point of order does not have to overcome the burden that his or her success might unravel all the negotiations that led up to the conference report or amendment in question.

Therefore, on reflection, it is my considered opinion that Senate Resolution 286 needs to be amended so that successful points of order intended to surgically remove offending language, do not provide the occasion for unraveling the remaining language of conference reports which Senate conferees have worked out in conference.

The amendment to Senate Resolution 286 would preserve the original purpose of that resolution but would further refine the implementation, in the case of conference reports or House amendments, by limiting debate and, in the case of conference reports, by precluding amendments.

Conference reports as such are not subject to amendment. It would be highly inappropriate, therefore, to allow such language to become amendable once extraneous matter is removed by a successful point of order. Unfortunately, that result would occur without the adoption of the pending resolution because a conference report falls as a matter of parliamentary law when a successful point of order is made against it. And when the conference report falls, the last amendment or amendments are before this body subject to further debate and further action.

But this result is contrary to the special purpose of Senate Resolution 286. Such a result would make it more difficult to police our policy against extraneous matter. For if a Senator desiring to make a point of order against extraneous matter realizes that his success could cause the entire conference agreement to become amendable, then he would be inclined to go forward guided more by his position on the substance of the conference agreement than by his desire to enforce Senate policy on extraneous matter. That would be unfortunate.

The pending resolution would change that result. It would allow a successful point of order to excise the offending language in a conference report and would, in effect, treat the remaining language in the same way we treat conference reports, that is, as not subject to amendment.

House amendments, like conference reports, would be subject to the provision limiting debate. However, House amendments would be subject to further amendment since, unlike a conference report, they have not been agreed to by the Senate.

The resolution also treats the situation where the House has sent us an amendment containing extraneous matter and the Senate is considering a Senate amendment to the House amendment containing such extraneous matter. This kind of Senate amendment is included within the phrase "amendment between the Houses" in the pending resolution. This kind of Senate amendment to a House amendment would be subject to the same procedure as would the House amendment.

It should also be noted that more than one point of order may be made against a conference report or amendment between the Houses. In the case of Senate consideration of conference reports, it should be noted that a second point of order would be made against the resulting Senate amendment created by operation of this resolution upon a successful point of order being made. It cannot be made against the conference report because it is no longer before the body. That is why the phrase "Senate amendment derived from such conference report by operation of this resolution" is included in the resolution; such amendments are basically treated under the procedure for conference reports. This means they are not amendable.

In my opinion, the procedural refinements contained in the pending resolution are necessary to implement the original purpose of Senate Resolution 286 and should be adopted.

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

The resolution (S. Res. 509) was agreed to, as follows:

S. RES. 509

That Senate Resolution 286 (99th Congress, 2d Session), adopted December 19, 1985, is amended by striking out all after the resolving clause and inserting in lieu thereof the following:

"That (a) when the Senate is considering a conference report on, or an amendment between the Houses in relation to, a reconciliation bill or reconciliation resolution pursuant to section 310 of the Congressional Budget Act of 1974, upon—

"(1) a point of order being made by any Senator against extraneous material meeting the definition of subsections (d)(1)(A) or (d)(1)(D) of section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985, and

"(2) such point of order being sustained, such material contained in such conference report or amendment shall be deemed stricken, and the Senate shall proceed, without intervening action or motion, to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable for 2 hours. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this resolution), no further amendment shall be in order.

"(b) An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this resolution, as well as to waive or suspend the provisions of this resolution.

"(c) The provisions of this resolution shall remain in effect until the date of termina-

tion of section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985.".

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

TREATMENT OF CERTAIN SUBMERGED LANDS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar 1030, S. 485, dealing with the Alaskan National Interest Lands Conservation Act of 1980.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 485) to amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the treatment of submerged lands and ownership by the Alaska Native Corporation.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That section 901 of the Alaska National Interest Lands Conservation Act (94 Stat. 2430; Public Law 96-487) is amended by striking out the text of such section and inserting in lieu thereof:

"SEC. 901. (a)(1) Except as provided in paragraph (2), whenever the Secretary surveys land selected by a Native, a Native Corporation, or the State pursuant to the Alaska Native Claims Settlement Act, the Alaska Statehood Act, or this Act, lakes, rivers, and streams shall be meandered in accordance with the principles in the Bureau of Land Management, 'Manual of Surveying Instructions' (1973).

"(2) If title to the lands beneath navigable waters of a lake less than fifty acres in size or a river or stream less than three chains in width did not vest in the State pursuant to the Submerged Lands Act, such lake, river, or stream shall not be meandered.

"(3) The Secretary is not required to determine the navigability of a lake, river, or stream which because of its size or width is required to be meandered or to compute the acreage of the land beneath such lake, river, or stream or to describe such land in any conveyance document.

"(4) Nothing in this subsection shall be construed to require ground survey or monumentation of meanderlines.

"(b)(1) Whenever, either before or after the date of enactment of this section, the Secretary conveys land to a Native, a Native Corporation, or the State pursuant to the Alaska Native Claims Settlement Act, the Alaska Statehood Act, or this Act which abuts or surrounds a meanderable lake, river, or stream, all right, title, and interest of the United States, if any, in the land under such lake, river, or stream lying between the uplands and the median line or midpoint, as the case may be, shall vest in and shall not be charged against the acreage entitlement of such Native or Native Corporation or the State. The right, title, and interest vested in a Native or Native Corporation shall be no greater an estate than the estate he or it is conveyed in the land which abuts or surrounds the lake, river, or stream.

"(2) The specific terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled, 'Memorandum of Agreement between the United States Department of the Interior and the State of Alaska' dated March 28, 1984, signed by the Secretary and the Governor of Alaska and submitted to the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate, are hereby incorporated in this section and are ratified as to the duties and obligations of the United States and the State, as a matter of Federal law.

"(c)(1) The execution of an interim conveyance or patent, as appropriate, by the Bureau of Land Management which conveys an area of land selected by a Native or Native Corporation which includes, surrounds, or abuts a lake, river, or stream, or any portion thereof, shall be the final agency action with respect to a decision of the Secretary of the Interior that such lake, river, or stream, is or is not navigable, unless such decision was validly appealed to an agency or board of the Department of the Interior on or before December 2, 1980.

"(2) No agency or board of the Department of the Interior other than the Bureau of Land Management shall have authority to determine the navigability of a lake, river, or stream within an area selected by a Native or Native Corporation pursuant to the Alaska Native Claims Settlement Act or this act unless a determination by the Bureau of Land Management that such lake, river, or stream, is or is not navigable, was validly appealed to such agency or board on or before December 2, 1980.

"(3) If title to land conveyed to a Native Corporation pursuant to the Alaska Native Claims Settlement Act or this Act which underlies a lake, river, or stream is challenged in a court of competent jurisdiction and such court determines that such land is owned by the Native Corporation, the Native Corporation shall be awarded a money judgment against the plaintiffs in an amount equal to its costs and attorney's fees, including costs and attorney's fees incurred on appeal.

"(d) For the purposes of this section, the terms 'navigable' and 'navigability' means navigable for the purpose of determining title to lands beneath navigable waters, as between the United States and the several States pursuant to the Submerged Lands Act and section 6(m) of the Alaska Statehood Act.".

SEC. 2. Nothing in this Act shall amend or alter any land exchange agreement to which the United States is a party, or any statute, including but not limited to the Act of January 2, 1976 (89 Stat. 1151) and section 506(c) of the Alaska National Interest Lands Conservation Act (94 Stat. 2409), that authorizes, ratifies or implements such an agreement.

AMENDMENT NO. 3475

(Purpose: To extend the Submerged Lands Statute of Limitations found in P.L. 96-487)

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator MURKOWSKI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. MURKOWSKI, proposes an amendment numbered 3475.

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

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

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That subsection (a) of section 901 of the Alaska National Interest Lands Conservation Act (Public Law 96-487), as amended, is hereby amended by striking out the words "six years after the date of execution" each time such words occur in such subsection, and by inserting in lieu thereof in each instance the words "eight years after the date of execution", and by striking the words "seven years after the date of enactment" each time such words occur in such subsection, and by inserting in lieu thereof in each instance the words "nine years after the date of enactment".

Mr. MURKOWSKI. Mr. President, I rise in support of this amendment in the nature of a substitute. This amendment replaces the text of S. 485. It simply extends the submerged lands statute of limitations found in section 901 of the Alaska National Interest Lands Conservation Act for 2 years.

Earlier this year in February, the statute was extended through December 2, 1986, in hopes that a comprehensive solution to the submerged lands issue could be resolved. Such a solution was reported out of the Energy and Natural Resources Committee in the form of S. 485. Unfortunately, there are still those who oppose such a solution.

In order to prevent the State of Alaska from being forced to file hundreds of lawsuits against Native corporations in December, this extension must be passed. It is noncontroversial and merely protects the status quo with respect to the submerged lands issue.

It is my full intention to pursue a final and equitable solution to this issue when Congress returns for the 100th Congress in January.

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

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum to be sure that this bill we are passing is not another one that I do not want to have passed. It will not take but 1 minute.

The PRESIDING OFFICER. Does the Senator from Ohio have objection to the unanimous-consent request?

Mr. METZENBAUM. Reserving the right to object, 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. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. METZENBAUM. Mr. President, I have no objection. I apologize to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I assume that was not the amendment the Senator from Ohio was looking for.

Mr. METZENBAUM. The Senator is correct.

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

The amendment (No. 3475) was agreed to.

Mr. SIMPSON. Mr. President, I move adoption of the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

Mr. METZENBAUM. Mr. President, this legislation is limited in purpose and scope. It only grants the State of Alaska a simple extension of time in which to file judicial challenges to navigability determinations, pursuant to section 901(a) of ANILCA. The bill is not intended to, and does not, alter the language of section 901(d) of ANILCA which is based upon the premise that lands submerged beneath nonnavigable waters will be conveyed and charged against the State and Alaska Native corporation entitlements. The bill is not intended to delay or otherwise affect litigation pending in the U.S. Court of Appeals for the District of Columbia concerning the chargeability of submerged lands (Civil No. 86-5205).

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

The committee amendment, as amended, the bill (S. 485) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 901 of the Alaska National Interest Lands Conservation Act (Public Law 96-487), as amended, is hereby amended by striking out the words "six years after the date of execution" each time such words occur in such subsection, and by inserting in lieu thereof in each instance the words "eight years after the date of execution", and by striking the words "seven years after the date of enactment" each time such words occur in such subsection, and by inserting in lieu thereof in each instance the words "nine years after the date of enactment".

STANDARDS FOR PLACEMENT OF COMMEMORATIVE WORKS IN THE DISTRICT OF COLUMBIA

Mr. SIMPSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4378.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the title of the bill (H.R. 4378) entitled "An Act to provide standards for placement of commemorative works on lands administered by the National Park Service in the District of Columbia, and for other purposes.".

Resolved, That the House agree to the amendment of the Senate to the text of the aforesaid bill, with amendments as follows:

(1) Page 3 of the Senate engrossed amendments, line 13, strike out "appropriate congressional authorizing Committees" and insert: *Committee on House Administration of the House of Representatives and the Energy and Natural Resources Committee of the Senate*

(2) Page 4 of the Senate engrossed amendments, strike out line 23 and all that follows through line 8 on page 5, and insert:

SEC. 6. (a) AREA I.—The conditions set forth in subsection (b) shall apply to the location of a commemorative work in Area I or in Area II. In addition, the Secretary or Administrator (as appropriate) may approve the location of a commemorative work in Area I only if he finds that the subject of the commemorative work is of preeminent historical and lasting significance to the Nation. The Secretary or Administrator (as appropriate) shall notify, after consultation with the National Capital Memorial Commission, the Congress of his determination that a commemorative work should be located in Area I. The location of a commemorative work in Area I shall be deemed disapproved, unless, not later than 150 days after such notification, the location is approved by law.

(3) Page 6 of the Senate engrossed amendments, line 15, strike out "of this section, such person shall submit" and insert: *, the Secretary or Administrator (as appropriate) shall submit, on behalf of such person,*

(4) Page 9 of the Senate engrossed amendments, strike out lines 8 through 21 and insert:

TEMPORARY SITE DESIGNATION

SEC. 9. (a) If the Secretary, in consultation with the National Capital Memorial Commission, determines that a site where commemorative works may be displayed on a temporary basis is necessary in order to aid in the preservation of the limited amount of open space available to residents of, and visitors to, the Nation's Capital, he may designate such a site on lands administered by him in the District of Columbia. A designation may not be made under the preceding sentence unless, at least 120 days before the designation, the Secretary, in consultation with the National Capital Memorial Commission, prepares and submits to the Congress a plan for the site. The plan shall include specifications for the location, construction, and administration of the site and criteria for displaying commemorative works at the site.

(b) Any commemorative work displayed at the site shall be installed, maintained, and removed at the sole expense and risk of the person authorized to display the commemorative work. Such person shall agree to indemnify the United States for any liability arising from the display of the commemorative work under this section.

(5) Page 10 of the Senate engrossed amendments, strike out lines 1 and 2, and insert: *the Secretary or the Administrator (as appropriate) and shall be permanently maintained in the manner provided by law.*

Mr. SIMPSON. Mr. President, I move that the Senate concur in the House amendments.

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

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

CORRECTING ENROLLMENT OF HOUSE JOINT RESOLUTION 626

Mr. SIMPSON. Mr. President, I send a concurrent resolution to the desk on behalf of Senator MCCLURE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 171) to correct the enrollment of H.J. Res. 626.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the concurrent resolution.

Mr. SIMPSON. Mr. President, I move adoption of the concurrent resolution.

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

The concurrent resolution (S. Con. Res. 171) was agreed to, as follows:

S. CON. RES. 171

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the joint resolution (H.J. Res. 626) to approve the "Compact of Free Association" between the United States and the Government of Palau, the following corrections shall be made:

(1) In section 101(d)(1)(B), insert "the Committees on Interior and Insular Affairs and Foreign Affairs and other" before "appropriate Committees of the House of Representatives".

(2) In section 101(d)(2) strike "(B)" and insert "(C)".

(3) In section 102(b), add "as amended," after "Public Law 99-239,".

(4) In section 104(c), strike "fiscal year 1985" each time such words occur and in each instance insert in lieu thereof "fiscal year 1986".

(5) In section 104(f), strike "Public Law 99-396" and in lieu thereof insert "Public Law 99-366".

(6) In section 104(g), strike "preclude" and in lieu thereof insert "exclude, limit".

(7) In section 242(c)(4) of Title II, strike "chapter V" and insert "title V".

(8) Following Section 104(j) insert new subsection (k) as follows:

"(k) The Departments of Energy and Interior are directed to provide the Committees on Appropriations of the House and Senate with a report by December 1 of each fiscal year detailing how funds were spent during the previous fiscal year for the special medical care and logistical support program for Rongelap and Utrik and for the agriculture and food programs for Enewetak and Bikini as referenced in Section 103(h) of Public Law 99-239. The report shall also specify the anticipated needs during the current and following fiscal years in order to meet the radiological health care and logistical support program for Rongelap and Utrik and the planting, agricultural maintenance, and food programs for Enewetak and Bikini. It is the sense of the Congress that the special medical care and logistical support program for Rongelap and Utrik and for the agriculture and food programs for Enewetak and Bikini described in section 103(h) of Public Law 99-239 represent special and continuing moral commitments of the United States which will be annually funded to the extent of the need of the populations of such atolls for such assistance."

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table was agreed to.

CONVENING OF CONGRESS IN PHILADELPHIA, PA, ON JULY 16, 1987

Mr. SIMPSON. Mr. President, I send a concurrent resolution to the desk on behalf of Senator THURMOND, Senator DOLE, Senator BYRD, Senator STENNIS, Senator HATFIELD, Senator SIMON, and Senator KASSEBAUM, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 172) to convene the Congress in Philadelphia, Pennsylvania, on July 16, 1987, in order to commemorate the 200th anniversary of the Great Compromise creating the basis of representation between the Senate and the House of Representatives.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the concurrent resolution.

The Senate proceeded to consider the concurrent resolution.

Mr. THURMOND. Mr. President, today, along with Senators DOLE, BYRD, KASSEBAUM, HATFIELD, STENNIS, and SIMON, I am urging Senate passage of Senate Concurrent Resolution 172, a concurrent resolution providing that the House and Senate shall convene for the day of July 16, 1987, in Philadelphia, PA. The purpose of this very special session of Congress would be to commemorate the 200th anniversary of the "Great Compromise" creating the basis of representation in the House and Senate.

Mr. President, the sponsors of this proposal, as the members of the Commission on the Bicentennial of the Senate, are charged with the responsibility of coordinating the observance and celebration of the Senate bicentennial. We can think of no better date on which to commemorate the 200 years of the legislative branch than on the date that the framers crafted the plan establishing how the Senate and House were to be constituted. It was this question which bitterly divided the delegates to the Constitutional Convention and threatened to scuttle its mission.

The proposal to convene the Congress in Philadelphia has been developed primarily by Philadelphia's "We The People, 200" committee, which has already raised $1.5 million to underwrite the cost of the event. This special session of Congress would be an actual working session, rather than a purely ceremonial event. If held, it would be the first time in 187 years that Congress has met outside Washington and the first time the Congress has ever met outside the seat of government.

Mr. President, although much planning remains to be done, as this resolution specifies, Congress would convene in the Independence National Historical Park for 1 day, July 16, 1987. Plans are already being developed regarding erection of temporary structures for the House and Senate Chambers. Details regarding transportation, security, funding, and other matters related to this proposal are under study.

Only 9 months are left to prepare for this event—if it is to occur. Congress must decide very quickly if it wishes to commemorate its bicentennial in this fashion. I, therefore, urge my colleagues to approve this important concurrent resolution.

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

The concurrent resolution (S. Con. Res. 172) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 172

Whereas 1987 marks the two hundredth anniversary of the meeting of the Constitutional Convention in the City of Philadelphia, Pennsylvania from May 25 to September 17, 1787;

Whereas on July 16, 1787, the framers of the Constitution agreed to the "Great Compromise", which provided for States to be represented equally in the Senate and in the proportion to their populations in the House of Representatives;

Whereas that compromise established fundamental nature of the Senate and the House of Representatives;

Whereas the City of Philadelphia's "We the People 200" committee, an organization planning a year-long national celebration of the United States Constitution bicentennial, has invited the Congress of the United States to convene a special legislative session on July 16, 1787, at Independence National Historical Park; and

Whereas it is appropriate for Congress, as the First Branch of the Government under the Constitution, to provide for suitable commemoration of this significant anniversary to focus public attention on the unique role of the national legislature as a coequal branch of the Federal Government: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall convene for the day of July 16, 1987, in the city of Philadelphia, Pennsylvania, in the Independence National Historical Park.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table was agreed to.

AUTHORIZING CERTAIN ACTIONS AFTER THE SINE DIE ADJOURNMENT OF THE PRESENT SESSION

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 510) authorizing the President of the Senate, the President of the Senate pro tempore, the majority leader of the Senate, and the minority leader of the Senate to make certain appointments after the sine die adjournment of the present session.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

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

The resolution (S. Res. 510) was agreed to, as follows:

S. RES. 510

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the majority leader of the Senate, and the minority leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I greatly thank the Democratic leader for his presence here, enabling us to proceed with our business. I thank him.

Mr. BYRD. I thank the distinguished acting majority leader.

□ 1050

IMMIGRATION REFORM AND CONTROL ACT OF 1986—CONFERENCE REPORT

Mr. SIMPSON. Mr. President, I ask that the Senate turn to the consideration of the conference report on S. 1200.

The PRESIDING OFFICER. The conference report will be stated by title.

The bill clerk read as follows:

IMMIGRATION REFORM AND CONTROL ACT OF 1986—CONFERENCE REPORT

The Senate resumed consideration of the conference report.

Mr. SIMPSON. Mr. President, before we proceed with the conference committee report, which was agreed to in the House yesterday, I see my colleague from New Mexico is on the floor. I have been informed by my good friend, the chairman of the Committee on the Budget, Senator PETE DOMENICI, that the conference report on S. 1200, the immigration reform bill, is subject to a point of order under the Budget Act, since the legislation before us would, after a 5-year moratorium, then allow legalized aliens to become eligible for certain Federal welfare programs. There is an exceedingly limited Federal benefit to these persons during that 5-year period. Consequently, this is considered then to be an expansion of an entitlement program in a year for which no budget resolution has been agreed to.

Shortly, I shall ask for unanimous consent that section 303 of the Budget Act be waived for consideration of the conference report. I want to inquire of the Senator from New Mexico, who is a most extraordinary and alert and productive Member of the Senate with regard to budget matters, if he has a further statement with regard to this matter.

Mr. DOMENICI. Mr. President, I believe the distinguished Senator from Wyoming has properly stated the case. At this point, the conference report that is before us would be subject to a section 303 point of order under the Budget Act. In essence, that point of order lies because the conference report expands entitlement programs beginning in fiscal year 1992, a year for which we do not have a budget resolution. There is a clear provision in the Budget Act, section 303, saying that new or expanded entitlements cannot be considered for the years for which there is no budget resolution in effect. We all understand why. That was a very prudent thing.

I see the minority leader on the floor. He had a hand in draftng that in the Budget Act when it was prepared. That was to prevent a willy-nilly kind backdoor expenditure where you get around the processes by saying, 3 years from now, here is a new add on to some entitlement program which causes automatic expenditures.

That is the explanation. Having said that, I want the distinguished Senator from Wyoming and the Senate to know that this is a 50-vote waiver; it is not a supermajority requirement. This is part of the Budget Act in its original content. Clearly, this kind of point of order was not enacted with the sense that it should never be violated or we should never use the waiver for it. The waiver provisions are there with the clear understanding that if the Senate of the United States looked the issue squarely in the eye and said, "We want to waive," they will have the choice.

So I say to my friend from Wyoming and to the U.S. Senate that I believe the issue of waiving section 303 is separate and distinct from whether you want to vote for the bill. If one chooses to say, "I don't like the new immigration bill," there will be a chance to say no. The Senator from New Mexico will probably be in that group. But basically, I believe it is an exact case for waiver.

I think you could not find a better example of a situation where you ought to waive section 303 so long as you understand the nature of the entitlement that is being created. I do. I think the Senate will find that taking the whole bill, the fact that immigration is a major national problem, the fact that it has been worked on for decades, the fact that for five sessions of Congress we have come close and failed, take all those things together and this bill is a remarkable accomplishment. If you had a list of five major American domestic problems, you would have to say immigration is one.

So I am going to support waiving section 303 of the Budget Act. I do not believe it is a major new expenditure of money. I believe it is far out in the future and when you look at that waiver in the context of whether you should deny the U.S. Congress an opportunity to pass a major immigration bill, you ought to say yes. If you are going to say yes, you ought to give them the opportunity to vote on that. Then you ought to waive.

So, if the distinguished Senator from Wyoming propounds a motion to waive, the Senator from New Mexico will be on his side.

I do not want my good friend from Wyoming to misunderstand. This does not mean that I am terribly sanguine about the bill. I know his diligent work and what he thinks about it and the fact that it is practical and pragmatic and compromises had to take place. But I, for one, think it might be a worse bill than what originally passed the Senate. I did not vote for that; consequently, I cannot vote for this one. But I am willing to join him in waiving if and when he moves to waive section 303 of the Budget Act.

Mr. SIMPSON. Mr. President, I do thank Senator DOMENICI very much. I now ask unanimous consent, in accordance with section 914 of the Budget Act, to waive section 303 of that act for consideration of the conference report.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. I reserve the right to object.

Mr. President, I think this is not a trivial matter before us. In a letter from the Congressional Budget Office dated October 15, Rudy Penner, the Director, reports that the direct spending provisions in the bill through 1991 total almost $4 billion. That is double the amount the administration set out as a goal. To commit to these direct expenditures now under Gramm-Rudman would require that cuts be made in other high-priority programs.

Mr. President, I am not going to debate the immigration bill now. We are going to have ample opportunity to do that. But I do not believe that a waiver of the Budget Act of the magnitude that we are discussing here ought to be done by unanimous consent. I believe it ought to be voted on. The distinguished Senator from New Mexico has made a clear cut case that this might be an instance where you want to vote a waiver, but I believe the waiver would be voted on. Therefore, I shall have to object to the unanimous consent request and I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. SIMPSON. Mr. President, indeed, immigration reform, budgeting of it, is not an insignificant matter. It is a grueling, ghastly issue, filled with emotion, fear, guilt and racism. It makes it tough to pass something that has those things attached to it. But the provision here is waiver—I shall have a statement later on the bill. I do respect greatly the Senator from Texas, for what he tries to do for us in fiscal responsibility matters is extraordinary.

The cost to Americans, both financially and socially, will far outweigh the $4 billion in 4 years, when we have 1.8 million people coming across our

borders each and every year, undocumented, who then seek our services. But provision is made in the Budget Act for waiver. So I move, in accordance with section 904 of the Congressional Budget Act, to waive section 303 of that act for consideration of the conference report.

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

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

Mr. DOMENICI. Would the Senator withhold on that? I would like to make a comment on that.

Mr. GRAMM. I withhold, Mr. President.

Mr. DOMENICI. Mr. President, the motion is debatable, is it not?

Mr. SIMPSON. It is not debatable.

The PRESIDING OFFICER. The motion is debatable.

Mr. SIMPSON. I understood that motion was not debatable and time for debate would be had by unanimous consent agreement.

The PRESIDING OFFICER. Under the Budget Act, the motion to waive is a debatable motion.

Mr. DOMENICI. A parliamentary inquiry: Is time for debate limited by law?

The PRESIDING OFFICER. In this situation, the time for debate is not limited by law.

Mr. DOMENICI. Mr. President, may I be recognized?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I hope the Senate, in short order, will move to waive. I would like quickly to address the issue that the distinguished Senator from Texas raised.

Actually, the $4 billion that the Senator from Texas is alluding to is a true statement by the Congressional Budget Office. But that part of this bill is not the reason for a point of order because, as a matter of fact, that program that has been alluded to in fact starts in a year for which there is a budget resolution, 1987. Consequently, it does not violate the provision that I spoke to. So it clearly is not the $4 billion item that we are waiving but, rather, a very remote outyear addition to an entitlement program because we do not have a budget resolution at this point in time.

I think that even adds to the significance of the position of the floor manager that we ought to get onto the substantive issue and waive the Budget Act. If ever there was a case for a piece of national legislation for which a waiver is judicious and prudent, this is one. I hope the Senate will proceed.

Mr. METZENBAUM. Will the Senator from New Mexico yield for a question?

Mr. DOMENICI. I shall be happy to yield.

□ 1100

Mr. METZENBAUM. Is the Senator from Ohio not correct in his understanding—and I would like to ask the attention of the Senator from Wyoming as well, if he will be good enough to listen to the question I am about to propound to the Senator from New Mexico. Is it not the fact that the cost features may become applicable in 1987 but as a reality, since legalization does not occur overnight, the actual cost figures are down the road even a piece beyond 1987? Am I not correct in that?

Mr. SIMPSON. Mr. President, that is absolutely correct. That is why in the Senate version of the bill we provided that the legalization funds would be $300 million in the first year and in the second year and then $600 million in the third, fourth, fifth, and sixth years. That formula was changed, but the figure was $4 billion; $1 billion a year in those outyears past that 4-year period will be increased expenditures which will have to be brought before this body under the appropriations process.

Mr. METZENBAUM. Is it not also the fact that the figures the Senator has used are maximums, not the appropriated amounts?

Mr. SIMPSON. Mr. President, the figures that are used in the conference committee report are maximum figures. That is a capped feature of the bill which was agreed to by the conferees.

Mr. METZENBAUM. So the figures actually might be substantially less that that?

Mr. SIMPSON. That is possible, I say to the Senator from Ohio.

Mr. METZENBAUM. I thank the Senator from Wyoming as well as the Senator from New Mexico.

Mr. GRAMM. Will the Senator from New Mexico yield?

Mr. DOMENICI. I do not have the floor, I say to my friend.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I would like to ask the Senator from New Mexico a couple of questions. I understand the 303 point of order has to do with creating new entitlements in a year where no budget has been adopted, and many of the provisions of this bill come into effect this first year. If we pass the continuing resolution later today, it is possible that there will be a 311 point of order that will lie against the bill, a point of order that will require 60 votes. But I would like to ask another question. As I read in the bill, it says in general:

Out of any money in the Treasury not otherwise appropriated, there are appropriated to carry out this section $1 billion for fiscal year 1988 and for each of the 3 succeeding fiscal years.

Now, obviously, the 303 point of order has to do with new entitlements created in the outyears. But would the distinguished chairman explain to the body how this $1 billion would feed into the budget process? My question is, what possibility there might be concerning a third point of order, not to 303 which the distinguished Senator from Wyoming has sought to waive, or the 311 point of order which clearly will not lie unless there is a continuing resolution, and may or may not lie at that point, but how does the $1 billion that is clearly appropriated here fit into the budget process?

Mr. DOMENICI. I would be pleased to respond. First of all, let me say, Mr. President and Members of the Senate, the Senator from Texas is correct. This pending conference report may or may not be subject to a section 311 point of order which requires a supermajority, depending upon how much the continuing resolution costs when it is finally sent to the President. The Senator is essentially correct. But we will not know the answer to that until both Houses have agreed to the continuing resolution.

With reference to the $1 billion that the Senator referred to in direct appropriations for the year 1988, it might sound strange but basically the reason there is no point of order for that is that there is a precedent which we have named the Long precedent after the distinguished Senator from Louisiana because in fact the Senate has voted on that issue and the point of order does not lie on that until the beginning of the calendar year in which that fiscal year begins—in other words, January of calendar year 1987.

Now, nonetheless, the substantive issue of budgeting and costs is terribly relevant to this bill and that is the point the Senator is making. Clearly we are saying we are going to mandate as the Senator has described, regardless of other provisions of law, the $1 billion the Senator has referred to in the manner he has referred to it in the future years for this program. You cannot escape it. I would assume in technical language, budget language, if this conference report is adopted, those who begin to project our budgets in the future will put in that beginning point for automatic expenditures for our Government that figure. In other words, we will have raised automatically the amount of expenditures in the so-called baseline—or starting point assumption of reality maybe is a better way of saying it—that $1 billion in each of those years. So it does indeed have a rather substantial impact.

Mr. GRAMM. I thank the distinguished chairman of the Budget Committee.

(Mr. GRASSLEY assumed the chair.)

IN OPPOSITION TO THE CONFERENCE REPORT ON THE IMMIGRATION REFORM AND CONTROL ACT

Mr. DENTON. Mr. President, I rise in opposition to the conference report on S. 1200, the Immigration Reform and Control Act. While I support the concept of general immigration reform which will allow this country to control its borders and applaud the herculean efforts of our distinguished colleague from Wyoming [Mr. SIMPSON], chairman of the Judiciary Subcommittee on Immigration and Refugee Policy, I do have a number of concerns with the conference report before us.

Let me first say that despite my concerns, I signed the conference report in order to allow the report to be debated by the full Senate. However, I must now register my opposition to the report.

Mr. President, the first area which engenders my concern is the so-called Frank antidiscrimination language. In short, the language would broaden the current provisions of title VII of the Civil Rights Act of 1964, create a new protected class by prohibiting employment discrimination based on alienage or citizenship status and create a new bureaucracy outside of Equal Employment Opportunity Commission for adjudication of complaints. Or, in the words of the U.S. Chamber of Commerce, the provision "give aliens—that is, permanent resident aliens, newly legalized aliens, refugees, and asylees—new job discrimination protections not available to U.S. citizens," and "bars employers from hiring only U.S. citizens." Further, it "makes small employers—employers of less than 15 people—currently exempt from the requirement of title VII of the Civil Rights Act of 1964, subject to laws granting new rights for noncitizens."

Mr. President, title VII currently covers discrimination based on national origin and the proponents of the provision are unable to cite examples of alienage discrimination. While I believe that existing law is sufficient to guard against any potential discrimination based on national origin, I fear that the Frank antidiscrimination provision will have the unintended effect of promoting discrimination against U.S. citizens.

The second area which gives me reason for concern is the legalization or amnesty provision. In sum, this provision provides temporary status—to be upgarded to permanent residence status after 1 year—to aliens who were in this country illegally prior to January 1, 1982, and who have resided continuously in the United States since that time.

By adopting this provision we reward lawbreakers—people who have been in this country illegally—and punish the thousands of would-be immigrants who have been in the process of petitioning to enter this country legally. Additionally, the millions and millions of illegal immigrants rewarded by the legalization provision would severely test the capacity of our institutions to absorb and assimilate them and adversely effect employment for U.S. citizens.

To soften the impact of legalization, the conference report provides for a capped entitlement for grants to States for $1 billion each year for 4 years. Certainly, if we are to have legalization we must ease the financial burden which will befall the State. Yet, I would ask, how in this era of Gramm-Rudman-Hollings can the country afford $4 billion? What program will have to be cut to pay for the cost of legalizing millions of illegal aliens? National defense? Education? Veterans programs?

Finally, Mr. President, the conference report specifies that nonimmigrant workers admitted or permitted to remain in the United States for agricultural labor or services shall be treated like lawful permanent resident aliens for purposes of eligibility for legal services under the Legal Services Corporation Act. Or in other words, the provision provides limited legal services for migrant farmworkers—workers who remain foreign nationals; services which would not be automatically provided for U.S. citizens similarly situated. I find this provision to be questionable.

Mr. President, for these reasons and for a desire to protect the American worker, I am compelled to vote "no" on the conference report on S. 1200, the Immigration Reform and Control Act.

Thank you, Mr. President.

Mr. KENNEDY. Mr. President, I intend to vote against this immigration bill. While the current version contains much that is worthwhile, I strongly oppose the employer sanctions provisions, which I regard as an unwarranted badge of discrimination against millions of law-abiding, hard-working American citizens of Hispanic descent.

Having said that, I also want to acknowledge that bad as this bill is, it might have been even worse. That it is not is a tribute to the dedication and endurance of the chairman of the Senate Immigration and Refugee Policy Subcommittee, Senator ALAN SIMPSON. We disagree about the merits of this bill, but he has worked hard to eliminate some of the most objectionable features in its prior incarnations. In fact, the current bill is a clear improvement over the measure that passed the Senate only a year ago.

Immigration reform is one of the most complex issues that any of us has ever faced—and it is also one of the most important, because it will shape the lives of millions of Americans in the years ahead.

There are many provisions in the current bill that I support, such as the generous amnesty date, the elimination of any massive temporary foreign agricultural worker program, the semisunset provision that I worked to have included in a stronger form, the new alienage civil right, and the breakthrough that ends the two decade old discrimination in current law against Irish and other European immigrants.

But these positive features fall well short of justifying this legislation. The resort to employer sanctions is a retreat from America's commitment to civil rights and our struggle against discrimination.

If one thing is clear in the history of the immigration laws, it is that whenever Congress enacts a measure with any potential for discrimination, the full potential is relentlessly realized and virulent discrimination results.

This bill has that potential and will inevitably have that result. It is an underserved slap at millions of Hispanic citizens. In our zeal to control our borders, we should resist the temptation to break faith with the noble ideals of America's immigrant heritage. This measure fails that test, and it should not be enacted into law.

Finally, it is illusory to believe that this bill can deal effectively with the migration pressures of the future, unless we are also prepared to deal with the economic forces behind those pressures. We must address the issues of economic growth and development in other nations if we are to gain control of our own borders. When the peso fell, migration soared. This bill deals only with the immigration law, but not the powerful forces driving illegal immigration.

Mr. THURMOND. Mr. President, I rise in support of the conference report on S. 1200, the proposed "Immigration Reform and Control Act of 1986." This legislation is the result of more than a decade of effort to reform the immigration laws of the United States.

Mr. President, no country in the world comes close to attracting or accepting immigrants at the rate that our Nation does. This has been the case throughout our history and is a tradition of which we are justly proud.

Today, however, the unfortunate truth is that immigration in the United States is out of control. It is estimated that illegal entrants now in our country number in the millions and continue to increase at a rate in the hundreds of thousands per year. This bill—while recognizing the great benefits the country obtains from new migrants—attempts to come to grips with the necessity that they be limited to an appropriate number, and be selected on the basis of family reunification priorities and preferences for skills needed in a highly developed nation.

Mr. President, as my colleagues are aware, this conference report is the result of hours upon hours of deliberations by House and Senate conferees and their staffs. Great credit and congratulations must go to the distinguished majority whip, Senator SIMPSON, who, in his role as chairman of the Subcommittee on Immigration and Refugee Policy, has labored tirelessly for 6 years to bring us to this point. He has been required to balance many divergent interests in crafting a bill to bring illegal immigration under control. My hat is off to him.

Although I believe that, overall, this conference report will result in positive immigration reform and I will vote for its passage, like most of those who have reviewed its contents, I do not support every provision of the report. One provision in particular, known as the Frank antidiscrimination amendment, causes me significant concern.

The Frank provision prohibits employment discrimination, not only on the basis of national origin, but also on the basis of status of citizenship. The practical effect of this provision is that an employer must hire an alien applicant for a position over an American citizen applicant if the alien is marginally better qualified. I do not question the appropriateness of the prohibition against discrimination of United States citizens on the basis of national origin—a policy which is a part of title VII of the Civil Rights Act of 1964. This prohibition, however, should apply only among the citizens of the United States and there should not be a policy which prevents an employer from granting a preference to an American citizen over an alien. I was, therefore, very disappointed that the House insisted on including this provision.

But, as I stated, Mr. President, the good in this bill and the great need for immigration reform outweighs the negatives in the bill and I urge the support of my colleagues for the conference report.

Mr. President, I want to take this opportunity to commend the staff of the Immigration Subcommittee for their outstanding work on this legislation. Chief counsel Dick Day has done an excellent job, not only this year, but over the last several Congresses, in assisting in the development of the bill. Staff counsel Carl Hampe and Jodi Brayton have also done fine work on the bill.

□ 1110

Mr. BYRD. Mr. President, I ask unanimous consent to speak out of order.

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

The Democratic leader may proceed.

SENATOR PAUL LAXALT

Mr. BYRD. Mr. President, with the retirement of Senator LAXALT, the U.S. Senate says farewell to a son of the modern American West. We say farewell to the individualism of a Western pioneer, and to a consistent advocate of the unfettering of individual drive, ambition, and potential.

With President Reagan and our esteemed colleague, Senator GOLDWATER, Senator LAXALT has been one the most eloquent and influential voices for his party's conservative wing in this decade.

Mr. LAXALT was elected to the Senate in 1974 after having served as Lieutenant Governor and Governor of the State of Nevada. He was the only member of his party to capture a Senate seat that year, and the first member of his party to represent the State of Nevada in the Senate since 1952. I am sure that he is also proud of the fact that he is the first Basque-American ever elected to the U.S. Senate.

His senatorial career has been distinguished by his service on the Senate Appropriations Committee and Senate Judiciary Committee.

His senatorial career also has been highlighted by his fights for regulatory reform, his vision of a "new federalism," his advocacy for fiscal prudence, his faith in the private sector, and his push for a strong national defense. One of the most important responsibilities of the U.S. Senate is to provide for the safety and security of the United States, and Senator LAXALT has been tenacious and eloquent in this quest.

I have always found him to be a trustworthy and honorable Senator. To his credit, Senator LAXALT has never allowed political differences to become personal—and this is an essential ingredient if this body is to care for the vital work of this Nation that is the responsibility of the Senate.

Senator LAXALT's career as a public official has involved many important duties and successes outside as well as inside this Chamber. He has performed important diplomatic duties for the President; he has served as the general chairman of the Republican Party, 1982, and was chairman of Ronald Reagan's 1976, 1980, and 1984 Presidential campaigns.

Futhermore, Senator LAXALT has served as an important bridge between his colleagues in the Senate and the White House. Steve Roberts accurately noted in the New York Times magazine:

> Senator LAXALT has been called the President's best friend so many times that the phrase is now practically part of his name.

As the leader of Senate Democrats, I know what an important link this has been, because Senator LAXALT has used his personal influence with the White House to assist Democratic as well as Republican Senators. I have always appreciated that, for that is the type of cooperative spirit and attitude that enables the Members of this Chamber to work effectively together despite our political differences.

The Senate will miss his talents and his unwavering commitment to the causes in which he believes. And the Senate loses a good man and effective Senator. My wife Erma and I extend our best wishes to him and his wife Carol as they prepare for the next stage in their lives.

□ 1120

I feel safe in saying, however, that we have not heard the last from this man who has distinguished himself with success in so much that he has undertaken. May his future years be bright.

Mr. President, while the quorum call was in progress, I decided that this might be a good time to speak about our departing colleagues.

When a Senator is ready to ask for the floor I will be happy to take my seat and if business is ready to be transacted, I will certainly yield the floor.

SENATOR BARRY GOLDWATER

Mr. BYRD. Mr. President, with the retirement of Senator BARRY GOLDWATER, an institution departs this Chamber. With his leaving, an important part of American history departs. He is the man and the Senator who made conservative political ideology an important and influential force in contemporary American politics.

In this Chamber, long before it became politically popular to do so, Senator GOLDWATER consistently and adamantly fought intrusions of Government into the lives of the American people; it made no difference if those invasions, as he saw them, were proposed by the political left or the political right; or whether those intrusions were proposed by Democrats or Republicans, he was there, and was calling the Nation's attention to them and denouncing them in his own eloquent style. His inherent belief in the American people and his faith in the American democratic process have touched and inspired us all.

In this body, Senator GOLDWATER has performed valuable service on the Senate's Commerce, Science, and Transportation Committee; the Select Indian Affairs Committee; and the Small Business Committee. He was chairman of the Intelligence Committee.

But in 1985 he realized one of his great ambitions—he became chairman of the Senate Armed Services Committee. Upon taking the position, Senator GOLDWATER said it was one of "the biggest challenges I've had in public life."

As usual, he met that challenge effectively and successfully. In this role, he has demonstrated a continual receptivity to changes in law and procedure where they will improve America's defense structure. Just this year, he and the distinguished senior Senator from Georgia, Mr. NUNN, proposed and guided to passage the Department of Defense Reorganization Act of 1986. As I said on the day the Senate approved that measure, this is "the most significant legislative effort to improve the Nation's civilian and military decisionmaking structure in the past 25 years."

Senator GOLDWATER's career has been filled with peaks and valleys, praise and criticism—there has been rarely a dull moment in his long and distinguished career. In 1964, he was his party's Presidential nominee. Although he was not elected, in the 1970's a Gallup Poll revealed that he was one of the 10 most admired men in the world.

In the 1964 Presidential election, when Senator GOLDWATER showed that a national campaign can be built around a powerful, committed political belief, he wrote in his book, "Conscience of a Conservative":

> If I should be attacked for neglecting my constituents' interests, I shall reply that I was informed their main interest is liberty and that in that cause I am doing the very best that I can.

And indeed he did do his best. The Members of this Chamber always respected him for it, and the people of his beloved State of Arizona must have appreciated it, too, for they kept sending him back to represent them.

Although some of the ideas that Senator GOLDWATER has promoted have been controversial, I have never once heard the Senator himself attacked. James J. Kilpatrick was certainly on target a few months ago when he wrote:

> I have never heard a mean or malicious word said about him [Senator GOLDWATER]. How can you hate a thoroughly honest man?

And as I said on May 7, 1986, the day the Senate approved the Department of Defense Reorganization Act:

> If we have differed from time to time, I have never misunderstood where Mr. GOLDWATER stood. I have never failed to have respect for his conviction or his position.

Mr. President, throughout his entire senatorial career, BARRY GOLDWATER was truly a choice, never an echo.

In his book, "With No Apologies," Senator GOLDWATER wrote:

> The world may seem dark and cold and beyond redemption for a moment—but only for a moment. We know Almighty God intended his children to be free.

Mr. President, I do not think that it is taking any credit away from the Good Lord to say that it is also because of the dedicated efforts of American public servants such as Senator BARRY GOLDWATER that the world is less dark, less cold, and people a little more free.

I now say goodbye to a good friend, a good man, and a good Senator as he begins another phase of his life.

May God's blessings continue to favor BARRY GOLDWATER.

Mr. President, I suggest the absence of a quorum and I yield the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1130

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

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

The Democratic leader.

ORDER OF BUSINESS

Mr. BYRD. Mr. President, believing that the viewing public would prefer seeing a face on the screen, even if it is mine, over watching a quorum call, and hoping that the public will be somewhat more benefited, at least, I shall proceed at this time, ready to yield the floor at any time to any Senator who wishes to have the floor or if the majority leader or other Senators wish to transact business.

SENATOR GARY HART

Mr. BYRD. Mr. President, GARY HART was elected to the Senate in 1974, after having served as an attorney in the U.S. Justice Department in Washington, DC; special assistant to Secretary of Interior Stewart Udall; and national campaign director for Senator George McGovern's Presidential campaign in 1972.

It has been a pleasure to work with this Senator, and I know I am not alone in regretting his departure from this body. As I have said before on this floor—June 20, 1986—Senator HART has the ability to combine "intellectual freshness with a good dose of practicality."

Shortly before his first election as Senator, Mr. HART stated: "This Nation needs a new generation of thinkers and doers who will question old premises and disregard old alliances."

As a Senator he has been a "thinker" and a "doer." In 1984, when he seemed to have come from nowhere to almost capture the Democratic nomination for President, if anyone had asked me, I could have told them that he had been producing "new ideas" well before his Presidential campaign, and was respected for his creativity and fresh approach. Since his first days as a Senator, he has been proposing "new ideas" which have been filled with both careful thought and substance.

In so doing, Senator HART has played an active role in defining and shaping the national agenda for the 1980's, and he has occupied important roles in most of the legislative areas that affect the American quality of life.

In the environmental field, he has served as cochairman of the Congressional Environmental Study Conference, Chairman of the National Commission on Air Quality (NCAQ), and he authored several amendments to the Senate's rewrite of the Clean Air Act. Because of efforts in this field, the National Wildlife Federation once named him "Legislator of the Year."

In the area of energy, he is the former chairman of the Senate Budget Committee's Task Force on Synthetic Fuels, has served on the Energy and Public Works Committee, and has chaired the Nuclear Regulatory Subcommittee. And he authored "An Energy Plan for the 1980's"—a plan to enable the United States to achieve energy self-sufficiency by 1990.

Senator HART also has been a leader in attempts to devise a fair and reasonable Federal budget. He served as a member of the Senate Budget Committee. Even before the whopping additions to the Federal debt brought to us by the Reagan administration, Senator HART was expressing grave concern about the size of the Federal budget deficit. In 1981, he advocated and the Senate Budget Committee adopted a plan he proposed to balance the Federal budget.

In the area of national security, Senator HART was the founder and cochairman of the Congressional military reform caucus, serves on the Senate Armed Services Committee, and has authored a proposal for strategic talks on prevention [STOP] that offered firm measures to prevent the use of nuclear weapons.

Last June, Senator HART delivered a three-part series of lectures entitled "Enlightened Engagement: A Foreign Policy for the 21st Century," in which he outlined a comprehensive framework—a vision—of the challenges and opportunities for this country's foreign policy into the next century. Shortly after these lectures, Columnist George Will wrote, "HART has made a brave effort to think systematically about foreign policies which are necessarily episodic." I pointed out at the time that this was "precisely the kind of analysis which is obviously and sorely lacking in the fractured and drifting ad hoc militarism which characterizes the present administration's approach to the world."

And Senator HART has been a major advocate of programs that involve investing in American's future. He has stressed, for example, Government en-

couragement for growth of high-technology industries and retraining workers for them.

As early as 1979, Time magazine named Senator HART one of the "50 leaders for America's future." Senator HART's work in this Chamber, and his accomplishments for the people of his State of Colorado and of the United States have certainly made that prediction prophetic.

Senator HART now leaves this Chamber in order to pursue other endeavors. Those of us who have served with him, and have come to highly regard his vision and intelligence, are certain that he is not leaving the stage—he will not cease to be visible on the public scene.

My wife Erma and I wish him and his wife, Lee, well, and along with many others, will look forward to the products of this fertile mind and to his continued leadership in the future.

250TH ANNIVERSARY OF CHARITY HOSPITAL

Mr. LONG. Mr. President, it has been 250 years since Charity Hospital of Louisiana at New Orleans came into existence. Since its modest beginnings following the death in 1736 of Louisiana merchant Jean Louis—who ordered that his estate be used to found a hospital for the indigent—Charity Hospital has stood as a monument to my State's commitment to the people, regardless of their financial means.

Charity Hospital has a long proud history. In my lifetime alone, it has undergone drastic changes and improvements, each of which have increased the quality of health care available to the citizens of my State. I am proud to say that my father, the late Gov. Huey P. Long, put hospital care for the poor at the top of his list of priorities when he took office as Governor of Louisiana in 1928. Under his leadership, funds to Charity Hospital were dramatically increased and health care to the poor was vastly improved. Within a few short years, the infant mortality rate at the hospital dropped by more than one-fourth.

When Huey Long became Governor, the death rate at the hospital was 4.1 percent on admissions. But because of his efforts, that was reduced to 2.8 percent, or a reduction of 28 percent. If you consider it another way and assume that the death rate should have been 2.8 percent all along, then you could argue that it had been 48 percent too high prior to the time he was Governor.

When my father took office, admissions at charity Hospital were 1,600. He increased admissions to 3,000 and reduced the costs, on a per capita rate, by 19 percent. So what you had was a drastic per capita cost reduction and about twice as many people receiving better service than before.

Today, the hospital serves as the primary teaching hospital for the Tulane University School of Medicine and the LSU School of Medicine. Training more than 400 physicians annually, Charity Hospital also serves as a major training center for professionals in allied health fields with its own School of Diagnostic Ultrasound, School of Nurse Anesthesia, School of Nursing and School of X-ray Technology.

Fifty-seven percent of all emergency room services in Orleans Parish are provided by Charity Hospital. Sixty-four percent of all out-patient visits in Orleans Parish are handled at Charity Hospital.

Mr. President, Charity Hospital clearly serves as the hospital of last resort for the needy citizens of Louisiana and I am proud of that commitment to the health and well-being of our citizens. I commend the hundreds of health care professionals whose dedication has made Charity Hospital a shining example of human compassion. Their commitment to their fellow human beings is worthy of the highest praise we can offer.

WATER QUALITY ACT OF 1986—CONFERENCE REPORT

Mr. STAFFORD. Mr. President, we are waiting momentarily for the Democratic leader to come in the room, although I believe he is aware of our intention to go ahead with the Clean Water Act amendments conference report.

Mr. President, without actually turning to the conference report, I will say that last evening the House passed the conference report, which in my view is excellent legislation, by, I believe, a unanimous vote. There were over 400 votes in favor of the conference report and none in opposition to it. At the proper time, after we have called up the conference report, I will yield to my colleague, Senator CHAFEE, who has been the chairman of the Environment and Public Works Subcommittee which handled this legislation and who has been instrumental not only as a leader in environmental issues but instrumental in his subcommittee, in the full committee, and in the conference between the House and the Senate in developing the legislation which has resulted in the conference report that passed the House unanimously with over 400 votes last night, and I hope will pass with an equally resounding majority in the Senate.

Mr. President, I now ask that the Senate proceed to the consideration of the conference report to accompany S. 1128, the Clean Water Act amendments.

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

The clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1128) to amend the Clean Water Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 15, 1986.)

Mr. STAFFORD. Mr. President, I would now propose a unanimous consent request that the bill be allotted 40 minutes for debate to be equally divided between the majority and the minority.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. I have conferred with my colleagues on the committee on the minority side. We find that a fair apportionment of time considering the pressures that we are under in the closing days of this Congress.

The PRESIDING OFFICER. Is there any objection? None is heard. The unanimous-consent request is granted.

Mr. STAFFORD. Mr. President, I rise in strong support of this bill. It represents over 4 years of hard work by the Congress, and it deserves the enthusiastic support of all my colleagues.

I especially want to acknowledge the leadership of my good friend from the State of Rhode Island, Senator CHAFEE, who served as floor manager of the Senate bill and leader of the Senate conferees. His tireless enthusiasm has been a major force in shaping the bill before us today. Senators BENTSEN and MITCHELL and other members of the Committee on Environment and Public Works have made extraordinary contributions as well.

Mr. President, this bill makes a number of needed improvements to the Clean Water Act.

It extends the Federal construction grants program and provides for an orderly transition to State revolving loan funds.

It establishes a new program for focusing regulatory attention on "toxic hot spots," where controls on toxic pollutants beyond those required by uniform best available technology requirements are needed to restore and protect water quality.

It narrows and restricts a number of loopholes, variances, modifications, and waivers in the Clean Water Act.

It generally prohibits "backsliding" in permit requirements.

It establishes a new program for managing nonpoint sources of pollu-

tion, such as polluted runoff from agricultural lands.

It establishes new requirements to prevent toxic contamination of sewage sludge.

And it establishes new programs to clean up estuaries and lakes.

Mr. President, I urge my colleagues to support this bill. There is no question that it makes needed revisions to the Clean Water Act and will improve the quality of our Nation's waters.

Mr. President, I will not take the time to provide an exhaustive description of this bill, but I do want to make a few remarks about parts of the bill that are particularly important.

The conference substitute establishes a new subsection 402(o) for the purpose of limiting backsliding in permits. Backsliding occurs when the effluent limits in permits are relaxed for any reason. Relaxation of permit effluent limits is fundamentally contrary to the spirit and intent of the Federal Water Pollution Control Act, which is supposed to restore and maintain the chemical physical and biological integrity of the Nation's waters by reducing the amount of pollutants being discharged.

The new provision establishes a general rule that permit limits may not be relaxed, then presents several exceptions. These exceptions are intended to be narrow, and they must be narrowly construed consistent with the objective described above.

With respect to revised waste load allocations or other means of translating water quality standards into effluent limits, backsliding is allowed in only one instance. That instance arises when a State decides to take a portion of allocated waste load away from one facility and give it to another. The recipient facility in this case would be entitled to a revised permit allowing an increase in discharge of the pollutant for which the load is being reallocated. This transfer can take place only if there is a net reduction in the amount of the pollutant in question. Of course, the recipient facility still cannot discharge more of the pollutant than is allowed by effluent limitations guidelines or water quality standards.

Mr. President, I want to be explicit about types of backsliding that definitely are not allowed by this exception. If a facility reduces its discharge of a pollutant because of permit requirements, a process change, decrease in production level, or even closing the facility altogether, other dischargers may not increase their discharges in response. Putting it simply, a polluter is not allowed to increase his amount of pollution because another polluter is reducing his. For another example, suppose the new nonpoint source program works as it should and as a result the level of, say, nitrate pollution in a river decreases. A downstream point source may not obtain a weaker permit with respect to nitrate, even if he could discharge more nitrate without violating water quality standards.

Mr. President, the key to understanding this issue is to recognize the difference between water quality and water quality standards. Water quality is measured by the level of pollution in a water body. A water quality standard defines a particular level of pollution that is the maximum allowable in a water body.

If one polluter discharges less, water quality improves. If another discharger discharges correspondingly more, that improvement is lost, although the water quality standard still is being met. The objective of the act is restore and maintain the integrity of the Nation's waters. That objective cannot be reached if water quality gains achieved on the one hand are yielded back on the other. If actual water quality improves for any reason, such as the examples given above, that gain must be captured. The improved level of water quality defines the water quality that is subject to the antidegradation policy of the act. Thus, water quality that is higher than the minimum level of quality needed to meet a water quality standard is protected from degradation.

Mr. President, stormwater runoff from urban areas contains large volumes of toxic materials and other pollutants. Since 1972, municipal separate storm sewers have been subject to the point source permit requirements of the Clean Water Act. However, EPA only recently began to develop a permit program for these sources. The conference substitute contains a provision that is intended to establish a transition period for promulgating rules for regulating municipal separate storm sewers.

The conference substitute differs from the provisions in the House and Senate bills. The conferees discussed the issue at considerable length, and both bodies offered written proposals. The provision that was adopted by the conferees is the one offered by the Senate conferees, with modifications respecting the sizes of cities affected and the scheduling of requirements requested by the House.

I would like to note the important contribution to the resolution of this issue made by my good friend and colleague, the Senator from Minnesota, Senator DURENBERGER. It was he who proposed the idea of phasing in the program, as a refinement to the Senate proposal.

This provision gives EPA and the States a schedule for developing permit program regulations. Generally, it focuses first on the larger storm sewer systems—those serving more than 250,000 people. All permits for these systems must be issued within 4 years of enactment. Then systems serving more than 100,000 persons must be permitted. Finally, after October 1, 1992, EPA and the States must issue permits for the remaining municipal separate storm sewer systems.

Mr. President, I would like to explain to my colleagues why a little more time is needed to develop a comprehensive municipal storm sewer program. These permits will not necessarily be like industrial discharge permits. Often, an end-of-the-pipe treatment technology is not appropriate for this type of discharge. As an EPA official explained in a meeting of the conferees:

> These are not permits in the normal sense we expect them to be. These are actual programs. These are permits that go far beyond the normal permits we would issue for an industry because they in effect are programs for stormwater management that we would be writing into these permits.

As my colleagues know, I generally do not support willingly any delays in environmental programs, especially a program to control a source of toxic pollutants as important as this one is. EPA should have developed this program long ago. Unfortunately, it did not. The conference substitute provides a short grace period during which EPA and the States generally may not require permits for municipal separate storm sewers. However, even during this period EPA and the States must require permits when either determines that a storm sewer contributes to a violation of water quality standards or is a significant contributor of pollutants to waters of the United States.

Mr. President, there is one aspect of this provision that could cause confusion, and I would like to take this opportunity to clear it up. With respect to storm sewer discharges associated with industrial activity, new subparagraph 402(p)(2)(B) states that these sources are excepted from the provision that EPA and the States generally will not require permits for certain storm water systems. Moreover, paragraph 402(p)(3) explicitly states that these sources must meet all applicable requirements of sections 301 and 402. This includes the permit application requirements of section 402. In other words, the provisions of sections 301 and 402 of the act continue to apply without interruption, and storm sewers with discharges associated with industrial activities are subject to the enforcement provisions of the act if they do not have a section 402 permit.

The conference substitute also requires EPA to establish regulations regarding these sources and municipal separate storm sewers 2 years after enactment, requires applications no later than 3 years after enactment, and requires permit issuance no later than 4 years after enactment. These dates are outside dates. The schedule for promulgating regulations does not over-

come the underlying statutory requirements of sections 301 and 402 respecting the need to have a permit. Congress expects the regulations for storm sewers associated with industrial activity to be published under the current schedule and to require permits for these sources as soon as possible.

Mr. President, I have undertaken this explanation out of concern that affected parties may argue that the schedule for promulgation of regulations indicates an intent on the part of Congress to defer permit requirements for storm sewers associated with industrial activities. This definitely is not the case. If that result had been intended, the conference substitute would not specify that these storm sewers must meet all applicable requirements of sections 301 and 402.

The conference substitute also establishes explicit but limited authority for the Administrator to issue "fundamentally different factors" variances to industrial dischargers. This FDF variance currently is not authorized explicitly by the act. The EPA created it administratively, and the Supreme Court subsequently ruled that it had not acted illegally in doing so. The purpose of this provision is to provide explicit statutory authority for this variance, but at the same time to limit its availability.

Generally, the effluent limits required of a particular facility are based on nationally uniform effluent limitation guidelines for the industrial category or subcategory of which the facility is a member. If an industrial category is diverse, EPA is supposed to subcategorize industries appropriately, so that each subcategory contains similar facilities.

In establishing a category or subcategory, however, EPA usually does not examine every facility. Occasionally, a particular facility argues that it is "fundamentally different" from the other facilities in the category and that it should be able to negotiate individual effluent limits apart from those required for the category. This provision allows such modifications, but constrains their use in several ways.

The Administrator is to use this new authority sparingly. Generally, differences within an industry should be accommodated by creation of an appropriate subcategory. This provision should not be used in place of complete definition of subcategories within an industry.

In establishing an effluent limitations guideline under section 304, the Administrator is allowed to consider a number of factors. One is the cost of achieving the effluent reductions for the entire category. EPA must consider aggregate cost for the industry in order to determine the best available technology economically achievable by the entire industry. The national effluent limitations guideline, however, is not intended to account for the economic impact on an individual facility. As the conferees stated in 1972 when section 304(b) was enacted, EPA is to "make the determination of the economic impact of an effluent limitation on the basis of classes and categories of point sources, as distinguished from a plant-by-plant determination."

If a facility faces higher individual cost than the industry average, that is a reflection of economic efficiency of the facility rather than the ability of the industry as a whole to meet the necessary pollution control costs. To establish individual effluent limits on the basis of plant-specific cost of compliance would be to vitiate the principle of industrywide minimum treatment levels.

For these reasons, Mr. President, the conferees agreed to adopt the Senate approach and exclude individual cost of compliance from the factors the Administrator may consider when deciding whether to grant an FDF variance to a particular facility. Although the act does not and should not provide a mechanism to modify the requirements of an effluent guideline on the basis of fundamentally different costs at an individual facility, section 301(c) of the act provides for modification of requirements in a case where such requirements are beyond the economic capability of the owner.

Section 301(c) does not allow the Administrator to modify treatment requirements based on a showing of fundamentally different costs to an individual facility, unless these costs are beyond the economic capability of the facility and, therefore, threaten its survival. In addition, section 301(c) is subject to section 301(l), which prohibits the Administrator from modifying any requirement as it applies to a toxic pollutant. This provision assures that toxic pollutants will be controlled, regardless of the economic capability of the discharger. The new authority for treatment modifications based on fundamentally different factors contained in the reported bill is not subject to section 301(l).

This provision does not, however, preclude the Administrator from considering the other factors enumerated in section 304(b), some of which may result in reduced cost to the facility.

The Administrator may not use the authority of this section to modify effluent standards pursuant to section 307(a)(2) of the act, the general prohibited discharge standard in 40 CFR sec. 403.5, or other requirements implementing such standards.

The Administrator's decision to promulgate or deny an alternative effluent limitation or standard under this subsection shall be subject to judicial review pursuant to section 509(b)(1) of the act.

The Administrator may not delegate the authority to grant FDF variances to any State or to regional EPA officials. It should be exercised only by the Administrator or the Assistant Administrator for Water.

Mr. President, I am pleased to note that the conference substitute includes a major new program to control runoff pollution from nonpoint sources.

Nonpoint sources contribute approximately 50 percent of the pollution entering our Nation's waters. Nonpoint pollution contains not only conventional pollutants, such as sediment, bacteria and oxygen-demanding materials, but also toxics like cadmium, arsenic, lead, and pesticides. The U.S. Department of Agriculture in a recently issued report estimates that nonpoint pollution costs this country in excess of $7 billion per year in environmental damage and repair, such as dredging channels and reservoirs.

A new section 319 establishes a program to begin the process of addressing this hitherto unregulated source of water degradation. While potentially far reaching in its scope and intent, the new nonpoint program, as a product of compromise, is not as strong as I would have wished for. For example, it does not contain a regulatory component. Instead, it gives States and persons who are responsible for nonpoint pollution considerable flexibility to determine the type of program that will be used.

I consider this nonpoint source pollution program to be only a first step in tackling the problem—a trial run, to see if allowing the States the option to develop a control program will indeed abate nonpoint source pollution across the Nation. I am sure Congress will monitor the results of this program closely as it progresses if this approach has been adequate to meet the task at hand.

Mr. President, the conference substitute contains many provisions that are taken from the Senate bill. These provisions were described at length in reports from the Committee on Environment and Public Works in this and the previous Congress, as well as my own floor statements on the subject during Senate consideration of bills to reauthorize and amend the Clean Water Act. An adequate legislative history exists regarding congressional intent behind these provisions, so I will not describe them further at this time.

Mr. President, industrial users dump millions of pounds of toxic pollutants into the sewerlines to publicly owned treatment works [POTW's] each year. Virtually all of the toxic metals which do not simply pass through the POTW collect in the POTW's sludge, as do many of the toxic organics. Hence, many POTW's report sludge contamination from industrial wastes.

This already serious environmental problem threatens to become even more serious in the near future. The extent of contaminated sludge is likely to increase as more POTW's employ secondary treatment. That is because secondary treatment generates five times the sludge produced by primary plants. In addition, the sludge at secondary plants is likely to collect more toxics in the POTW's waste stream. Also, in response to restrictions in the Resource Conservation and Recovery Act on land disposal of industrial wastes, some operators of industrial facilities may engage in illegal dumping of hazardous wastes into sewers, contrary to Congress' intent.

Contaminated sludge causes serious adverse environmental and economic effects. It prevents cities from using cheaper disposal or use options such as fertilizer or soil conditioner. If landfilled or land spread, contaminated sludge can leach toxics into ground water and drinking water supplies, or introduce toxics into the food chain. If incinerated, such sludge can contaminate the atmosphere, affecting the health of POTW workers and nearby residents.

Pretreatment by industrial users of sewers can dramatically improve sludge quality. For example, I understand that in Muncie, IN, the sludge concentration of chromium was reduced from 2,000 to 9.5 with pretreatment. That of copper went from 1,750 to 700; nickel from 8,500 to 150; and zinc from 5,800 to 2,700. Large reductions in toxic concentrations have also been reported in other cities. In fact, pretreatment is the principal means for reducing the toxicity of municipal sludge. Also, pretreatment assures that the cost of toxics removal is borne by the generators of the toxic materials. Industries that dump toxics into sewers are simply passing their treatment costs on to the town or city, and creating political headaches in the process.

Because the relative strength or weakness of pretreatment requirements directly affects the quality of municipal sludge, EPA must consider the impact of pretreatment requirements on municipal sludge at two stages: When setting pretreatment requirements in the first instance, and when approving the issuance of removal credits under section 307(b) because the latter reduce pretreatment requirements for industrial users. That is why Congress told EPA in the 1977 amendment to the Clean Water Act not to approve the issuance of removal credits unless the credits would not prevent sludge use or disposal in accordance with regulations issued under section 405 of the act. In other words, Congress intended the existence of sludge regulations, and compliance with those regulations, to be a precondition to the granting of removal credits.

Of course, Congress originally directed EPA to issue comprehensive regulations covering every sludge use and disposal method by 1978. If EPA had followed this schedule, it could approve municipal programs to issue removal credits without adversely affecting the environment.

EPA, however, utterly failed to heed this congressional directive. Although I am told that EPA has detected at least 76 toxic priority pollutants in POTW sludge, it has issued rules only for two pollutants: cadmium and PCB's—and only if these pollutants are landfilled or land spread. EPA has no limits whatsoever on the toxicity of marketed sewage sludge products, and no limits for the many other toxic pollutants in sewage sludge which is landfilled or land spread.

These skeletal rules do not even approximate compliance with section 405 of the act. Nor do they provide a basis for determining whether EPA may safety approve the issuance of removal credits for industrial users.

I therefore sponsored an amendment to the Senate bill which I am happy to say is incorporated in the conference substitute. This amendment has a twofold objective: First, it directs EPA to begin the long overdue task of promulgating sludge regulations under section 405 of the act. Second, it addresses the relationship between sludge rules and removal credits.

This provision deliberately retains the original 1978 deadline for issuing sludge rules pursuant to section 405. It also gives EPA additional deadlines which are merely intended to put EPA on a schedule to correct its failure to meet the 1978 promulgation deadline in section 405. The additional deadlines are not intended to excuse the agency from its failure to meet the original deadline, nor to eliminate any consequences which flow from the original deadline, such as the inability to issue removal credits until sludge rules are in place.

Thus, by August 31, 1987, EPA must identify those toxic pollutants which, on the basis of available information on their toxicity, persistence, concentration, mobility, or potential for exposure, may be present in sewage sludge in concentrations which may adversely affect public health or the environment. For each such pollutant, EPA must promulgate regulations specifying acceptable management practices for sewage sludge containing the pollutant. EPA's rules must also establish numerical limitations for each such pollutant. EPA's rules must protect public health and the environment with an ample margin of safety, and must take care to protect the health of individuals or populations which are at higher risk than the population as a whole.

EPA officials informed the Congress over 3 years ago that there were at that time sufficient data to regulate comprehensively approximately 20 of the most common toxic sludge pollutants. Congress expects EPA to regulate at least these 20 pollutants in the 1987 regulations.

By June 15, 1988, EPA must issue similar regulations for all toxic pollutants which are not addressed by the 1987 regulations and which may be present in sewage sludge in concentrations which may adversely affect public health or the environment. These rules must meet the same criteria as the 1987 rules; that is, they must specify acceptable management practices, establish numerical limitations, protect public health and the environment with an ample margin of safety, and protect individuals and populations at higher risk than the population as a whole.

At least every 2 years, or more often if the data indicate, EPA must review its section 405 regulations for the purpose of identifying additional toxic pollutants which may be present in sewage sludge and must promulgate regulations for these additional pollutants. This requirement ensures that EPA's rules keep pace with developing technical knowledge and adequately protect health and the environment. It does not, however, excuse EPA from the need to issue comprehensive regulations on the schedule set forth in this bill.

Finally, the bill addresses the relationship between removal credits and sludge regulations. A recent court case, *NRDC* v. *EPA*, No. 84-3530 (3d Cir. 1986), correctly held that EPA could not approve the issuance of removal credits until the agency issued comprehensive sludge regulations under section 405 of the act. Yet notwithstanding the absence of 405 sludge rules, EPA has already approved the issuance of removal credits for 12 POTW's. Industrial users of these POTW's many have relied on EPA's approval in planning their pollution control systems. In addition, EPA has received removal credit applications from approximately 14 POTW's which also may have relied on EPA's removal credit rules in developing their programs.

The bill includes a provision to prevent temporary inequities with respect to these industrial users and POTW's. It stays that part of the court's decision which addresses section 405(d) of the act until August 31, 1987, for these approved or pending applications only. This will give EPA adequate time to correct its failure to issue the necessary sludge regulations. It will also allow these POTW's to grant removal credits, assuming they meet all other criteria for credits. It is important to note that the bill does not stay any

other part of the court's decision. In other words, these 12 POTW's must meet the applicable parts of the court's decision on consistent removal, combined sewer overflows, and so forth to continue to grant credits. In addition, EPA must revise the permits for these POTW's to incorporate the sludge criteria required by subsection (d)(4). Likewise, EPA may approve the 14 pending removal credit applications under the same criteria and subject to the same permit conditions mandated by subsection (d)(4).

Interim removal credit authority for these 26 POTW's may not extend beyond August 31, 1987, nor may EPA approve applications for removal credit authority from any other POTW's or for any additional pollutants not covered by the approved or pending applications. This restriction is critical because any further expansion of removal credits or perpetuation of existing credits beyond August 31, 1987, may well exacerbate the adverse environmental consequences of EPA's failure to issue sludge regulations. In addition, EPA's sludge regulations may necessitate stricter pretreatment requirements at some POTW's, including the 26 which have applied for credits. Until EPA has published the comprehensive sludge regulations as required by section 405(d), as amended by the conference substitute, the Agency is prohibited from allowing any more cities to weaken pretreatment requirements for industrial users. Also, the Agency is prohibited from extending interim removal credits allowed by subsection 406(e) of the conference substitute beyond August 31, 1987.

The conference substitute addresses acid mine drainage as well as the discharge of iron and manganese from abandoned coal mines—those mines abandoned before enactment of the Surface Mining Reclamation and Control Act of 1977. Although this problem is largely confined to the Appalachian region of our country, it is a significant water quality problem in that area. Acid drainage and the flow of metals and soils from these abandoned workings cause severe water quality problems throughout Appalachia that persist long after mining has ceased, in some cases rendering entire watersheds biologically dead.

I am told that it is generally less costly to reopen an abandoned minesite than to open up a new area. However, both the Surface Mining and Clean Water Acts impose a best available technology requirement on new mine operations, and confusion has arisen as to whether that requirement applies when an operator reworks an area abandoned prior to enactment of the Surface Mining Act.

To clarify matters, the conference substitute provides that section 402 permits issued for preexisting discharges from remined areas contain binding specific numerical effluent limitations set on a case-by-case basis, with the permit writer using his best professional judgment as to what those limitations should be. This approach was intended to give the mine operator sufficient flexibility and thus incentive to rework these abandoned sites. However, water quality must not be degraded and State water quality standards must not be violated, either at remined site or in adjacent areas. Further, after the binding specific numerical limitations are set, an applicant for such a discharge permit must demonstrate, as a separate showing, to the satisfaction of EPA—or the State, where applicable—that the issuance of such a permit creates a potential for improvement to water quality. This means that EPA and the State must be satisfied based on a conviction that it is probably that there will be actual improvement in water quality as a result of the modified requirement. This determination must be based on a scientifically supported prediction, not mere speculation. Mere assertions unsupported by scientifically verifiable methods will not meet this standard. Such a factual showing is consistent with the goals of both the Surface Mining Act and the Clean Water Act that pollution to the Nation's waters not only be abated, but that the quality of the receiving waters be improved.

Mr. President, I am pleased to note that the conference substitute contains a provision that was placed in the Senate bill at the request of Senator MITCHELL and myself. I am referring to the new section 602(a)(4)(B), which allows a State to use its revolving loan fund for implementing its nonpoint source management under section 319. The State first must use funds directly made available by capitalization grants to assure maintenance of progress, as determined by the Governor, toward compliance with enforceable deadlines, goals, and requirements.

This flexibility afforded by this provision will be important to a largely rural State, such as my own State of Vermont. In my State, there may well be circumstances in which the State will decide that a loan to a dairy farmer for construction of a manure management facility, for example, may achieve a greater water quality gain than a loan for a publicly owned treatment works. The State may make such a loan when the Governor makes the determination described above.

I also am pleased to note that the conference substitute continues support for the national small flows clearinghouse located at the University of West Virginia. The clearinghouse assembles information on alternative sewage treatment technology for use in rural areas where conventional treatment systems are inappropriate. This is important for a highly rural State such as Vermont, where conventional systems sometimes are not the most cost-effective solution. The conference substitute is intended to provide a more reliable source of funding for the University of West Virginia clearinghouse. It is not intended that the designated funds be used by the Environmental Protection Agency in any other way.

Mr. President, this conference substitute contains a provision which is intended to reduce the paperwork and procedural burdens on log transfer facilities. The provision is essentially identical to the provision adopted on the Senate floor when the Senate considered S. 1128. That amendment was worked out between Senators STEVENS, MURKOWSKI, CHAFEE, and myself.

Some log transfer facilities in the State of Alaska have obtained permits from the Corps of Engineers under section 404 of the Clean Water Act for filling of navigable waters associated with construction of the facility. That is proper and indeed the issuance of such permits is the responsibility of the corps. However, the corps also wrote into the permits various conditions related to discharge of pollutants, such as tree bark, associated with the ongoing operation of the facility. The Clean Water Act does not authorize the corps to write permits for the discharge of pollutants other than dredged spoil and fill material and so absent legislative action, these facilities are in violation of sections 301 and 402 of the act.

The conference substitute excuses facilities that received a section 404 permit before October 22, 1985, from the need to apply for a permit under section 402. If the Administrator determines that the permit requirements regarding discharges of pollutants other than dredged or fill material meet the applicable requirements of the Clean Water Act, no subsequent section 402 application is required. If they do not meet the applicable requirements, however, the section 404 permit is to be modified by the Administrator to incorporate appropriate requirements.

This provision does not change current law with regard to the division of authority between the Secretary of the Army and the Administrator of the Environmental Protection Agency. An accurate description of current law was expressed in a letter to this Senator from EPA Administrator Lee Thomas on May 21, 1985. That letter was reprinted in the CONGRESSIONAL RECORD on June 13, 1985, in the context of Senate consideration of S. 1128. In corps-issued section 404 permits for log transfer facilities, permit limits for pollutants other than

dredged or fill material are considered to be section 402 permit limits, whether written by the corps and approved by EPA or whether written into the permit by EPA as a modification.

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

I yield the floor.

Mr. BENTSEN. Mr. President, it is with a great sense of accomplishment that the committee brings forth this series of amendments, the product of 4 years of very hard work and a very long and arduous conference with the House of Representatives.

The distinguished chairman of this committee has been one who has approached this in a very bipartisan manner in trying to do what he thought was best for our country and it has been a pleasure to work with him in that regard.

The distinguished Senator from Maine [Mr. MITCHELL] has spent incredible hours in very productive work in bringing this about, reconciling some of the different points of view, and we owe a debt of gratitude to him. I am most appreciative of that.

Then I look at my good friend, the able Senator from Rhode Island. I think Senator JOHN CHAFEE has, with his good humor and his ability to cut through to the heart of the problem, and his sense of fairness, made a major contribution. I really do not believe it could have been accomplished on our side without the Senator from Rhode Island and the Senator from Maine taking such a productive role.

This legislation is an outstanding example of the ability to solve major and very complicated problems through bipartisan cooperation in pursuit of an important national goal.

The recognition of clean water as a high priority in our Nation was a moving force behind this agreement. The effort to clean up our Nation's waters has the overwhelming support of the American public, who throughout the history of this country have recognized the responsibility to our neighbors, our children and ourselves to correct abuses to this critical aspect of the environment.

Hearings before the Environment and Public Works Committee clearly prove that the Clean Water Act is paying off with a substantial reduction in pollutants. Our rivers are cleaner and our water quality has improved.

But this legislation also reflects the fact that there is still work to be done—and it includes major new efforts to continue on a steady and productive course.

It took many months to work out an acceptable agreement on construction grants, but I am pleased to report that the House and Senate are of one mind on the final figures. It would be regretable and, in my mind, contrary to the will of Congress and the American people for the administration to consider a challenge to this provision. My colleagues will recall that in 1981, the administration agreed to fund this grant program at a level of $2.4 billion per year for the 10 years needed to complete core needs for treatment works based on available needs survey data. Then, early last year, OMB proposed to phase out the program by 1990, and to fund no new starts.

This legislation continues to shift the program to State and local governments, but it also recognizes that the OMB proposal to pull the rug out from under a national goal at a critical point of progress was too abrupt and poorly planned. The $18 billion authorization will support the construction grant and loan program through 1994, and it is a fair timetable. Under the grant program, it authorizes $2.4 billion for fiscal year 1986, for fiscal year 1987 and fiscal year 1988, and $1.2 billion each for fiscal year 1989 and fiscal year 1990. Under the revolving fund, $1.2 billion is authorized each year for fiscal year 1989 and fiscal year 1990, $2.4 billion for fiscal year 1991, $1.8 billion for fiscal year 1992, $1.2 billion for fiscal year 1993, and $600 million for fiscal year 1994. States are required to establish revolving loan programs and provide a 20 percent match for Federal funds. Equally important, the legislation sets up a more equitable allocation program, which more accurately reflects the needs of our growing States. During fiscal years 1987, 1988, 1989, and 1990, for example, my State of Texas will receive an increase of approximately $18 million annually over the current level. While this is still less than what the figure would be under an allocation based strictly on eligible needs, it is an acceptable step toward fairness. It is also a correction of an inadequacy in the current allocation formula that was known but unaccounted for in the 1981 legislation.

The construction grant program is an acknowledgement that we must work closely with the States to assure that the revolving fund mechanism is workable and to provide a period of transition to allow States with lengthy legislative cycles or difficult remaining needs to work out their problems. However, it will be the revolving loan program that will represent the real future of municipal wastewater treatment construction. Under this program States will be able to recycle these funds in perpetuity and can develop a planned approach for ongoing and changing construction needs. I am pleased that the conferees agreed on provisions to allow substantial transfer of construction grant funds to the revolving loan fund in the first years. Fifty percent of fiscal year 1987 grant funds, 75 percent of fiscal year 1988 grant funds, and all of the fiscal year 1989 and fiscal year 1990 grant funds may be transferred into revolving loan funds. Additionally, the loan program is more flexible than the grant program; for example, reserve capacity—which is so essential to growing States such as Texas—can be funded under the loan program.

This legislation also includes a new permitting program to control industrial and municipal stormwater discharges. EPA will promulgate stormwater discharge regulations, and the initial cities to be regulated are those over 250,000 population, with cities over 100,000 to be regulated later.

There is also a growing national concern over nonpoint pollution, and provisions are included to authorize the States $400 million to develop and implement nonpoint source pollution management programs to manage such problems as polluted runoff from city streets and farmland. This type of pollution represents a major source of sediments, pesticides, nutrients, toxic heavy metals and bacteria, and almost every State has identified it as a significant contributor to existing water quality problems. At the same time, nonpoint pollution is a very different problem to solve than discharges from point sources. It is not easily subjected to a harsh regulatory solution. While there are some cities and States which have successfully implemented ordinances that manage nonpoint runoff from various operations like excavation, the issue is vastly different in most rural areas. Farmers and ranchers have long had a stewardship role in the land. Their lives depend on it. It is my view that no successful nonpoint program can be developed without the full involvement and support of these citizens. Land conservation is the original version of nonpoint protection. It is equally my view that a program which captures the minds and imagination of farmers and ranchers is one that will depend on their initial involvement in its creation. It will not be one developed in Washington and sent to the States for implementation. One of the key aspects of the nonpoint program included in this bill is its heavy reliance on nonregulatory approaches to nonpoint pollution problems. I am pleased to see a program which envisions a cooperative problem solving approach instead of the usual Federal control and compliance theory. Nonpoint pollution is a different problem; it warrants a new solution.

Another provision of particular interest to my State provides for partial delegation of the permit program. Texas has been unable to obtain approval for the Texas program because the State divides wastewater permits between the Texas Department of Water Resources and the Texas Railroad Commission. The Railroad Commission, which regulates oil and gas

operations, has only in recent years sought permit delegation. Under this provision, the Texas Department of Water Resources, which has a fine permit program, will be in position to gain Federal approval for its portion of the program.

The bill also allows establishment of management conferences to solve pollution problems in many of the Nation's major estuaries. The levels of water quality in some of these estuaries are alarming, and demand prompt action. Point and nonpoint sources of pollution have actually closed some of our Nation's greatest natural resources to shellfishing and swimming, and others are declining. Under this provision, the EPA will convene management conferences for up to 5 years to identify pollution sources, conduct research, and develop conservation and mangement plans.

The legislation lists several of these estuaries for priority consideration under the program, ranging from Long Island Sound and Narragansett Bay to Galveston Bay, in my State of Texas. Galveston Bay is the largest of the seven major estuarine systems in Texas, and studies in 1975 showed it was the spawning and nursery grounds for 80 percent of the total fishery products taken from the Texas Gulf Coast. If this percentage remains similar today, Galveston and adjacent bays were ultimately responsible for approximately 82 million pounds of commercial fishery products worth $142 million in the 1985 total commercial Texas catch. In all, the Galveston Bay system receives runoff from Texas cities and towns totalling more than 6.75 million population and receives discharges from some of the most critical and vibrant industrial operations in the Nation. There will always be conflicts among the competing needs of the users of Galveston Bay. It is my hope that these conferences will facilitate the planning necessary to assure that sound judgments are made with regard to the use of these important estuarine systems.

The conference agreement addresses several other policy matters. Among these is modification of the use of fundamentally different factors in the effluent guideline and permitting programs. Generally, these changes follow the basic Senate approach. However, we have made several pragmatic adjustments that should make these changes work better. In particular, a sound approach has been defined to deal with industrial operations in which situations are not readily resolvable through the guideline development process. For example, in oil and gas production operations, wastewater conditions can differ from well to well. Generally, this water is reinjected under the UIC provisions of the Safe Drinking Water Act. However, there are situations in which it must be discharged and the guideline development process is not able to consider these situations before they occur. Consequently, the conference agreement directs the EPA to approach these situations by first, temporarily suspending the guidelines with respect to such facilities, second issuing Best Professional Judgment permits for such sources, and third, subsequently revising the guidelines to reflect these new situations. This will allow the necessary sensible case-by-case considerations to be made in these appropriate circumstances.

Another provision of the fundamentally different factors agreement relates to four fertilier plants in Louisiana. The conference substitute excludes from the effluent guidelines under 40 CFR, part 418, these four facilities under section 306(c)(1). Paragraph (2) of that subsection requires that EPA expeditiously, but not later than 180 days after enactment, issue permits for these four facilities based on best professional judgment under section 402(a)(1)(B) of the act. If EPA decides, after the date of enactment, to promulgate new effluent limitation guidelines for the facilities subject to the provisions of section 306(c) of this bill, the BPJ permits will remain in effect until issuance of new permits under the new effluent guidelines. Otherwise, permitting for these four facilities will continue under section 402(a)(1)(B).

The bill extends deadlines for compliance with the statutory requirement for the implementation of controls to achieve best available technology economically achievable. The bill would largely track the Senate approach including a final deadline date for compliance. However, it is clear that there are some guidelines, including the guidelines for the very complicated chemical industry, which will not be completed in time for all the facilities to comply with this deadline. There is administrative discretion available to address this type of situation; it is in use now. The conferees fully anticipate that EPA will continue judicious and equitable use of its administrative discretion in those instances where failure to comply with the deadline is related to limitations in the development of the guidelines by EPA.

The conference substitute also contains a provision closely modeled on the Senate bill, prohibiting backsliding or the weakening of effluent limitations in permits based on best professional judgment or water quality standards. While this provision is well explained in the statement of managers, there is one aspect on which additional comment may be helpful. The conference substitute contains five exceptions to the general rule prohibiting the weakening of effluent limitation. There are two matters addressed in EPA's current regulations on this subject, however, that although not included in the statutory exceptions, may still have an effect on particular situations. In certain circumstances effluent limitations may be established on a net basis for particular dischargers. Such a permit should be examined as to whether any modification does indeed involve a weakening of effluent limitation. Also, permits are occasionally based on production levels. Such permits can be examined in a similar manner.

Mr. President, we can all be justly proud of the advancements toward clean, safe water over the past 10 years. This legislation—which has broad support among all interested parties, the Congress and the people—recognizes there is still more to do. It is sound legislation, targeted with care toward the goal of cleaning up once and for all our Nation's waters. I urge the support of my colleagues.

Mr. President, I now defer to my distinguished colleague, a very valued member of the committee, the Senator from Maine [Mr. MITCHELL] to make such comments as he desires and to take control of the time for our side.

Mr. MITCHELL. Mr. President, I join Senators CHAFEE, STAFFORD, BENTSEN, and others in support of the conference report on the amendments to the Clean Water Act. Senator STAFFORD and Senator BENTSEN have worked very hard and displayed great leadership in this area.

I want to express my appreciation to Senator CHAFEE for his leadership in developing this important legislation. Through all our deliberations in the Environment Committee and with House conferees, Senator CHAFEE pressed for legislation to provide the best possible protection for the rivers, lakes, and estuaries of the country. Thanks in large part to Senator CHAFEE's leadership, we have achieved this goal. Every American who cares about clean water—and I believe that includes every American—owes a debt of gratitude to Senator CHAFEE.

I am pleased to have had the opportunity to participate in the various phases of the development of this legislation as the ranking minority member of the Subcommittee on Environmental Pollution of the Environment Committee and a member of the House-Senate conference on this legislation.

The 1972 Clean Water Act set an ambitious goal for the country: "To restore the chemical, physical, and biological integrity of the Nation's waters." We have, in fact, made substantial progress in cleaning up polluted waters. But serious problems still remain. In the State of Maine, there is evidence of both the success of the pollution control programs established in the Clean Water Act and of the se-

riousness of remaining pollution problems.

The Androscoggin River, once 1 of the 10 most polluted rivers in the country, received a waste load equal to that generated by New York City and virtually every mile was unfit for swimming or fishing. Today, almost 70 percent of the river is cleaned up. While this is an impressive accomplishment, we must continue our efforts to clean up the remaining 30 percent of the river.

The Maine commercial shell fishing industry declined for many years because the discharge of untreated sewage forced the closing of some 20 square miles of harvesting areas. We have been able to reclaim some 6 square miles of clam flats, but 14 square miles remain closed. These flats have a potential harvest value of over $30 million a year and could contribute a substantial return on our continued investment in clean water.

The great majority of Maine's lakes are remarkably clean. But some 36,000 acres of lakes have had pollution problems. While cleanup is underway at about half these lakes about 15,000 acres need further attention.

Virtually every State in this country has similar success stories and faces similar water quality challenges.

Our experiences over the past decade are evidence that the basic design of the Clean Water Act is still sound. The legislation before us today will build on the framework established by the original Clean Water Act and expand the act to address emerging pollution problems and changing conditions.

I would like to address a number of the amendments to the act.

The legislation will result in a second-generation program to achieve greater control of toxic water pollutants. Under the current law EPA is required to establish uniform, minimum controls for toxic pollutants. There is no assurance, however, that these controls will result in a safe level for a particular water body. Although the current law provides general authority for further control, this legislation initiates a specific process designed to control these toxic substances.

The legislation requires States to identify waters that do not meet water quality standards due to the discharge of toxic pollutants; to adopt numerical criteria for the pollutants in such waters; and to establish effluent limitations for individual discharges to such water bodies. This provision is an important addition to our ability to protect water quality and public health from increasing amounts of toxic chemicals.

The amendments also provide for new authority for modifying control requirements for industrial facilities which are fundamentally different from other facilities in an industrial class. This provision is complicated and I would like to provide a detailed description of the provision and its objectives.

The Clean Water Act provides for the development of minimum, national, technology-based treatment requirements for industrial dischargers. These requirements address a range of industrial categories and include effluent guidelines applying to direct dischargers and pretreatment categorical standards applying to indirect dischargers.

The amendments provide the EPA Administrator with new authority to modify a minimum, national treatment requirements for an individual facility within an industry if the facility is found to be fundamentally different from other facilities within the industry on the basis of certain factors considered by the Administrator in establishing the guidelines or standards.

The new provision provides that a facility may be found to be fundamentally different based on factors identified in sections 304 (b) and (g). These factors include the age of equipment and facilities, the process employed, the engineering aspects of the types of control techniques, process changes, and other factors deemed appropriate by the Administrator.

The Clean Water Act currently provides for establishment of minimum, national technology-based requirements on an industry-wide basis but does not allow modification of requirements on a plant-by-plant basis. The Administrator has been able to accommodate variation in an industry through development of different requirements for subcategories of an industry.

In addition, the Agency developed and implemented a procedure for establishing alternative treatment requirements for individual facilities based on a conclusion that the facility is fundamentally different from the industry. These regulations were recently upheld by the Supreme Court. While there is currently no basis for the regulations in the act, the conferees concluded that some expansion of the Administrator's authority in this area is an appropriate addition to the act.

This new provision provides a clearly defined and limited authority in the statute for modification of treatment requirements for individual facilities. The provision is intended to assist the Administrator in addressing variation in development and effective administration of the national effluent guidelines and standards.

The conferees intend, however, that the Administrator use the new authority in this section sparingly. Applications under this section should be assessed with the objective of accounting for unique situations encountered in implementing national, minimum treatment requirements. Unless the circumstances of a facility are unique, the Agency should accommodate fundamental differences among facilities through the establishment of subcategories within an effluent guideline. This section should not be used in place of complete definition and subcategorization of an industry.

The conferees recognize that this section will require the EPA Administrator to make difficult decisions with regard to the magnitude of differences among similar facilities within an industry. In exercising this judgment, the Administrator should place high priority on the principle that all industries within a category or subcategory are to meet national, minimum, treatment requirements. The authority of this section is intended only to provide the Administrator with the authority needed to implement this aspect of the statute effectively and should not be used to generally relax or retreat from national, minimum requirements for an industry.

This new provision places several important limits on this new authority. These limits concern consideration of costs to a facility and procedural and other limitations.

The bill specifically excludes consideration of costs as a basis for establishing a fundamental difference with regard to an individual facility. Section 304 of the Clean Water Act authorizes the EPA to consider the cost of achieving effluent reductions, in addition to other factors, in development of a guideline for an entire industry. The EPA needs to consider cost when developing a guideline for an industry in order to determine the best available technology for water pollution control which is economically achievable for an entire industry.

Individual facilities, however, may face costs which are higher than costs to the majority of other facilities in an industry. A facility might find that differences in costs cause it to be fundamentally different from other facilities and contend that these differences justify modified treatment requirements. For example, costs of labor, transport or materials might be presented as fundamentally different.

While a guideline is intended to account for economic impact on an entire industry, it is not intended to account for the economic impact on each individual facility. The 1972 Clean Water Act conference report stressed this point, directing EPA to "make the determination of the economic impact of an effluent limitation on the basis of classes and categories of point sources, as distinguished from a plant-by-plant determination."

If a facility facing higher costs than the overall industry is allowed to reduce treatment levels below the minimum level, the degree of pollution

control at a facility is linked to the economic efficiency of the facility, rather than the economic ability of the industry, and the principle of an industry-wide minimum level of treatment loses its meaning.

Although the act does not and should not provide a mechanism to modify the requirements of an effluent guideline on the basis of fundamentally different costs at an individual facility, section 301(c) of the act provides for modification of requirements in a case where such requirements are beyond the economic capability of the owner. Section 301(c) does not allow the Administrator to modify treatment requirements based on a showing of fundamentally different costs to an individual facility, unless these costs are beyond the economic capability of the facility and, therefore, threaten its survival.

In addition, section 301(c) is subject to section 301(1), which prohibits the Administrator from modifying any requirement as it applies to a toxic pollutant. This provision assures that toxic pollutants will be controlled, regardless of the economic capability of the discharger. The new authority for treatment modifications based on fundamentally different factors contained in the reported bill is not subject to section 301(1).

This provision is not intended to prohibit the EPA from modifying treatment requirements in a case where a fundamental difference in an aspect of a facility which is eligible for consideration—for example, age of facility, process employed—would result in a reduction in costs to a facility.

When such an eligible factor is under review, the EPA may consider the costs specifically associated with that factor, but must be able to justify a finding of a fundamental difference primarily on the basis of a substantive and technical assessment of eligible factors. The EPA shall not replace a substantive and technical assessment of eligible factors with a shortened cost test designed to indicate a fundamental difference—for example, when the costs of an eligible factor at an individual facility are twice the costs at average facilities, the factor is fundamentally different.

The reported bill specifies several procedural requirements and other limitations governing applications for modifications under this section.

Section (n)(1)(B) provides that an application be based solely on information and supporting data submitted to the Administrator during the development or revision of a guideline or on information the applicant did not have a reasonable opportunity to submit during the rulemaking. The lack of a reasonable opportunity to submit information is based solely on a lack of actual or constructive notice of the rulemaking.

This provision will assure that effluent limitations and standards are as comprehensive as possible, and thereby reduce the need for applications under this subsection. This provision will also discourage withholding of information during the rulemaking process for subsequent use in an application for treatment modification under this subsection.

In addition, where the record is already closed and an applicant has new information to present bearing on the guideline or standard, the applicant continues to have the right to petition the Administrator to reopen the rulemaking and record and consider creation of a subcategory. The Administrator's disposition of such a petition is subject to judicial review under section 509(b) of the act.

Section (n)(1)(C) provides that the alternative requirement imposed on the applicant can be no less stringent than justified by the applicant's fundamental difference from the rest of the category or subcategory with respect to eligible factors.

Section (n)(1)(D) provides that any alternative requirement shall not result in a nonwater quality environmental impact which is markedly more adverse than the impact considered by the Administrator.

Section (n)(2) requires that an application under this section shall be submitted within 180 days after the publication of the initial guideline or standard. Section (n)(3) provides that an application shall be approved by final Agency action within 180 days after submission. For the purposes of this section, final Agency action means the administrative decision issued by the EPA, following public notice and comment, as appropriate and including a statement of the basis for the decision. Section (n)(4) states that the Administrator may allow the applicant to submit clarifications with regard to information submitted in an application prior to the 180-day decision deadline.

Section (n)(5) provides that an application for an alternative requirement based on fundamentally different factors which is pending on the date of enactment may be amended by the applicant within 180 days after such date of enactment. This provision is intended to allow applicants with pending applications developed under EPA regulations pertaining to fundamentally different factors to revise the applications to reflect the requirements of this new section of the statute.

Section 301(n)(6) provides that an application for an alternative requirement under this section shall not stay the facility's obligation to comply with the effluent limitation guideline or standard which is the subject of the application.

This provision is intended to prevent EPA or the State, or the POTW in the case of indirect discharge, from delaying issuance of the permit or pretreatment mechanism during the pendency of an application. If an application for an alternative requirement is denied by the Administrator, the applicant must comply with the limitation or standard as established or revised. This section is subject to section 301(b) and 309 as to compliance dates.

This section shall apply to existing primary and secondary national effluent limitations and categorical pretreatment standards for industrial categories, such categories as may be identified in the future, and to any revisions of guidelines or standards for such categories.

The Administrator may not use the authority of this section to modify effluent standards issued pursuant to section 307(a)(2) of this act, the general prohibited discharge standard in 40 CFR sec. 403.5, or other requirements implementing such standards.

The owner or operator of a facility has the burden of proving to the satisfaction of the Administrator that the facility is eligible for an alternative requirement under this section. The Administrator's decision to promulgate or deny an alternative effluent limitation or standard under this subsection shall be subject to judicial review pursuant to section 509(b)(1) of the act.

This new authority is intended to provide for modifications of requirements for conventional, nonconventional, and toxic pollutants. Consistent with this objective, section 301(l) of the Act, which excludes toxic pollutants from modifications under this act, is amended to allow modifications under this section for toxic pollutants. This amendment to section 301(l) does not in any way weaken the application of the section to modifications of the act than provided under this subsection—301(n).

The Administrator may not delegate the authority provided by this subsection to any State. In addition, it is our intention that the authority of this section be exercised only by the Administrator or Assistant Administrator for Water, rather than regional or other officials. The Administrator shall obtain the concurrence of a State before approving any alternative requirements under this subsection.

All of these provisions are to be self-implementing and are to take effect upon enactment of the Clean Water Act Amendments of 1985. The Administrator is encouraged to amend the appropriate regulations to make them consistent with these requirements; however, the failure of the Administrator to make such revisions will not affect the implementation of these provisions.

A related provision provides new authority for the EPA to collect fees for the processing of various modifica-

tions of permits and other requirements.

Substantial Federal resources are being devoted to processing applications for modifications authorized by the Clean Water Act. Section 301(o) of the reported bill requires the Administrator to establish a system of fees to recover costs of reviewing and processing these applications. Applications, including resubmitted applications, are to be accompanied by an appropriate fee, as determined by the Administrator. The Administrator may develop a tiered or sliding scale fee structure so long as the aggregate amount of fees collected reflects the Federal resources actually expended in processing such applications.

Fees collected under this section shall be deposited into a special fund in the U.S. Treasury entitled "Water Permits and Other Services." Such funds are to be available for appropriation and to remain available until expended and are to be used to carry out the Agency activity for which the fee was charged. Creation of this special fund will assure that fees charged for processing of applications will be used to support water permit related activities, rather than other activities. The existence of this fund shall not be a basis for reductions in funding levels for related program activities.

EPA recently estimated that as much as half the remaining water pollution problems result from nonpoint sources. Controlling nonpoint pollution, however, has proven to be an extremely difficult, intractable problem.

This legislation includes a major amendment providing for State programs to identify and control nonpoint source pollution. States will identify waters affected by nonpoint sources of pollution and develop programs to implement best management practices for controlling this pollution. State programs will include a schedule for implementation and will be coordinated with related Federal projects. A total of $400 million is authorized over 4 years to support this important program.

It is the intention of the conferees that grants to States be used to implement nonpoint management plans developed under this section. Grants are not intended to be used to support the development of such programs or plans. The conferees expect that States will use State resources to develop nonpoint plans and programs. States may also use funds available under a new section 205(j) of the act to develop such plans, and once plans are approved, assist in the implementation of plans.

In using grant funds under this section for the implementation of approved programs or plans, States are not to provide assistance to individuals for construction of pollution control facilities unless such assistance is in the form of a demonstration program, as determined by the Administrator. State's may include other Federal assistance programs, including programs of the Department of Agriculture involving grant and loan assistance and cost sharing, in overall programs for control of nonpoint pollution.

States may use funds available in the new State revolving loan funds for the implementation of nonpoint programs developed under this section. Loan funds must be used in a manner consistent with all the provisions of title VI of this act.

For example, once a State has assured progress toward compliance with the deadline for construction of secondary treatment facilities, the State may make loans or provide otherwise eligible assistance to nonpoint pollution-related projects.

Such loan or other assistance may be made to individuals or organizations, as well as municipalities and other governmental units. For example, a State may provide a loan to a farmer to construct a manure storage facility if such facilities are called for in the approved State nonpoint pollution control program. A State might also provide assistance to a municipality to implement programs to control urban runoff.

Among the most significant issues addressed in this reauthorization of the Clean Water Act is the financing of wastewater treatment plant construction. This aspect of the reauthorization bill is important because it provides State and local governments with a clear statement of future Federal involvement in treatment plant financing and allows them to finalize plans to meet the compliance deadlines established in the law.

The act provides for a transition from the current grant program to a program providing Federal support for State revolving loan funds. The bill provides for an authorization of a total of $18 billion over the next 9 years to assist municipalities with these construction projects. Establishment of loan funds will complete the process of transfer to State control of the Municipal Treatment Construction Program.

The State revolving loan fund is important for the future financing of pollution control projects. It is a complicated provision and I would like to describe the intentions and objectives of the conferees.

The provision provides that the Administrator and States may enter into capitalization grant agreements under this title. States must agree to accept payments under a schedule to be developed jointly with the Administrator, must agree to provide a 20-percent match of Federal funds, and must agree to make binding commitments for assistance in an amount equal to 120 percent of the amount of the grant payment within 1 year. Moneys contributed by a State to match Federal capitalization grants under section 602(b)(2) are to be cash and not in kind.

The schedule under which payments are to be made by the Administrator to the State shall be developed jointly by the State and the Administrator. Such schedule shall be based on the State intended-use plan and shall provide that payments be made as expeditiously as possible, consistent with such plan. At a minimum, payments shall be made not later than the earlier of 8 quarters after the date funds were obligated by the State or 12 quarters after the date such funds were allotted to the State.

In addition, the State must agree to assure, as part of the intended-use plan submitted annually, that all Federal and State funds provided to the SRF will be committed in an expeditious and timely manner. This provision reinforces the requirement that States make binding commitments for funds within 1 year of any given payment to the fund.

Subsection 602(b)(5) refers to all Federal funds, in the form of capitalization grants, and all other funds in the SRF as a result of those capitalization grants, including repayments of loans originating from those grants and State funds contributed as the required match for those grants, and funds deposited in the fund under 205(m).

The State must use these funds first to assure maintenance of progress toward compliance with the enforceable deadlines, goals, and requirements of this act, including the municipal compliance deadline of July 1, 1988, or are on enforceable schedules of compliance after that date.

Progress toward compliance with enforceable deadlines, goals, and requirements of the act, in the case of treatment works that are not voluntarily on a schedule to achieve compliance, may be assured through a funding commitment or through establishment of an enforceable compliance schedule.

Thus, the requirement of subsection 602(b)(5) is met if treatment works in a State are on an enforceable schedule to achieve compliance with uniform secondary treatment requirements of the act, whether or not there is a commitment to fund such treatment works from a State revolving loan fund or with a grant under title II of this act. Governors of each State shall make the determination of progress toward compliance required under this subsection and the Administrator shall oversee such determinations.

Once a State has met the requirement of subsection 602(b)(5) funds from the SRF may be used for any other treatment works as defined by

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section 212 of the Act (subject to the restrictions of section 602(b)(6), programs and projects identified under the Nonpoint Source Pollution Control Program (section 319), or programs and projects identified under the National Estuaries Program (section 320).

The provision is intended to allow States the flexibility to utilize funds from the SRF to support a variety of measures that the State determines are needed to achieve water quality goals. States are free to fund a wide range of pollution control projects, other than municipal waste water treatment works, once the requirement for assuring progress toward compliance with the 1988 compliance date is met.

Further, a State must demonstrate that any treatment works which is constructed in whole or in part prior to fiscal year 1995 with funds directly made available by capitalization grants under this title or section 205(m), will meet the requirements of the sections 201(b), 201(g)(1), 201(g)(2), 201(g)(3), 201(g)(5), 201(g)(6), 201(n)(1), 201(o), 204(a)(1), 204(a)(2), 204(b)(1), 204(d)(2), 211, 218, 511(c)(1) and 513.

This restriction on the use of Federal capitalization grant funds does not apply to funds contributed by the State in accord with section 602(b)(2), moneys repaid to the fund, or other moneys. State Governors shall assure that the requirements of this subsection are met.

Section 201(g)(1) limits assistance to projects for secondary treatment or more stringent treatment, or any cost effective alternative thereto, new interceptors and appurtenances, and infiltration-in-flow correction. This subsection also provides that State Governors may reserve 20 percent of a State's allotment for projects which meet the definition of treatment works in section 212(2) but are otherwise not eligible for assistance under this subsection. This Governor's reserve is intended to apply to funds made available under this title.

Section 201(n)(1) provides that funds under section 205 may be used to address water quality problems due to discharges of combined stormwater and sanitary sewer overflows, which are not otherwise eligible, if such discharges are a major priority in a State. This provision is intended to apply to use of funds under title VI as well as section 205.

As noted above, the fund may be used to assist publicly owned treatment works as defined by section 212 of the act, the development and implementation of a nonpoint source management program established under section 319 and development and implementation of an estuary program under section 320. This provision is intended to provide a basis for funding of projects to control nonpoint pollution and pollution to estuaries conducted by municipalities, a State, other public organizations, or individuals. All fund management provisions of this title apply to such projects.

The definition of projects eligible for funding under the loan program includes publicly owned treatment works as defined by section 212 of the act. This definition includes planning and design as defined in 212(1), treatment works as defined in 212(2) and replacement as defined in 212(3). Each of these aspects of treatment works is eligible for assistance under this title.

Funds under this title may be used to make loans as provided under section 603(d), but are not to be used to provide direct grants. If as a result of audits under this section, the Administrator finds a consistent and substantial failure to repay loans, he may take corrective action as provided under this title.

This section provides that loan funds may be used to refinance debt obligations of municipalities for eligible projects, where such obligations were incurred after March 7, 1985. This provision is a very important element of the loan fund program in that it allows municipalities and States to work out financing plans which will allow a community to proceed with financing and construction as soon as possible and to achieve water quality benefits as soon as possible. Based on this authority States may agree to participate in project financing at a later date. The requirement in subsection 603(g), providing that municipal waste water treatment projects be included on State priority lists is not intended to prevent a State from providing such refinancing assistance.

Section 603(h) limits the authority of subsection 603(d)(2) by providing that funds may not be used to make direct loans to support the non-Federal share of a project receiving assistance under title II of this act.

This limitation on direct loan assistance does not include ancillary assistance to the municipality which results in a lowering of costs of the obligation (for example guarantee of the local share obligation, insurance of the obligation, etc.). Such indirect assistance to support the costs of non-Federal share shall only be available to municipalities which face severe financial constraints preventing a project from proceeding.

The provision provides for the allotment of funds to States, reservation of funds for planning, and the reallotment of unobligated funds. Funds reserved for water quality management planning under this provision are to be used by the State agency which conducts environmental programs, rather than an agency established to manage the financing of projects with funds provided under this title.

Funds available to States under section 205(g) for the management of construction grant programs under title II may be used to assist the development of revolving loan funds under this title.

There are several other important provisions of the bill which I would like to describe and explain.

Section 210 of the amendments provides for set-aside of a small part of the construction grant fund to support projects for prevention of pollution to marine bays and estuaries resulting from combined storm water and sanitary sewer overflows. It is the intention of the conferees that, for the purposes of this section, the term "marine bays and estuaries" shall be defined consistent with the definition of estuarine zone in section 104(n)(4) of the act. It is not the intention of the Conferees that this set-aside be used for projects at the upper reaches of tidal influence of a river which eventually enters into an estuary.

Section 202(f) of the act provides that assistance made available by the Farmer's Home Administration may be used to provide the non-Federal share of a construction grant project under title II of the act. This provision states the policy of the conferees that such assistance in support of a local share is acceptable, and has been acceptable in the past. The adoption of the provision shall not be construed to imply that, prior to this action, such support for a local share was not acceptable or consistent with congressional intent and policy.

Another important amendment to the act provides that States are to passthrough at least 40 percent of funds made available under section 205(j)(1) to support water quality management planning at the areawide and interstate level. The provision was modified by the conferees to assure that a Governor, with the approval of the Administrator, could provide less than 40 percent of funds to such organizations if such funding would not significantly assist in water quality management planning. The conferees do not intend to imply that funding for areawide organizations should be limited to 40 percent of funds under seciton 205(j)(1). It is not the intention of the conferees that the requirement for passthrough of 40 percent of funds to areawide agencies apply to section 205(j)(5) funding.

The amendments also provide a specific period of 180 days in which communities may apply for variances under section 301(i). The conferees intend that no application whatsoever may be made under section 301(i) after the 180-day period following enactment of the amendment. In addition, the amendment provides that communities which are on a compliance schedule are not eligible to apply for a

variance under section 301(i) at any time.

This provision includes any community which is on a schedule established prior to enactment by a court order or an administrative order established by the EPA or a State agency. In addition, the Administrator has discretion in granting variances under section 301(i). The conferees encourage the Administrator to use this discretion to deny applications for variances under section 301(i) where necessary to preserve the stable and effective implementation of the National Municipal Policy and relted agency policies.

The amendments provide for new authority for the EPA to use administrative penalties in enforcement of the Clean Water Act. This provision will substantially increase the Agency's authority to assure full enforcement of the act. The amendments provide that the EPA may use the administrative penalty authority in enforcement cases related to activities which do not have permits as required under section 404 of the act. It is the intention of the conferees that EPA use this authority to provide for full and aggressive enforcement of section 404.

It is also the intention of the conferees that the EPA and the Corps of Engineers develop a memorandum of understanding to provide for the efficient coordination of enforcement activities related to section 404. Such an MOU should be developed as soon as possible, but not later than 6 months after the date of enactment. EPA has the authority to use administrative penalty authority prior to the development of such an MOU. In the event that the EPA and the ACE are not able to agree on an MOU, EPA retains the full authority to implement administrative penalty authority related to section 404 as provided in these amendments.

The amendments also provide new requirements for compliance with treatment requirements of the act. The conferees believe that these new dates are responsible and reasonable can be achieved in virtually all cases. In an unusual case where a date cannot be met despite the conscientious efforts by a facility, the conferees understand that the EPA is able to exercise its discretion with regard to enforcement and penalty authority.

In addition, it is the intention of the conferees that any action by a regulated industry to initiate litigation related to a control requirement which results in a delay in accomplishment of controls, is not a basis for the EPA to exercise its enforcement discretion.

Industries which choose to challenge pollution control regulations in court should not expect that the EPA will use its enforcement discretion and should expect that EPA will fully enforce requirements and compliance dates, regardless of court challenges.

In conclusion, I am confident that the basic design of the Clean Water Act is sound. We have before us badly needed amendments for fine tuning existing provisions of the act and addition of major programs to address emerging problems.

These proposals are consistent with the national consensus for clean water. The great majority of persons responding to a recent Harris survey either supported the Clean Water Act or wanted it strengthened, even considering the costs of pollution controls. This legislation is an important step toward carrying out this mandate.

I urge my colleagues to adopt the legislation, and I urge the President to sign it. It will be a tragic day, a sad day, for the Nation if the President vetoes this legislation.

Mr. President, I yield to the distinguished chairman of the subcommittee, the man singly most responsible for this legislation and for much of the progress made in this Nation in recent years on protecting the health and environment of this country, Senator CHAFEE.

□ 1200

Mr. CHAFEE. I thank my distinguished friend and colleague, the Senator from Maine, for those generous comments. Throughout the work on this measure, working with Senator MITCHELL has been not only an intellectual pleasure but also a great personal pleasure. He is a man who knows the act, is truly dedicated to improving the quality of the waters of our Nation. At every step of the way, he was helpful and constructive. This act, in which he generously said I had a major hand, was the result of combined efforts, and his part in it was very significant.

I also thank the senior Senator from Texas [Mr. BENSTON], who was helpful overall in this project. Of course, our distinguished chairman of the committee, Senator STAFFORD, has made this a truly bipartisan matter. I thank the staffs as well.

So it has been a thorough pleasure dealing with this matter, which has gone on for a long time. We passed the bill in the Senate over a year ago.

Mr. President, this sweeping legislation provides a major overhaul of one of our Nation's key environmental laws, the Clean Water Act. Although we have made great strides in restoring our rivers, lakes, and estuaries, much work remains to be done. The legislation before us provides a framework which builds upon our past successes and will lead to major improvements in water quality well into the next decade.

The legislation assures compliance with a strong water quality standards programs and provides for great controls of toxic, conventional and nonconventional pollutants. It establishes a new program to control pollution from nonpoint sources. That is not a point discharge from a factory. Nonpoint means runoff from fields, from roads, and such instances. It continues funding of wastewater treatment works at the $2.4 billion level through fiscal year 1991 while establishing a revolving loan fund to ease the transition to full State and local sufficiency.

I would like to take a few minutes to explain in greater detail a few of the key provisions of the conference report.

The legislation tightens up several regulatory programs. One such program relates to nonconventional pollutants. Under current law modifications can be sought from strong discharge requirements for so-called nonconventional pollutants many of which can be highly toxic. In effort to severely limit the circumstances in which these weaker modifications can be given the conference report allows them for only five specific pollutants. If other pollutants are to be listed for a modification, EPA must go through a special procedure. This procedure requires the Administrator to first determine whether a pollutant meets the criteria of toxic pollutant. If it does, then the pollutant must be listed as toxic from which no variance can be received. If the pollutant is not found to be toxic, the Administrator must then determine whether it can be listed under section 301(g) as a nonconventional pollutant. If it meets that test, the Administrator must finally determine whether an applicant applying for a modification from the effluent guideline for that particular pollutant can meet the test contained in section 301(g). It is expected that each of these steps be conducted through the formal regulatory process. It is also important to note that a stay of requirements for control of pollutants other than the nonconventional pollutant for which the modification is being sought is prohibited.

The legislation also contains provisions which severely limits the opportunities for which discharges can get modifications for fundamentally different factors. A key provision under the fundamentally different factors section specifically excludes consideration of costs, independent of other eligible factors, as a basis for establishing a fundamental difference with regard to an individual facility. Section 304 of the Clean Water Act authorizes the EPA to consider the cost of achieving effluent reductions, in addition to other factors, in development of a guideline for an entire industry. The EPA needs to consider cost when developing a guideline for an industry in order to determine the best available technology for water pollution control which is economically achievable for an entire industry.

While a guideline is intended to account for economic impact on an entire industry, it is not intended to account for the economic impact on each individual facility. The 1972 Clean Water Act conference report stressed this point, directing EPA to "make the determination of the economic impact of an effluent limitation on the basis of classes and categories of point sources, as distinguished from a plant-by-plant determination." If a facility facing higher costs than the overall industry is allowed to reduce costs than the overall industry is allowed to reduce treatment levels below the minimum level, the degree of pollution control at a facility is linked to the economic efficiency of the facility, rather than the economic ability of the industry, and the principle of an industrywide minimum level of treatment loses its meaning.

Although the act does not and should not provide a mechanism to modify the requirements of an effluent guideline on the basis of fundamentally different costs at an individual facility, section 301(c) of the act provides for modification of requirements in a case where such requirements are beyond the economic capability of the owner. Section 301(c) does not allow the Administrator to modify treatment requirements based on a showing of fundamentally different costs to an individual facility, unless these costs are beyond the economic capability of the facility and, therefore, threaten its survival. In addition, section 301(c) is subject to section 301(l), which prohibits the Administrator from modifying any requirement as it applies to a toxic pollutant. This provision assures that toxic pollutants will be controlled, regardless of the economic capability of the discharger. The new authority for treatment modifications based on fundamentally different factors contained in the reported bill is not subject to section 301(l).

Section 301(n)(6) provides that an application for an alternative requirement under this section shall not stay the facility's obligation to comply with the effluent limitation guideline or standard which is the subject of the application. This provision is intended to prevent EPA or the State, or the POTW in the case of indirect discharge, from delaying issuance of the permit or pretreatment mechanism during the pendency of an application.

The owner or operator of a facility seeking an FDF modification has the burden of proving to the satisfaction of the Administrator that the facility is eligible for an alternative requirement under this section. The Administrator's decision to promulgate or deny an alternative effluent limitation or standard under this subsection shall be subject to judicial review pursuant to section 509(b)(1) of the act.

The Administrator may not delegate the authority provided by this subsection to any State. In addition, it is the intention of the conferees that the authority of this section be exercised only by the Administrator or Assistant Administrator for Water, rather than regional or other officials. The Administrator shall obtain the concurrence of a State before approving any alternative requirements under this subsection.

The conference agreement also contains provisions continuing the Chesapeake Bay Program; it establishes a Great Lakes Water Quality Program and sets up new National Estuary Program which provides that management conferences develop control strategies to assist in the clean up of estuaries. This is especially important to the Narragansett Bay in my State of Rhode Island which suffers from degradation of water quality. Funds are also set aside for correction of combined sewer overflows which cause serious pollution in the Narragansett and other estuaries around the Nation.

A new nonpoint source Pollution Control Program, which was contained in both bills, is included in the conference agreement. The program would authorize $400 million over 4 years for States to develop comprehensive programs to abate such pollution sources as runoff from urban areas and farmlands which often contaminated with toxic and other pollutants.

The legislation also beefs up the enforcement provisions of the act by increasing penalties for civil and criminals violations and adds a new authority for the Administrator to assess administrative penalties on violators. The EPA has new authority to assess penalties against unpermitted discharges. We expect the Agency to use this authority aggressively against illegal polluters even if a memorandum of agreement is not concluded with the Secretary of the Army. The corps enforcement record against illegal dumpers is not the strongest and now EPA has the authority to move against these polluters.

Compliance dates for industries for which effluent guidelines have not been promulgated have been extended to March of 1989 or 3 years from date of promulgation, which ever is sooner. EPA is strongly encouraged to get these guidelines finalized so industries can comply with discharge requirements as soon as possible. Until such guidelines are promulgated the Agency is expected to proceed under its current policy with respect to noncompliance of dischargers who will not meet the deadline.

A provision establishing a progressive Stormwater Control Program is included in the conference agreement. Although the law now requires EPA to establish discharge requirements for the stormwater point sources, the Agency has been unable to develop a final permit program for these sources. This legislation sets up a program whereby EPA must issue permits for stormwater point source discharges in municipalities with populations over 250,000 within 4 years of enactment. Within 5 years of enactment, permits for stormwater point source discharges are required in cities with populations between 100,000 and 250,000. These discharge requirements are to contain control technology or other techniques to control these discharges and should conform to water quality requirements. Requirements for stormwater discharges associated with industrial activities are unaffected by this provision. The Agency has been unable to move forward with a program because the current law did not give enough guidance to the Agency. This provision provides such guidance and the conferees expect EPA to move rapidly to implement this control program.

The legislation also contains the Senate provision relating to the Chicago tunnel and reservoir project. This provision only allows funding for this project under section 201(g)(1) without regard to the limitation contained in the provision if the Administrator determines that such project meets the cost-effective requirements of sections 217 and 218 of the act without any redesign or reconstruction. The Governor of Illinois must demonstrate to the satisfaction of the Administrator the water quality benefits of the project. This provision does not apply to the cost-sharing requirements under the other applicable provisions of the bill.

The conference agreement modifies the Senate-passed bill with respect to antibacksliding on best practical judgment and water quality-based permits. The thrust of this provision is to generally prohibit affected permittees from weakening their discharge requirements as a result of subsequently promulgated guidelines. Only in very narrow circumstances can backsliding be permitted, and in no event can it be permitted even if, after a discharger leaves a stream, there is an improvement in water quality, unless the antidegradation policy test is met. That test states that water quality may be lowered only if widespread adverse social and economic consequences can be demonstrated through a full intergovernmental review process.

The conference agreement also embodies much of the Senate-passed proposal with respect to the Construction Grants Program and newly created revolving loan fund. The conference agreement extends the current $2.4 billion annual authorization for title II construction grants for 3 years. In fiscal years 1989 and 1990, the annual authorization for title II would be re-

duced to $1.2 billion. No further authorizations would be made for title II after fiscal year 1990.

States would be provided with sufficient lead time to begin setting up State revolving loan programs. The committee bill encourages the creation of these self-sustaining financing entities at the earliest opportunity by providing each State with an option of converting title II construction grants funds into capitalization grants for SRF's.

Beginning in fiscal year 1989 and continuing in fiscal year 1990, $1.2 billion a year would be authorized specifically for capitalizing SRF's under the new title VI. In fiscal year 1991, the amount would be increased to $2.4 billion. Thereafter, the SRF authorization would gradually be reduced by providing $1.8 billion in fiscal year 1992, $1.2 billion in fiscal year 1993, and $600 million in fiscal year 1994. After fiscal year 1994, all authorizations for direct Federal contributions to municipal wastewater treatment or SRF's would be ended.

Mr. President, I ask unanimous consent to have printed in the RECORD a chart showing the fiscal years and funding levels.

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

[In billions of dollars]

	Construction grants (title II)	Revolving loan fund (title VI)
Fiscal year:		
1986	2.4	
1987	2.4	
1988	2.4	
1989	1.2	1.2
1990	1.2	1.2
1991		2.4
1992		1.8
1993		1.2
1994		.6

Mr. CHAFEE. Mr. President, the total authorizations for title II and VI amount to $18 billion and will ensure that the core treatment-related needs identified in the 1981 amendments will be met.

This approach lives up the commitment made by Congress and the administration to support an annual appropriation of $2.4 billion over the 10-year period of 1981 through 1991 to meet the needs for construction of wastewater treatment facilities. That commitment was restated by then EPA Administrator William Ruckelshaus at a budget hearing before the Environment and Public Works Committee. His statement is as follows:

I think that while there may be some at OMB who would prefer not to see this kind of program continue, I have not run in personally to those people at OMB, and there is an understanding that there is an agreement with the administration with the Congress that for 10 years this level of funding, at least, is a commitment. If you will note the difference between what we submitted to the President in terms of our budget and what we are now requesting is somewhat less. We went down to $2.4 billion as a result of that commitment. That was something the administration put back into our budget over our submission.

A compromise on the allotment formula for grants to the States is contained in the conference agreement. This compromise only makes minor changes in the present formula.

The revolving loan fund embodied in this legislation presents a great opportunity for the States to eventually assume full responsibility for construction of wastewater treatment facilities in their jurisdictions.

States must first use the funds in loan fund on projects needed to meet the 1988 municipal deadline requirement for secondary treatment. After that requirement is satisfied loan funds may also be spent on activities eligible under the nonpoint pollution program and the national estuary program.

In an effort to encourage cities to move forward with construction with treatment facilities to meet the 1988 deadline the legislation allows for refinancing under the loan program of projects which were begun after March 7, 1985. Although these projects should be on the State priority list to be eligible for refinancing, prior agreements between the State and the municipality should be honored in the event the project is no longer on the priority list.

Mr. President, I would like to conclude by saying passage of this legislation gives us an opportunity to renew our commitment to the national goal of making all of our waters fishable and swimmable. The Water Quality Improvement Act of 1986 strengthens the existing provisions of the Clean Water Act and establishes new cleanup programs which will greatly enable us to address a new generation of subtle—more devastating—problems posed by toxic pollution, stormwater discharges, nonpoint pollution, and contamination of sludges.

A year ago, the Senate passed the clean water bill by a vote of 94 to 0. I would hope my colleagues would give this conference agreement the same resounding show of support and vote "yes" to continue the job of cleaning up our Nation's waters.

There has been talk of the President vetoing this legislation. That would be a drastic mistake. This bill is within the agreed upon authorization level of $2.4 billion for wastewater treatment facilities passed by the Senate and contained in the budget resolution. It provides for an orderly transition for the construction grants program. And most importantly it gives the American people what has been reflected in public opinion polls conducted across the land—that they want clean water.

Finally, Mr. President, I wish to thank the chairman of our full Committee on Environment and Public Works, Senator STAFFORD, the ranking member of the Environmental Pollution Subcommittee, Senator MITCHELL, and the ranking member of the full committee, Senator BENTSEN for their hard work and diligent efforts to make this legislation possible. I would also like to thank the staff who labored long and hard in putting this legislation together, particularly Bob Hurley and Phil Cummings, Ron Outen, Jeff Peterson, Jimmie Powell, Steve Shimberg, and all the others who spent long hours and what seemed like endless days of negotiations on the bill.

Mr. MOYNIHAN. Mr. President, as New Yorkers, we have daily reminders of our dependence on water, although it is a resource that we too often take it for granted. The striped bass in the Hudson are too contaminated to be eaten safely. Long Island's aquifer which is the drinking water for 3 million New Yorkers is being depleted and polluted. And underneath New York City's streets old leaky mains are reluctantly dispursing water to city residents.

I am pleased to be able to offer some assurances today that we are making progress in cleaning up New York's water, and indeed, that of the entire Nation. The 99th Congress has already passed the Safe Drinking Water Act, which strengthens EPA's capacity to protect and improve our country's drinking water supplies, and which contains the Sole Source Aquifer Protection Act, which I first introduced in 1982, designed to protect irreplaceable aquifers like the one on Long Island.

With the passage of the Clean Water Act Amendments of 1986 we add another cornerstone in our Federal water policy, one that will build on the progress made since the Federal Water Pollution Control Act of 1972, which has come to be known as the "Clean Water Act."

GOALS AND STRATEGIES OF CLEAN WATER ACT OF 1972

The Federal Water Pollution Control Act was enacted in 1972 with an exuberantly optimistic set of goals. By 1983 the act envisioned clean rivers throughout the Nation; by 1985 it sought to eliminate altogether the discharge of pollutants into our waters.

Two major strategies were embodied in the act to achieve these goals. First, a large Federal grant program was established to help local areas construct sewage treatment plants. According to the Congressional Budget Office, $52 billion—in 1984 dollars—total has been spent by the Federal Government on this construction grant program since 1972.

Second, the act required that all municipal and industrial wastewater be treated before being discharged into

waterways, to remove pollutants ranging from organic materials, bacteria, and viruses to toxic chemicals and heavy metals.

Under the act's national pollutant discharge elimination system the Environmental Protection Agency established limits on the maximum allowable discharge of specific pollutants from treatment plants and industrial facilities. These limits were based on available detection and control technologies, and took into account the compliance costs to the regulated community. They are written into permits issued to all such discharging facilities.

Significant progress has been made toward cleaning up the Nation's waters. According to EPA's 1984 national water quality inventory, many of the most severe pollution problems of the 1960's and 1970's have been abated. Moreover, despite substantial growth in the Nation's population, industry, and development, overall water quality remained roughly stable between 1972 and 1982—a major accomplishment. A 1984 study by the Association of State and Interstate Water Pollution Control Adminstrators found that of 350,000 miles of streams and rivers monitored during this period, water quality improved in 13 percent, stayed the same in 84 percent, and declined in only 3 percent. We have been doing something—several things—right.

The Clean Water Act Amendments of 1986 strengthen and add to our current statutes. I will review briefly the most important provisions in these amendments.

CONSTRUCTION GRANTS FOR SEWAGE TREATMENT PLANTS

S. 1128 authorizes $18 billion in Federal support over 8 years for the construction grants program, on a 55-percent Federal, 45-percent basis. This program enables construction and upgrading of sewage treatment plants. The goal is to have all sewage treatment plants achieve secondary treatment by 1988—a process which removes 85 percent of solid and organic matter. In 1989, the revolving fund plan begins, the goal of which is to convert the States construction grants program into a self-financing program. Such an approach has worked extremely well in Texas and other States. The Governor will have the discretion to apportion grant funds and loan funds in order to meet the particular needs of his or her State. With wise planning, the States should make this transition without any disruption in their current schedules of priority work.

I am pleased that the current allocation formula for construction grants has been left virtually in place. This formula, which is based on the current EPA needs survey, correctly reflects the immediate needs in our urban areas in the Great Lakes and Chesapeake Bay regions. Our older cities, place the greatest population pressures on the water systems, which also tend to be the oldest systems. New York receives $267 million annually under this allocation.

NONPOINT SOURCE POLLUTION

This bill provides $400 million to initiate the first national program to control nonpoint source pollution, primarily runoff from agriculture and urban areas. Scientists at EPA have determined that nonpoint source pollution—pollution not from a single pipe or outfall—is a significant contributor to degredation of water quality. This includes runoff contaminated by fertilizers and other chemicals, as well as runoff from city streets which often contains high levels of salts and oils.

As part of this effort, conferees worked diligently with cities and counties as well as with environmental groups to devise a stormwater permit system that would improve water quality without being too costly or too cumbersome for EPA to administer. A recent court decision had ordered EPA to issue permits for virtually all storm sewers, which would have required EPA to issue 50,000 more permits on top of the 65,000 point source permits EPA already issues. This would have diverted EPA personnel efforts from control of toxic contaminants in water to a paper shuffling exercise that would not be result in environmental improvements in most cases. The conference agreed on a provision which would require permits from industrial discharges to storm sewers, and from cities over 250,000 in population where those discharges are significant contributors to pollution.

CLEAN LAKES PROGRAM

S. 1128 provides $85 million for a clean lakes program which States can use to clean up silted lakes, and to lime acidified lakes.

ESTUARIES PROGRAM

The bill provides $48 million for an estuary research program, which identifies several estuaries of national importance, including New York and New Jersey Harbor. Under this provision EPA can offer up to $10 million per year on a 50-percent matching basis to States to study and implement cleanup in the New York-New Jersey Harbor area.

BAN ON DUMPING OF SLUDGE IN THE NEW YORK BIGHT

The bill bans as of December 1987 any additional users from dumping sewage sludge in the New York Bight 12 miles off Sandy Hook, NJ. The bill also restricts the use of the site 106 miles off the coast to those currently using the 12-mile site.

FUNDS FOR BOSTON TREATMENT PLANTS

S. 1128 includes $100 million to fund sewage treatment plants in Boston Harbor, assisting Boston in complying with its court ordered directive to stop dumping sludge in the ocean.

GREAT LAKES OFFICE

The conferees agreed to establish a Great Lakes International Coordination Office within EPA to focus on control of toxic pollutants and achievements of goals in the Great Lakes Water Quality Agreement of 1978. The bill also establishes a Great Lakes Research Office with the National Oceanic and Atmospheric Administration to carry out a comprehensive Great Lakes Research Program, with special attention to sediment control projects.

All in all, this is a most worthy bill, which will improve upon the good work already begun by the Clean Water Act of 1972, I heartily support passage of the conference report, and I commend my fellow conferees for their good sense and hard work.

I ask unanimous consent that material summarizing the construction grants program in New York be printed at this point in the RECORD.

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

The House-Senate conference report on the Clean Water Act provides $267.9 million annually in federal grants for the construction of sewage treatment plants and sewers in New York State through 1990. The New York State Department of Environmental Conservation has identified the following for priority funding:

New York: Oakwood Beach (Staten Island); Owl's Head Treatment Plant (New York City); Fort Covington (St. Lawrence County); Schuylerville (Washington County); Village of Gowanda (Cattaraugus County); Village of Oxford (Chenango County); Village of Croghan (Lewis County); Cedar Creek Sewage Plant (Nassau County); Mamaroneck Sewer District (Westchester County); Dewey Eastman Tunnel (Monroe County); City of Gloversville (Fulton County); City of Batavia (Genesee County); Buffalo Sewer Authority (Erie County); Chautaugua Utility District (Chautauqua County); City of Binghamton (Broome County); Cheektowaga (Erie County); Village of South Glens Falls (Saratoga County); Village of Great Neck (Nassau County); and Great Neck Sewer District (Nassau County).

Mr. STAFFORD. Mr. President, I yield 2 minutes to the very able Senator from South Dakota [Mr. ABDNOR].

The PRESIDING OFFICER (Mr. BROYHILL). The Senator from South Dakota is recognized.

Mr. ABDNOR. I thank the chairman for yielding. I will be very brief.

Mr. President, the previous speaker, the gentleman who guided this clean water bill through the Senate and the conference committee, is far too modest. It is true that there are a lot of people who helped, particularly our full committee chairman and the very able staff of Senator CHAFEE, but I happen to know that a number of people said a week or so ago that this bill was dead, and they did not have

any hope for a final conference agreement on the Clean Water Act Amendments of 1986.

□ 1210

How do I know? I know because I am the chairman of the Subcommittee on Water Resources that is conferencing the national water policy bill. As it often happens at the tail-end of a session, Members begin to look around for an opportunity to attach their legislation to another, nongermane bill.

This is exactly what happened as we tried to work out the differences between the House and Senate on the national water policy bill even as Members of both Houses were working to resolve their differences on the clean water bill.

I am happy to report that Senator CHAFEE has been successful in bringing his bill to the floor in final form. I am still striving to reach final agreement on my water policy bill so that it, too, may be passed in these closing days.

At one time we believed the conference report on the national water policy bill was more likely to be the first to reach the floor.

So it is a great credit to this gentleman. With the help, of course, of others he has developed a sound approach to addressing our remaining water pollution problems, whether they are the result of discharges from either point or nonpoint sources.

For this, I think, we all owe him a great deal of thanks. It is absolutely imperative that we pass this vital legislation. It is long overdue.

I join the other proponents of this legislation in urging our colleagues to say to Senator CHAFEE, Senator STAFFORD, and their fellow conferees, "It is a job well done," by voting to approve the Clean Water Act Amendments of 1986.

Mr. STAFFORD. I thank the very able Senator from South Dakota for his words.

In a very short minute we will be ready to yield back our time and vote on this issue.

But before we do that, in view of the kind things that have been said on both sides of the aisle, I do want to say as chairman of the Committee on Environment and Public Works that I have taken a great deal of pride in the work the committee has done this year on a bipartisan basis.

This really is one of a series of major pieces of legislation which thanks to the Senator from Rhode Island, the Senator from Maine, and Senator BENTSEN has been made possible. Much of the work that has made it possible has been accomplished in a bipartisan spirit by the Senators of the committee, including Senator ABDNOR, and as has been noted the very fine staff that has worked for the committee over the last several years.

One note of the fact that the staff has operated as well as the committee on a bipartisan basis is the fact I see in the back of the Chamber some of the Republican staff operators are seated with some of the Democratic staff operators which truly indicates a bipartisan support.

Mr. DURENBERGER. Mr. President, we have before us the third conference report on a major environmental bill in this session of the Congress. In May we sent the President a reauthorization of the Safe Drinking Water Act. Two weeks ago we were here on the floor with the conference report to reauthorize the Superfund Program. And tonight we will be concluding the legislative process on the Water Quality Act of 1986 which amends and extends the Clean Water Act protecting the surface waters of the Nation.

That we have been able to conclude work on these three major pieces of environmental legislation gives all of us a sense of accomplishment. And there may be more good news in the next few days. We may also add an omnibus water resources bill and a reauthorization of the Nation's pesticide law to this list of environmental achievements for the 99th Congress.

We are here tonight largely as a result of the tireless work of the distinguished Senator from Rhode Island [Mr. CHAFEE], who is chairman of the Environmental Pollution Subcommittee of the Senate. Along with Senator MITCHELL, the ranking member of the subcommittee, and Senator STAFFORD, the chairman of our full committee, the Senator from Rhode Island has spent long hours in hearings, markup and conference sessions and floor debate to bring this bill to this point in the legislative process. This is a major piece of legislation. It has been pending before the Congress for several years. And over that whole period, Senator CHAFEE, has been a consistent champion of the Nation's water resources. He has shown no inclination to compromise the goals of the Clean Water Act just to get a bill and tonight his dedication to those principles is rewarded with an excellent piece of legislation that adds much to a law which has already been quite effective in improving the quality of the Nations's surface waters.

Before turning to the substance of this legislation let me just mention the role of two of my fellow Minnesotans who serve in the other body and who were instrumental in developing this legislation. Both Congressman STANGELAND and Congressman OBERSTAR from Minnesota serve on the Water Resources Subcommittee of the House and were active members of the conference on this legislation. All of us from Minnesota are proud of the contribution they have made to this bill.

The principal feature of this bill is a reauthorization of the municipal wastewater treatment construction grants program. Title II of the Clean Water Act has provided more than $40 billion to the cities of our country to build sewage treatment systems over the past decade and one-half. We add another $18 billion to that commitment with the enactment of this bill. But we also begin the process of phasing out the construction grants program. During the phase down period, States will convert Federal grants into revolving loan programs so that Federal dollars can be recycled and will continue to protect the Nation's waters well into the future.

One controversial aspect of this legislation was the allocation formula for the construction grants program. In June of last year, when the Senate was considering this bill for the first time, I felt compelled to put together a coalition of members representing the Great Lakes States to protest the allocation formula that was included in the bill as reported by the Environment Committee.

The formula was grossly unfair to the Great Lakes States and would have threatened our efforts through the Water Quality Agreement of 1978, an international treaty with our closest friend in the community of nations, Canada, to restore and maintain the quality of the waters of this international treasure. I will have further comments on the Great Lakes at a later point in this statement, but for now let me simply say that I am very happy to tell the Senate tonight that the Senate provision on the construction grants allocation formula did not prevail in the conference.

The Senate was thoroughly whipped in the conference. We were so badly defeated, in fact, that my colleagues from the Great Lakes will be able to go home to their constituents and boast about this failure of the Senate. Each State in our region will lose only a small amount of funding as against the current formula, but in no case will it be more than 1 percent of the current allocation. These lost funds, amounting to approximately $18 million across the whole Nation, will be sent to Texas in what is best characterized as a compromise with political reality.

There are several other provisions of this legislation which should be mentioned in any thorough summary of its features: the Clean Lakes Program is reauthorized and extended to problems of acid mitigation for lakes damaged by acid rain; the bill contains a provision prohibiting backsliding from effluent limitations in existing permits; there is a new estuary program and a program to further the efforts to clean up the Chesapeake Bay; and we have established a new role for

Indian tribes in achieving the goals and requirements of the Clean Water Act.

There are three major provisions of the legislation relating to nonprofit sources of pollution, stormwater discharges and the Great Lakes which I will discuss at length this evening. Before doing so, let me, if I may Mr. President, make brief comment on the anti-backsliding provision of this legislation. The purpose of the anti-backsliding amendment is to assure that we keep the improvements in water quality that have already been accomplished under the act. I have listened to the description of this provision provided by the distinguished Chairman of our Committee, Senator STAFFORD, and am in complete accord with the statement he has made. There are exceptions to the anti-backsliding requirement, both for permits based on best practicable judgments and those based on water quality standards. But even with the exceptions, the intent and effect of the legislation is clear. Except in extraordinary circumstances those improvements in water quality which have been achieved as a result of permits issued under the Clean Water Act will be maintained and other factors including improvements in water quality due to additional efforts under the act, the promulgation of different and less stringent effluent guidelines, or other unrelated causes, cannot be used as a justification to shutdown pollution control technology that is in place and operating to meet effluent limitations in existing permits.

NONPOINT SOURCE POLLUTION

The legislation we are reporting today establishes a new program under the Clean Water Act to require development of management programs to control nonpoint source pollution.

The new section 319 of the act requires each State, individually or in combination with adjoining States, to submit a proposed nonpoint source pollution management program to the Administrator of the Environmental Protection Agency within 18 months of enactment of this legislation. These State programs will have seven principal elements.

First, they will identify waters within the State which are not expected to attain water quality standards or the goals of the Clean Water Act without control of nonpoint sources of pollution.

Second, the State programs will designate categories, subcategories, or particular nonpoint sources that contribute significant pollution to those waters.

Third, the State programs will identify best management practices, so-called BMP's which will be undertaken to reduce pollution in each category or subcategory taking into account the impact of the proposed practice on ground water quality.

Fourth, the programs will include nonregulatory or regulatory measures for enforcement, technical and financial assistance, education, training, technology transfer, and demonstration projects to assist in the development and implementation of BMP's.

Fifth, the programs will include a schedule containing annual milestones for utilization of the measures identified and implementation of the BMP's identified at the earliest practicable date.

Sixth, the programs will contain assurances that existing State laws are adequate to carry out the proposed program or contain a stated intent to seek additional needed authority together with a proposed schedule.

And finally, the State programs will identify Federal financial assistance programs and Federal development projects to be reviewed by the State for their consistency with its proposed program.

The provision that adjoining States may develop proposed programs together is intended to promote cooperative actions among States to deal with water quality problems in downstream States when those problems are, in part, a result of nonpoint source loading in upstream States. Downstream water quality problems may result from transboundary delivery of pollutants that are not sufficient to cause identification of the water body by the upstream State, but which nonetheless contribute substantially to water quality problems in the downstream State. Until those upstream sources of nonpoint pollution are brought into the program, the nonpoint source pollution problem in the downstream State may not be adequately addressed, as no measure of control applied in the downstream State will affect the pollution in the upstream State. In such cases, the upstream State may have little incentive to incur program costs that will result in water quality benefits primarily to the downstream State. The Administrator is given the authority to provide extra funding for such interstate cooperative efforts under the provisions of this act.

A joint or cooperative management program may also be appropriate when the affected water body is shared by more than one State, for instance, an estuary lying in two or more States or a lake or river that forms the boundary between two States.

In the conference, the Senate agreed to a House provision which provides for convening an interstate management conference when nonpoint pollution in one State causes water quality problems in another. Such conference can be convened at the request of a State or by the Administrator acting on information which is available. If the conference reaches any agreement with respect to reducing nonpoint pollution in the upstream State, the program of that State shall be modified to reflect the provisions of the agreement.

This legislation requires each State to identify those waters within its boundaries which, after implementation of point source controls, will not attain or maintain water quality standards or the goals and requirements in the act without controlling nonpoint sources of pollution. The State need not demonstrate that the nonpoint sources of pollution are the sole cause for the water quality standards are not being attained or maintained. The fact that the standards are not likely to be attained or maintained under existing conditions in the reasonably near future, and that there are loadings of pollutants from nonpoint sources of pollution that can reasonably be expected to be contributing to the water quality problems, should suffice for a State to identify such water under this act. In identifying such waters, the State should not focus only on the immediately adjacent waters to nonpoint sources, but also consider downstream segments, lakes, and other water bodies where such pollutants may accumulate and cause water degradation.

The reference both to water quality standards and to the goals and requirements of the Clean Water Act arises from the fact that not all water quality standards yet reflect the act's goals and requirements. In such cases, identification and control of nonpoint sources can contribute to improvement in water quality and upgrading of water quality standards.

In reference to specific nonpoint sources under section 319 the term "significant" is inserted to exclude trivial sources of pollutants or sources of pollutants which are not related to the water quality problems identified by the State program. The term "categories" in this subsection could include sources such as cropland, rangeland, pastureland, forestland, construction sites, industrial sites, mines, residential areas, streets, roads, highways, other developed land, and wild areas. Within each of these categories, subcategories can be defined on the basis of characteristics such as geographical location, type of activity, size of facility, topography, and other factors. The State has broad discretion to establish categories and subcategories that may be useful in terms of the types of nonpoint source pollution problems and the program that the State will implement to control them. However, the categorization must be sufficiently comprehensive to include all significant sources.

Particular nonpoint sources as referenced in this section could be identi-

fied when they, in and of themselves, are significant contributors of pollutants, or in some way are sufficiently unique that they cannot reasonably be included in one of the categories or subcategories.

The term best management practices is left undefined in this bill because of a concern that any definition would limit the States' flexibility and perhaps undercut existing programs in which best management practices have been identified, including conservation tillage, grassed waterways, cover crops, undisturbed field perimeters near waterways, and terracing. The selection of the appropriate BMP's in a particular instance would depend upon soil type, topography, desired crop, costs of implementation, and other factors. Simple and cost-free changes in agricultural practices, such as careful scheduling and application of fertilizer and pesticides, may reduce runoff of these pollutants thereby resulting in cost savings to the farmer.

Best management practices have also been identified for reducing runoff from urban areas including storm water containment structures construction areas including erosion barriers such as straw bales and dikes silviculture areas including careful road placement, culverting, grassing of abandoned roads and skid trails and grazing lands including herd and vegetation management.

States are required to consider the impact of management practices on ground water quality. Because of the intimate hydrologic relationship that often exists between surface and ground water, it is possible that measures taken to reduce runoff of surface water containing contaminants may increase transport of these contaminants to ground water. The State should be aware of this possibility when defining beat management practices especially in aquifer recharge areas.

Mr. President, this legislation allows a State great flexibility to design a management program containing regulatory or nonregulatory components, or a mixture of the two. The list of possible program elements is not intended to be exclusive. It is expected that States will differ in the program strategies they adopt. However, a State program must have a clear purpose which is to achieve implementation of best management practices by the identified sources as soon as practicable so as to reduce nonpoint pollutant loadings and improve water quality within that State. The State is expected to demonstrate that its management program will provide reasonable assurance that appropriate control measure will actually be adopted by the categories, subcategories and specific sources identified in the State's program. Further, the State is required to commit itself to a schedule containing milestones for implementation of BMP's by such source. This is a requirement that the State take responsibility for the effectiveness of its program in terms of implementing the best management practices by sources, as distinct from merely committing to carry out its identified program activities. The Administrator, in awarding subsequent program grants must consider the State's record in meeting these commitments and determine that the State is satisfactory implementing its program.

Milestones for both program implementation and the implementation of best management practices by sources must be established to provide for implementation at the earliest practicable date. This requirement reflects the importance of the nonpoint source pollution problem and is intended to demonstrate congressional intent that BMP's be implemented expeditiously. Consistent with this general requirement, States may establish different milestones for different categories of sources. No single date or statutory schedule is included in order to allow the State to take account of variations in the number and types of sources and pollutant reductions. Similarly, different States may commit to different schedules based on characteristics of the Senate program.

In the new section 319, the term "as expeditiously as practicable" takes into account the current laws of the State or local governments and the schedule for meetings of the legislature, but indicates that, taking account of these factors, the needed authorities will be adopted as soon as possible.

The bill also vests authority with the States to identify Federal financial assistance programs and Federal development projects for which the State will review individual assistance applications and development projects for their effect on water quality to determine if they are consistent with the State's nonpoint source pollution management program.

This subsection is based on the provisions of Executive Order 12372. This Executive order, issued by President Reagan, replaces OMB Circular A-95 and establishes procedures by which State authorities may comment upon applications for Federal assistance and Federal development projects to assure that the federally supported activities and projects are consistent with State needs and objectives. This bill assures that the provisions of the Executive order, as in effect on September 17, 1983, will be applicable to the State's implementation of this review process, with respect to its nonpoint source management program, regardless of any subsequent revisions of the Executive order. The bill also allows States to designate any Federal assistance program or development project listed in the most recent Catalog of Federal Domestic Assistance, rather than just those programs and projects subject to the current Executive Order 12372. The purpose of this provision is to allow the State's to review any Federal program or project that the State determines needs to be reviewed for consistency with its nonpoint management program. This provision builds upon established procedures for State review of Federal activities. It will provide the States with an important tool to assure that proposed Federal assistance and development projects are implemented in a manner which the State deems consistent with its nonpoint source pollution management program.

In developing its program the States may use information developed under other pertinent sections of the Clean Water Act in the development of their programs, particularly the section 208(b) waste treatment management plans, if the State determines those plans to be consistent with the goals and objectives of this new section. States may also cooperate with local agencies or organizations in the development and implementation of their programs. This would include agencies receiving funding under section 205(j) of the Clean Water Act and soil conservation districts.

In many cases, information and institutional relationships developed under the section 208 planning process will be relevant to, and consistent with, the requirements and objectives of this bill. Many States relied upon regional organizations and the section 208 planning process to gather needed data about nonpoint source pollution and to promote local and regional cooperative pollution control efforts. The States are encouraged to build upon these program elements in constructing the program required by this bill. However, the bill does not require the use of section 208 plans or local agencies and organizations because some State programs have evolved well beyond the section 208 planning effort, and also because some States gave inadequate or inappropriate attention to nonpoint sources in their 208 plans. In any case, the State has the flexibility to select the program elements that will most effectively fulfill the requirements and objectives of this bill.

The States are authorized to develop their programs on a watershed-by-watershed basis as is appropriate in a program that focuses on water bodies or segments which are not meeting water quality standards. However, this provision should not result in fragmented programs farmed out to local agencies or organizations. We are establishing State programs in this section and expect central, policy-setting direction from the States in imple-

menting this program. In that regard, Mr. President, I would highlight a significant difference between the House and Senate bills. The House bill would have allowed the States to develop narrow programs for particular watersheds or categories of nonpoint pollution and satisfy the requirements of the legislation. The Senate bill included a broader scope—a full scope—including all water bodies within a State exhibiting nonpoint problems and all categories and subcategories contributing to those problems. The conference adopted the Senate approach.

As with any cooperative Federal-State program this legislation includes procedures for review and approval of the State program. The Administrator shall decide whether to approve or disapprove a State program within a 6-month period after it is received. If the Administrator determines that it does not comply with the requirements of this act, he must notify the State of any modifications necessary to obtain approval. The State is then given 3 additional months to submit a revised program, to be approved or disapproved by the Administrator. If the Administrator determines that a State management program meets certain requirements he will approve the program. Under the Senate legislation the Administrator was to examine the State program to assure that the seven elements which I described earlier are included. Under the House legislation the Administrator was also required to determine that the State program would meet the goals and requirements of the Clean Water Act, would improve water quality within the State, would reduce pollutant loadings from nonpoint sources and that there would be sufficient resources and authority at the State level to implement the program. The conference report adopts both the House and Senate criteria for reviewing and approving or disapproving State programs.

If the Administrator fails either to approve or request modification of a submitted State program within 6 months of receipt, the program is deemed to be approved. Likewise, if the Administrator fails to approve or disapprove a program revised at his request within 3 months of receipt, such a revised program is deemed to be approved. This provision is intended to assure that implementation of programs to control nonpoint sources of pollution are not delayed because of inaction on the part of the Administrator.

In determining whether the proposed program meets the requirements and objectives of the Clean Water Act, the Administrator should take into account any public comments he has received, including those of downstream States that may be affected by the program. The Administrator's review should involve considerably more than a checklist of required program elements. Under the legislation reported by the conference, the Administrator must review submitted programs in light of the goals of the Clean Water Act and the purpose of this new section which is to achieve reduction of nonpoint source pollutant loadings by the implementation of best management practices by sources and to do so at the earliest practicable date. Before approving the program and awarding Federal grants to support its implementation, the Administrator must be persuaded that the program is capable of meeting the objectives.

If a State fails to submit a nonpoint source management program consistent with the new section 319, the Administrator is to carry out some requirements of the act on behalf of that State. The Administrator is thus required to identify waters within the noncomplying State exhibiting nonpoint pollution problems and designate categories or subcategories of significant contributors to that pollution. Any actions of the Administrator pursuant to this subsection shall be reported to Congress.

Subsection (h), (i), and (j) of the new section 319 authorize Federal grants to States to assist in implementing approved management programs and authorizes funds to be appropriated to the Environmental Protection Agency for the administration of this program. The Federal grants are not to exceed 60 percent of the costs of implementing the management program of any State. Non-Federal funds must be equal to at least 40 percent of the costs of each State program. This requirement will ensure adequate State financial involvement while providing necessary Federal financial assistance.

The Senate bill contained a formula for the distribution of the authorized funds. The House bill did not. The conference report deletes the legislated formula. The Administrator is to determine the apportionment of funds among the States according to the needs of the States reflected in reports on the extent of nonpoint pollution problems and the quality and promptness of State programs to control nonpoint sources.

The legislation provides financial incentives to States to implement programs that address particularly difficult nonpoint source pollution problems. In such cases, the environmental benefits from controlling the pollution may be large, but the State may be reluctant to devote a disproportionate amount of its program funds to such problems. The Administrator is expected to use the authorized funds to achieve more effectively the objectives and requirements of this act. Additional funding to States with particularly difficult problems will result in more expeditious implementation schedules and more rapid reduction in nonpoint source pollutant loadings.

Interstate nonpoint source pollution problems may be difficult because the program costs to control the pollution may accrue mostly to the State while the environmental benefits accrue mostly to another. In such cases, the Administrator may supply additional discretionary grants to the appropriate State, or may provide additional funding to a joint or cooperative interstate program.

In addition, these funds may be used to assess the relationship between nonpoint source pollution and ground water quality. The conference report includes a provision of the House amendment which authorizes the Administrator to makes grants to States with approved nonpoint programs to protect ground water resources from nonpoint sources of contamination.

The conference report provides that any funds not obligated in the fiscal year for which they were appropriated shall be reallotted among the States in the following fiscal year.

The new section 319 provides that States may use Federal funds authorized by this bill for financial assistance to persons only insofar as the assistance is related to costs of implementing demonstration projects. These Federal funds are not to be used as a general subsidy or for general cost sharing to support implementation of best management practices by persons. However, a State is not precluded from using or directing other funds for cost sharing or other incentive programs if it so chooses.

The term "demonstration projects" includes projects designed to educate persons about the application of best management practices and to demonstrate their feasibility and utility as well as research projects to establish the feasibility or cost effectiveness of best management practices.

Initial program grants are required to be awarded to States whose programs are approved by the Administrator. Subsequent grants can only be made if the Administrator so determines that the State is satisfactorily implementing its management program consistent with its commitments to schedules and milestones. This annual review and determination is important to assure that States are effectively implementing their programs and that Federal funds obligated under this section are being used to achieve the goals and requirements of this Clean Water Act.

The conference report authorizes four years of funding for the nonpoint program: $70 million for fiscal year 1987; $100 million for fiscal year 1988; $100 million for fiscal year 1989 and $130 million for fiscal year 1990. These funds are authorized to be appropri-

ated for grants to the several States pursuant to the provisions of this section and for the payment of salaries and expenses of the Environmental Protection Agency necessary to administer the Agency's obligations under this new section.

Additional funding for the program is provided through set asides of funds that the States would otherwise receive under title II of the Clean Water Act. One percent or $100,000 of the construction grant funds allocated to each State shall be used to develop and implement this new nonpoint pollution program. In addition, nonpoint source control efforts may be financed by the Governor's discretionary set aside which is 20 percent of the construction grants funds.

The conference agreement requires each State to submit an annual report to the Administrator on its progress in meeting the schedule of milestones in its program and reductions in nonpoint source polluant loading and improvements in water quality resulting from implementation of the management program.

The Administrator is required to transmit to the Office of Management and Budget and appropriate Federal agencies a list of the assistance programs and development projects which each State has identified for review pursuant to the authority of this bill. Beginning no later than 60 days thereafter each Federal agency is required to amend applicable regulations so that individual assistance applications and projects for the identified programs and development projects are submitted for State review. The appropriate agencies and departments of the Federal Government are required to accommodate, according to the requirements and definitions of Executive Order 12372, as in effect on September 17, 1983, concerns the State may express about consistency of assisted projects or activities with the State's Nonpoint Source Pollution Management Program.

The intent of this provision was explained partially in the comments I made a moment ago with respect to State responsibilities under this new section. Where the earlier subsection authorized the State to identify Federal programs and development projects for review, this subsection establishes the Federal responsibilities in response to such identifications by the States.

The purpose of the State review is to assure consistency of these Federal Activities with the State's Nonpoint Source Management Program. If the State expresses a concern about consistency, the Federal agency is required to accommodate the State's concerns according to the requirements and definitions of Executive Order 12372 as in effect on September 17, 1983. The intent, therefore, is not to invent new procedures for Federal/State coordination, but rather to incorporate existing procedures by reference in the Clean Water Act. This is an important provision because, without adequate State review, Federal activities over which the State has no direct authority could undercut its program and its water quality goals, possibly jeopardizing the State's ability to meet its program commitments under this section.

It is important that we clarify the meaning of the term "accommodate" in this context. It is a term of art. It means that any project proposed to be developed by a Federal agency or for which any person is seeking assistance must be in conformance with State views, policies, regulations, and laws. If a State objects to any aspect of a proposed project, then that aspect must be modified to reflect the view communicated by the State. Accommodate means modify to take into account concerns expressed by a State or local government in the review process so as to satisfy and remove those concerns.

The Administrator is to establish an information clearinghouse for information pertaining to the costs and relative efficiencies of best management practices and the relationship between water quality improvement and the implementation of various practices. The purpose of this provision is to promote information sharing among the States and to provide the basis for technical assistance to State programs.

The Administrator is required not later than January 1, 1990, to submit to Congress a report, based on information submitted by the States and such other information as appropriate, describing the management programs being implemented by the States and their experience in adhering to schedules and implementing best management practices. This report must also describe the amount and purpose of grants awarded under this program; identify the progress made in reducing pollutant loads and improving water quality; and indicate what further actions need to be taken to reduce nonpoint source pollution in the context of the program.

The purpose of this report is to give Congress the information it will need to determine whether the approach taken in this legislation is adequate. This report will document the progress made under this approach and will provide information that will help determine the necessity of future statutory revisions.

Mr. President, this new section 319 represents a first step in controlling pollution from nonpoint sources. We have been persuaded to take a path somewhat different from that taken for point sources. States are given flexibility to identify priorities. And based on commitments made in this legislative cycle, it is the expectation of the Congress that this program will result in a significant improvement in water quality and nationwide reductions in pollutant loadings from nonpoint sources. We will, of course, revisit this question in the next legislative cycle on the Clean Water Act. We will not find this program adequate, if real improvement in water quality has not occurred. We are not so much interested in elements of a State program as we are concerned with meeting the goals and objectives of the Clean Water Act.

The bill requires the Administrator to enter into agreements with the Secretaries of Agriculture, Interior, and Army and the heads of other appropriate departments and agencies to provide for the maximum utilization of other Federal laws and programs for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under section 208 of this act. This amendment would establish the same requirement in terms of management programs developed pursuant to the new section 319. Mr. President, I am especially interested in assuring that EPA and USDA make full use of the authority in this provision. Each year we spend hundreds of millions of dollars through USDA soil and water conservation programs. In the past, these soil conservation efforts have not given sufficient priority to improvements in water quality. It is the expectation of the conference that this provision will give rise to a memorandum of understanding between EPA and USDA which will significantly elevate the priority assigned to water quality protection in projects assisted by the USDA soil and water conservation programs.

As I said a moment ago, Mr. President, the Administrator is directed to reserve 1 percent of a State allocation under section 205(c) or $100,000, whichever is greater for purposes of carrying out the provisions of this nonpoint program in that State. The State may request the use of any amount of the amount reserved by the Administrator. If the State identifies an amount less than the full reserved amount but greater than $100,000, the State may use remaining reserved funds for other purposes under title II of the act. For example, the State would be able to use the funds for direct grants to municipalities for construction of treatment works. The Administrator may establish such administrative and procedural requirements as necessary to assure that funds available to States under this section and section 319 are properly coordinated. Further, the Administrator may require a single application for grants under this section and section 319.

Grants under section 205(j)(5) shall meet the Federal and non-Federal cost-sharing requirement set forth under section 319. In management of funds under this subsection, however, the Administrator shall not withhold any portion of funds to support special programs.

These funds are intended to be a supplement to the funds authorized by section 319, not to replace them. It is essential that adequate section 319 funds be appropriated in order to assure the development of a strong foundation of nonpoint management plans. In the event section 319 funds are not appropriated, the funds reserved under this subsection will permit modest nonpoint programs to be developed. However, the funds made available by this provision alone are too meager to support the level of program development that is needed to effectively and adequately manage nonpoint source pollution.

Mr. President, finally let me say that this new program to control nonpoint pollution is an addition to the Clean Water Act and not a substitute for the point source programs already in place under the act. As a nation we have made great progess in reducing the pollution of our surface waters. Much of the work that remains to be done is on the nonpoint side. And we begin that work here. But this is not an excuse to reduce the effort or relax the requirements on the point source side. Reductions in pollution already achieved through point source controls are to be maintained. Point sources not yet in compliance with the law are to be pursued. And on top of that effort we now have a nonpoint program that will bring us much closer to the goal of the Clean Water Act—to eliminate the discharge of pollutants into the Nation's waters.

STORMWATER RUNOFF

Runoff from municipal separate storm sewers and industrial sites contains significant volumes of both toxic and conventional pollutants. EPA's national urban runoff study found 63 toxic pollutants, including all 13 toxic metals, in the discharge from municipal separate storm sewers. Of these, lead, copper, and zinc were the most pervasive; EPA found these pollutants in at least 91 percent of its samples. The same study also estimated that municipal separate storm sewers discharge 10 times the total suspended solids that the Nation's secondary sewage treatment plants discharge.

Toxic and conventional stormwater contaminants may adversely affect public health, harm fish and other aquatic species, and prevent or retard water quality improvements even if the best available pollution controls are installed on other point sources.

The Federal Water Pollution Control Act of 1972 required all point sources, including stormwater dischargers, to apply for NPDES permits within 180 days of enactment by 1973. Despite this clear directive, EPA has failed to require most stormwater point sources to apply for permits which would control the pollutants in their discharge.

The conference bill therefore includes provisions which address industrial, municipal, and other stormwater point sources. I sponsored this provision because I believe that it is critical for the Environmental Protection Agency to begin addressing this serious environmental problem.

The bill establishes priorities, deadlines, and permit requirements for stormwater point sources. It affords municipal and nonindustrial dischargers some relief from the act's 1973 permit application deadline.

With respect to municipal separate storm sewers, the bill establishes three permitting priorities: First, those systems serving a population of 250,000 or more; second, those which contribute pollutants to a stream segment which does not attain or maintain a water quality standard; and third, those which are a significant contributor of pollutants to any waters of the United States. If a municipal separate storm sewer or storm sewer system meets any of these criteria, EPA or the State, where the State administers the NPDES Permit Program, must require the source to apply for a permit within 3 years of enactment. EPA or the State should use any available water quality or sampling data to determine whether the latter two criteria are met, and should require additional sampling as necessary to determine whether or not these criteria are met.

If a source is required to obtain a permit, EPA or the State must also act to issue or deny the permit application within 1 year of the application deadline. If no permit application is submitted by the deadline, or if the submitted application is denied, EPA or the State must commence immediate enforcement action against the discharger.

A permit for a municipal separate storm sewer may, where appropriate, be issued on a system or jurisdiction-wide basis for example, where all outfalls discharge to the same body of water. In writing any permit for a municipal separate storm sewer, EPA or the State should pay particular attention to the nature and uses of the drainage area and the location of any industrial facility, open dump, landfill, or hazardous waste treatment, storage, or disposal facility which may contribute pollutants to the discharge. Any such permit shall include a requirement to prohibit effectively nonstormwater discharges to municipal separate storm sewers. Any such nonstormwater discharges to municipal separate storm sewers are currently illegal under the act.

In addition, any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years from permit issuance and shall require controls to reduce the discharge of pollutants to the maximum extent practicable. Such controls include management practices, control techniques and systems, design and engineering methods, and such other provisions, as the Administrator determines appropriate for the control of pollutants in the stormwater discharge.

These requirements place EPA on an action program to control municipal separate storm sewers. Within 4 years of enactment or earlier if the water quality data warrants EPA shall commence control of storm sewer systems serving a population between 100,000 and 250,000. The latter provision reflects the continuing need to control these storm sewers, but gives EPA flexibility, in the first 4 years after enactment, to order its permitting priorities around those sources which are believed to be the most significant. However, it should be clear that storm sewer systems serving populations of 100,000 or less must be covered by the first round of permits where they contribute to water quality exceedance or significantly contribute pollutants to waters of the United States.

Finally, after October 1, 1992, all remaining, unpermitted stormwater point sources will return to current law status and will be required to obtain permits under section 402 of this act. Obviously, Congress will be taking another look at this whole question before and will be informed by the experience with stormwater controls which have been established under the provisions we adopt here.

EPA or the State, where appropriate should provide adequate opportunity for public participation in the development of any permit for a stormwater point source.

The bill also requires EPA to submit to Congress a study of any stormwater discharge or class of discharges which are not required to obtain a permit within the first 6 years of enactment. This study must determine, to the maximum extent practicable, the nature and extent of pollutants in such discharges and procedures and methods to control such discharges. This study will enable Congress to determine whether permitting of the remaining stormwater point sources should be expedited beyond the schedule provided in this bill.

GREAT LAKES

Mr. President, the Great Lakes are the heart of our continent. Over the last 200 years they have been the focal point for development of two great nations. They have been the source of food and drinking water. Today 26 million Americans drink water from the

Great Lakes. They are a mode of transportation. They are a reservoir of power and a vast resource for recreation and wildlife; 63 million Americans visit a park on the shores of the lakes each year.

All of these demands have taken their toll. The water quality of the lakes had declined sharply. Unfortunately, the natural unity of the lakes has been overlaid by a fragmentation of State and local governments that have been unable to organize people to protect what nature has provided.

In 1972 and again in 1978, the United States and Canada signed Great Lakes water quality agreements. These agreements require the United States and Canada to provide adequate wastewater treatment facilities for the sewered population on both sides of the border. Canada has met this requirement for 99 percent of its population. At last count, the United States was less than two-thirds of the way there.

In 1982 the General Accounting Office published a report on United States compliance with the Great Lakes Water Quality Agreement of 1978, an agreement with Canada that specifies detailed water pollution control goals. The report concluded that the United States is failing to meet its commitments, especially with respect to toxic chemicals and nonpoint source pollution. This is due in part to the absence of a comprehensive U.S. strategy to implement the Great Lakes Water Quality Agreement. We intend to correct that failing with this provision.

Mr. Presidsnt, the legislation reported by the conference contains at section 104 a new program to restore and maintain the quality of the waters in the Great Lakes. This program owes much to the work of the Senator from Wisconsin, Mr. KASTEN, and was sponsored in committee by the Senator from New York, Mr. MOYNIHAN, and myself.

The conference report contains a statement of purpose. The objective of this new provision of the Clean Water Act is to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978. The legislation establishes the Great Lakes National Program Office within the Environmental Protection Agency and specifies the duties and responsibilities of the program office.

The program office is to: Develop and implement action plans to carry out the duties of the United States under the Great Lakes Water Quality Agreement of 1978; establish a systemwide surveillance network; coordinate the activities of the Environmental Protection Agency with respect to the Great Lakes; and to work with other Federal agencies to achieve the objectives of the agreement.

The program office will develop a 5-year plan for reducing the amount of nutrients that enter into the Great Lakes and shall incorporate into that plan management programs for nonpoint sources of pollution developed pursuant to the new section 319 of this act.

The program office is to conduct a 5-year study of methods to remove toxic pollutants from the Great Lakes with emphasis on the removal of toxic pollutants from bottom sediments. Certain demonstration projects at specific sites are mentioned in the legislation. These projects are to be given high priority, but the Administrator is authorized to find other projects and this section is not a guarantee that those specific projects will be funded.

The annual budget submission of the Agency to the Congress is to include a line item for the Great Lakes Program Office. At the end of each fiscal year the Administrator is to submit to the Congress a comprehensive report on the achievements of the program office during the preceding fiscal year.

The conference substitute establishes a Great Lakes Research Office in the National Oceanic and Atmospheric Administration. The research office is to identify issues with respect to Great Lakes water quality on which research is needed and is to compile an inventory of ongoing research on those questions. The research office is to develop a comprehensive data base for the Great Lakes System and may conduct research and monitoring activities.

For each fiscal year the program office and the research office are to prepare a joint research program. The head of each Federal department, agency or instrumentality which is engaged in programs or activities which may have an impact on the quality of the Great Lakes shall submit an annual report to the Administrator of the Environmental Protection Agency with respect to those activities and their effect on compliance with the Great Lakes Water Quality Agreement of 1978.

The conference substitute provides an authorization to the Administrator of the Environmental Protection Agency of $11,000,000 for each of the fiscal years 1987 through 1991 to carry out the provisions of this section. Of the amounts appropriated, 40 percent is to be used by the program office to demonstrate the control and removal of toxic pollutants; 7 percent is to be used for nutrient monitoring; and 30 percent is to be transferred to the research office for its programs.

Mr. SIMPSON. Mr. President, I am pleased to support the reauthoriztion package of the Clean Water Act embodied in the conference report. Having been involved in the reauthorization process over the past 2 years, I have been impressed not only by the commitment of Senator CHAFEE, who ably led our work, but also by the willingness of both House and Senate conferees to work hard toward necessary compromises.

This year has been a landmark year for environmental legislation. We have seen the Senate pass a new Superfund, reauthorize the Clean Water Act, and pass an asbestos-in-schools bill. In addition, we have passed and the President has signed a reauthorization of the Safe Drinking Water Act.

I was pleased to be a member of the Clean Water Act conference committee and I trust the White House will sign this bill into law. We have made great progress in the past decade in cleaning up this Nation's streams and lakes. Many waters that were polluted years ago are now fishable and swimmable and we must continue to make diligent efforts to ensure that more lakes and streams are cleaned up and that the pristine waters we have in the West remain pristine.

Of course, the greatest compromise is that which the Congress has now struck with the White House: The administration has won its battle to phase out the predominant Federal role in financing construction grants. This is a major accomplishment on the part of the administration, and I believe it is in the national interest to move toward innovative financing mechanisms deriving their support, as far as possible, from the people who will benefit most directly from the new water treatment works. This bill does just that, and it does so while providing for proper adjustment for communities which may not have taken full advantage of the Federal aid available in the past.

The conference deleted several troublesome provisions, such as the section entitled "preservation of other rights" in the Senate bill, which could have led to some foreseeable as well as perhaps some unintended disruptions of the Nation's State-Federal partnership in water quality control and permitting. There are a number of very delicate yet critical questions concerning intergovernmental relations in water quality regulation, and I am pleased that the U.S. Supreme Court will take an opportunity in this term to wrestle with conflicting circuit court opinions concerning the laws applicable in cases where affected parties in downstream States are alleging harm from permitted discharges in upstream States. Along with other members of the Environment and Public Works Committee, I will anticipate and carefully examine the court's ultimate holding in International Paper versus Quelette, which is to be handed down early next year.

For the first time we have included a provision in the Clean Water Act re-

lated to "nonpoint" source pollution that comes from farm lands, timber operations, and other sources of runoff which are not considered "point" sources. All of us Western and Midwestern Senators worked extremely hard to ensure that we were not beginning a new full fledged regulatory program in this regard. Instead, we provided for a voluntary program were States may participate if they so desire. When States choose to participate in the nonpoint source program they will become eligible for grants to carry out nonpoint demonstration and education programs. If States do not choose to participate in the program the only penalty is the lack of Federal funds for nonpoint demonstration projects.

I believe some clarification is needed for a subsection in the nonpoint provision relating to interstate conferences. The statute allows downstream States to petition the EPA Administrator to convene a management conference of all States affected by pollution from nonpoint sources in another State. However, States are not required to participate in these management conferences. There is no penalty for not participating in such management conferences. If States do choose to participate in a management conference that the Administrator would convene, the States are not required to agree to any changes in their nonpoint source programs. If States do not agree to make changes in their nonpoint source programs, there is no penalty for this inattention of action.

The participation in interstate management conferences is totally voluntary, as are any agreements. The conferees discussed this provision at length and it was determined that management conferences would be provided as a vehicle for States to use in discussing pollution of a nonpoint nature that occurs in adjacent States. The statute is very clear that there is no "forcing mechanism," nor is there a provision for penalties for States that do not wish to participate or for States that participate but do not wish to make agreements with other States.

If a State chooses to reach an agreement with other States it is then expected that changes in that State's nonpoint pollution plan will reflect those agreements in the future. Where States are participating in a Federal nonpoint grant program, in no case will the grant moneys be withheld because a State refuses to participate in a mangement conference, or refuses to reach agreements with other States in such a management conference.

In addition, nothing in any agreements reached at a management conference shall supersede or abrogate rights to quantities of water which have been established by interstate water compacts, Supreme Court decrees or State water laws, nor shall these agreements apply to any pollution which is subject to the Colorado River Basin Salinity Control Act. This would include naturally occurring salts and other solids covered by the Colorado River Basin Salinity Control Act.

The nonpoint source pollution control program was formulated in such a manner that EPA would be granted great latitude in approving State management plans. Nonpoint pollution varies greatly from State-to-State and programs to control this pollution will also vary greatly. Therefore, EPA has the flexibility and authority to approve plans with varying complexity.

It should also be pointed out that the zero discharge goal listed under the Clean Water Act does not apply to nonpoint source pollution since this goal relates to point sources only.

This authorization of the Clean Water Act also contains provisions often referred to as antibacksliding sections. Deletion of House section 402(p)(2)(E) is not intended to prevent permittees that have a zero discharge limitation from successfully having their permits modified to allow discharges if it is found that the operation and maintenance costs of zero discharge were considered and rejected during guideline development as being excessive.

For example, if a general permit required reinjection of produced waters in an oil and gas operation and subsequent promulgated guidelines rejected this technology because its operation and maintenance costs are excessive, such general permits could then be modified based upon new information, such as the operation and maintenance costs. Similarly, if a general permit limitation had the practical effect of prohibiting discharges, such as compliance with overly stringent toxicity limitations on drilling fluids as subsequently promulgated guidelines establish less stringent limitations, this limit could be modified under the act.

The conferees also considered a series of issues related to the role of Indian tribes under the Clean Water Act. On the issue of authority under section 303, there are questions similar to those in the interstate arena, concerning the relationship between water quality standards and permitting by tribal governments and how they might be reconciled, where necessary, with those set by States. Our agreement includes direction to the Environmental Protection Agency to develop a mechanism for dispute resolution in this context, as well as a requirement that certain factors be explicitly included in the disposition of all situations requiring resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and Indian tribes on common bodies of water. The factors that must be considered, in addition to other relevant factors, include the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to such standards.

As a Senator most deeply involved in developing the conference report language in this area, I am convinced that a workable situation will result from the application of this provision. In addition to the specific factors to be included in the resolution of such cases—factors which I believe will provide assurance to States and citizens concerned with the effects of new authority being granted to tribal Government—we have provided that the mechanism be used to resolve "any unreasonable consequences" that may arise from differing water quality standards adopted by tribal governments. The term "any unreasonable consequences" is necessarily broad, and the intention of the conferees in including this term is to have the dispute resolution mechanism—which includes the specified factors—triggered by a low threshold. This will serve the interests of the tribal governments and others who share in the hope that the Indian tribes provisions in this legislation can be made to work well.

With regard to sections dealing with fundamentally different factors [FDF], I find it curious that the oil and gas industry is being subjected to FDF regularly approaches that are different in different EPA regions. For instance, EPA regions IX and X have issued general permits covering numerous offshore facilities which provide for the discharge of EPA approved muds and additives. While EPA regions IV and VI have also issued general permits, they reject this approach and require muds and additives to meet certain toxicity base limitations. The difference between these approaches is that one sets up an end-of-pipe numeric limitation whereas the other controls what can be put into the pipe and later discharged.

There are other differences between EPA regions as well. Drilling muds and additives are subject to high pressure and temperature conditions down hole and frequently pick up materials from geologic zones drilled through. The existence of these factors and their precise affect upon toxicity results is little known at the present time because of antagonistic and synergistic affects. So we can see that one operator could use certain drilling muds and additives and find out weeks later that his discharge violated the end-of-pipe numeric limits whereas a second operator could use the very same drilling fluids and additives and satisfy the

same limit because of different underground conditions.

My hope is that EPA will correct this unfairness and adopt a logical, consistent, and common sense approach to regulating the discharges such as the approach being implemented by regions IX and X. I know of no persuasive reason why this should not be pursued by other EPA regions or why it should not be an essential element of EPA's soon to be promulgated effluent guidelines for this industry.

With regard to the intent of section 306(c), it appears that subsection (1) excludes from the provisions of 40 CFR, part 418, four facilities located in Louisiana. Subsection (2) requires that EPA expeditiously, but not later than 180 days after the effective date, issue permits based on best professional judgment under section 402(a) of the act for these facilities. If EPA decides, after the date of enactment, to promulgate new effluent limitations guidelines for the facilities subject to the provisions of subsections (1) and (2) the BPJ permits will remain in effect until issuance of new permits under the new effluent limitations guidelines.

In conclusion, I would like to thank my fine friend and dogged worker, Senator CHAFEE for his fine efforts during the Clean Water Act conference. I would also like to thank the very capable Senator BENTSEN for his role in the conference as well. Without the efforts of these two hard working Senators we would not be considering this conference report today.

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

Mr. STAFFORD. I am glad to yield to the Senator from South Dakota.

Mr. ABDNOR. I thank the Senator for yielding.

INDIAN TRIBES AMENDMENT

Mr. HART. Mr. President, I would like to engage several of my distinguished colleagues, including the chairman of the Clean Water Conference Committee, in a discussion of the amendments to this bill intended to help Indian tribes address their water quality problems. There is an urgent need for attention and assistance directed toward correcting problems which exist on a significant number of Indian reservations regarding insufficient sewage treatment works and lack of capability to implement programs to protect water quality. Indian tribes, by reason of their inherent sovereignty, have always had the legal authority to protect their reservation environments but have never truly had access to much needed technical assistance and program funding from the Environmental Protection Agency under the statute to effectuate this authority. This amendment is intended to integrate tribal and village governments within the programs of the act so that Indian and native waters will receive the same protection which is afforded non-Indian waters. Mr. President, I think the United States has a trust responsibility to help the Indian people remedy water quality problems, and that was my primary interest in originally cosponsoring this amendment to the Clean Water Act. I know the Ute Mountain Ute Tribe in my own State of Colorado is very grateful for this much needed amendment and is looking forward to alleviating sewage problems and developing program capabilities in cooperation with the EPA.

Mr. CHAFEE. I agree with my able colleague that we do have such a responsibility to the Indian people and expect that the amendment will focus the efforts of EPA, the Indian Health Service, the Bureau of Indian Affairs and other relevant agencies in aiding Indian tribes and native villages to improve their sewage treatment facilities and to protect the quality of their waters.

Mr. ABDNOR. Mr. President, I believe that significant progress will be made toward these objectives by providing the EPA Administrator the authority to treat Indian tribes as States under the act and to provide such tribes grant and contract assistance to carry out functions provided by this title. The EPA is also given discretion to find an alternative means of meeting the purposes of the act if treating a tribe as a State would be inappropriate. Moreover, consistent with the policy of Indian self-determination, the EPA should encourage the tribes, particularly in the area of construction of waste water facilities, to do as much of the work as is practicable on their own or under contract with the EPA.

The Indian sewage assessment required of EPA will serve as an important foundation of information for determining assistance priorities and charting progress. This survey is to be a thorough accounting of sewage problems for each Indian reservation or community.

Mr. BURDICK. As another of the original cosponsors of these amendments, I believe one of the principal ways in which problems will be effectively addressed is through the provision of grants to tribes to implement the requirements of the act. I want to underscore the fact that the administration is not restricted to matching grants in the case of Indian tribes. The tribes I represent in North Dakota could not afford to develop these problems if they were required to provide matching funds.

Mr. CHAFEE. I thank the Senator from North Dakota for making this point. The conferees recognized that many tribal governments, unlike State governments, do not yet have a regulatory program base, an underlying financial and budgetary foundation or a supporting tax infrastructure which could be used in cost-sharing on these programs. Furthermore, funding assistance priorities should be established according to the severity of the problems identified in the EPA survey.

Mr. BURDICK. Another key aspect of these amendments is the earmarking of construction grants for use by Indian tribes to improve the operation of their sewage systems. One-half percent of these funds are set aside for this purpose.

Mr. CHAFEE. I thank the Senator from North Dakota for his comments and join with him and Senators HART, ABDNOR, and ARMSTRONG in expressing strong interest in seeing that these amendments result in improved water quality for Indian tribes.

Mr. ABDNOR. Mr. President, I also wish to commend Senator MITCHELL and Senator BENTSEN, the distinguished ranking minority members of the subcommittee and full committee, respectively, for their tireless efforts in bringing about this excellent conference agreement. They, too, deserve our thanks.

Mr. President, I rise in strong support of the conference report on S. 1128, the Clean Water Act Amendments of 1986.

As a member of the Committee on Environment and Public Works, I was pleased to participate in the development of this significant environmental legislation. Of special interest to me, and included in this conference report, are vital new provisions to address nonpoint source pollution and water pollution problems on Indian lands.

Additionally, I remain committed to facilitating continued improvement in the quality of our Nation's waters through wastewater treatment grants. In my own State of South Dakota, these grants have proved invaluable to many of the larger communities' efforts to improve their water quality. With the 3-year extension of wastewater treatment grants contained in this conference report, at an authorization level of $2.4 billion per year, a number of South Dakota's smaller communities will now have the opportunity to make similar progress.

Mr. President, we would not be here today were it not for the efforts of the distinguished chairman of the Environmental Pollution Subcommittee, Senator CHAFEE. As the distinguished chairman of the full committee and others have stated, the Senator from Rhode Island is a valued member of our committee. We owe him a debt of gratitude for enabling us to reach this point.

In conclusion, I wish to express my strong support for this conference agreement. It is a balanced, fiscally sound approach to our Nation's water quality needs. I certainly hope Presi-

dent Reagan will agree that this legislation is indeed in the best interest of the American people, and will sign the Clean Water Act Amendments of 1986 at the earliest possible opportunity.

Mr. KENNEDY. Mr. President, I rise in support of S. 1128, the Water Quality Act of 1986. This bill will provide vital funding for communities to initiate and continue projects designed to combat pollution. In the past, insufficient money has been directed to antipollution construction and rehabilitation projects. With the enactment of this bill, communities across the country will have the resources to construct technologically advanced facilities that will address the growing problem of pollution facing cities and towns across our country.

I am especially pleased that the bill contains $100 million for the clean-up of the Boston Harbor. Few cities have a natural resource as magnificent as the harbor of Boston. It is a unique asset that has witnessed a significant part of the Nation's history. With its 180 miles of scenic shoreline, its 30 islands, and its thriving port facilities, it is a priceless economic and environmental treasure for the 3 million citizens of the area. As the city of Boston has prospered economically, the harbor has flourished too—but it has also been vulnerable to abuse and neglect. Today's antiquated sewerage facilities are inadequate to meet the demands of modern industrial and residential growth. The resulting pollution and decay has threatened the natural beauty of the harbor and jeopardized the prospects of future growth. For years, leaders in the city have recognized that a day of reckoning was imminent.

In 1977, I first introduced legislation to establish the Boston Harbor National Recreation Area, in order to revitalize the harbor and preserve it for the use and enjoyment of the public. In the years since then, we have moved closer to the goal of a harbor that is both economically prosperous and environmentally clean.

Now, with the new provision in the Clean Water Act, we have the chance to take another significant step. A clean, beautiful, prosperous harbor is within reach, with lasting benefits for Massachusetts, the Nation, and future generations.

Mr. HECHT. Mr. President, I voted in favor of the conference report on the Clean Water Act, although I have some misgivings about the provision relating to Indian tribes.

As I understand it, the conference report would give Indian tribes the status of States for purposes of setting water quality standards on waters that flow through both Indian and non-Indian land. This sounds good, but could lead to situations where a tribe might set an unreasonable standard in order to get leverage over a city on an unrelated matter, or to force a city to make water quality expenditures that would otherwise be considered unnecessary.

However, the conferees have assured me that the Administrator of EPA would settle any dispute between State and Indian tribe water quality standards, that the Administrator would take the economic consequences into account, and that he would not allow disputes over water quantity to cloud the water quality issue. Neither would the Administrator be expected to simply accept the more stringent of the Indian or State standard.

I further understand that any standard set by a tribe would be subject to judicial review, so a city or State that thought the tribe's standard was unfair, could challenge that standard in the courts.

With these assurances from the conferees, Mr. President, I feel comfortable supporting this measure.

Mrs. HAWKINS. Mr. President, I rise in strong support of the conference report on the Clean Water bill. This legislation is long overdue. The last major changes to the Clean Water Act occurred in 1981 and since then Congress has tried again and again, unsuccessfully, to pass further improvements to the act.

Absent of this reauthorization package, thousands of communities across the country will be unable to finance construction of secondary treatment facilities and will face State and Federal enforcement actions. We need this legislation to continue progress toward achieving fishable and swimmable water levels nationwide.

I am particularly pleased to note that section 317 of the conference agreement identifies Sarasota Bay for priority consideration under the National Estuary Program. This program is designed to identify nationally significant estuaries that are threatened by pollution, development, and overuse and to promote comprehensive planning for and conservation of such water bodies.

Sarasota Bay functions as the principal environmental resource in the Sarasota region. It is the centerpiece of Sarasota's $900 million economy. It contains a wide variety of seagrass and marine life. However, these precious resources are seriously threatened by point source discharges. The bay is a unique, shallow and slow moving estuarine system with little flushing. Pollutants are retained in larger quantities for longer periods of time, thus requiring more detailed management.

Existing sources of pollution in the bay are multifaceted: major urban development along the shoreline; nonpoint runoff from land development upstream; saltwater intrusion; sewage discharge; and boating use.

The management conferences established under the National Estuary Program would develop comprehensive conservation and management plans which recommend priority actions for the control of point and nonpoint sources of pollution in threatened estuarine systems. The conference report provides $12 million annually for these management conferences to conduct research, monitoring and modeling.

Estuaries are sensitive and diverse ecosystems. Their range of fish and wildlife species and their proximity to large urban areas provide numerous recreational and economic opportunities for millions of Americans. This conference report will provide better protection for these delicate resources.

Mr. WEICKER. Mr. President, I would like to take the opportunity to congratulate my colleagues on the Environment and Public Works Committee on their exhaustive efforts to reauthorize one of the most important environmental laws that Congress has ever contemplated. Mr. President, the dream of one day finding our Nation's lakes, streams, and estuaries clean and safe for all could not be realized without such legislation and efforts of the committee.

This bill is a significant renewal of our commitment to fight water pollution. $19.96 billion over the next 8 years is authorized with $3 billion committed for this fiscal year alone. In its traditional mission, a revision to the Sewer Construction Grants Program was agreed to. My own State of Connecticut will continue to receive over $29 million a year to construct treatment plants to protect the rivers of Connecticut from untreated sewage. Creation of construction revolving loan funds will allow funding of treatment plants throughout the country in the future.

With the reauthorization of the Clean Water Act, many new features have been incorporated into the program. For example, the Estuaries Program is established to address the pollution and health threat that is found within our Nation's estuaries. Within Connecticut, it has long been recognized that combined sewer overflows and failures to conduct a coordinated effort in studying and cleaning up Long Island Sound has led to a degradation of Connecticut's rivers and the sound and increased the risk to the States inhabitants. With the work of Senator CHAFEE and others, I feel that a significant step is being made today in focusing efforts on our Nation's estuaries.

Other provisions of the act are particularly noteworthy. This bill authorizes $400 million for a new, State-Federal program to control nonpoint source pollution—polluted runoff from the cities and rural areas of this country. Focus on this form of pollution is especially important since it is esti-

mated that half of all water pollution is from these nonpoint sources. Efforts to cleanup the Nation's lakes will receive $85 million within this reauthorization.

In closing, I would applaud my colleagues' efforts in producing this reauthorization. It is my hope that this bill will be rapidly signed into law to demonstrate congressional concerns for the environment of this country.

Mr. LAUTENBERG. Mr. President, I rise in support of the conference report on S. 1128, the Clean Water Act Amendments of 1986. This legislation, which the House passed by a vote of 408 to 0, is a significant step forward in protecting this Nation's waterways, and deserves our support today. And I commend the conferees for their hard work on this measure.

The bill is supported by environmentalists, water system construction companies, labor, and various industry groups. Unfortunately, however, as is the case with Superfund, there are indications from the White House that a veto may be forthcoming. The administration wrongly asserts that the bill's authorization for construction grants is excessive. These claims ignore the large tasks ahead for cleaning up this Nation's waterways and the fact that the $18 billion authorization is spread over a long period of time.

Mr. President, a veto would be out of step with the will of Congress and of the Nation, and I urge the President to sign this bill.

Indeed this is a nation committed to the principles embodied in this conference report. In the early 1970's the people of this country made a fundamental decision that they wanted a concerted effort to clean up the Nation's waters—waters that are used for fishing, swimming, recreation, and drinking water.

This decision was made because of our growing awareness of and concern about water pollution. News accounts told us about Lake Erie being "dead," the polluted Cuyahoga River in Ohio so filled with oil and debris that it caught fire, millions of gallons of raw wastewaters being dumped into the country's major rivers, such as the Hudson River, and many fish kills and oil spills.

The Congress responded by passing the Federal Water Pollution Control Act Amendments of 1972. This act established a goal—to restore and maintain the integrity of the Nation's waters—which captured the essence of the Nation's desire for clean water.

Mr. President, during the 13 years this act has been implemented, impressive strides have been made in cleaning up our Nation's waters. But much remains to be done. The Clean Water Act Amendments of 1986 include a number of provisions which address problems which are preventing us from achieving the goals of the Clean Water Act. The conference report also addresses a problem on which Congressman HOWARD and I have labored long and hard.

This legislation adopts a provision from a bill I introduced, S. 1838, and which Congressman HOWARD sponsored in the House, that prohibits new entrants from dumping sewage sludge at the 106-mile site, off the coast of New Jersey. This provision will clearly preclude any attempt by Boston to use this site. Although Boston had decided not to pursue this course of action, the court reviewing Boston's sewage disposal procedures had not spoken with finality on the question, and was apparently looking for some action from Congress on this question. Congress has indeed spoken, and Boston's plans, as well as those of any other municipality, to dump sludge off New Jersey's coasts are now clearly and unmistakably off limits.

Also of great importance is future funding for the Construction Grants Program. Since passage of the Clean Water Act in 1972, Federal, State and local sources have invested more than $56 billion in municipal wastewater treatment facilities resulting in the construction or improvement of approximately 3,500 treatment facilities. Properly running sewage treatment facilities are an essential component for cleaning up the Nation's waters. For example, sewage treatment plants in 1983 were removing 65 percent more of the two principal conventional pollutants—suspended solids and biological oxygen demand—than they were a decade earlier.

Yet it is clear that the existing Construction Grants Program is inadequate to meet remaining national needs. According to EPA, eligible construction needs through the year 2000 are $53 billion. Ineligible needs, those needs not eligible for Federal funding under the Clean Water Act, those needs not eligible for Federal funding under the Clean Water Act, are more than $50 billion. According to estimates, New Jersey alone has $4.5 billion in eligible funding needs. New Jersey only receives approximately $100 million per year in existing Federal construction grant funding. Therefore it is imperative that we implement a new method of financing sewage facilities. A creative framework, which had its origins in New Jersey, is the concept of revolving loans.

The Clean Water Act Amendments of 1986 adopted this concept and will move us closer to the goal of providing an adequate source of stable funding for sewage treatment facilities. S. 1128 would authorize $18 billion over 9 years of Federal sewer construction grants and loans. Under the bill, the Federal Government will gradually reduce categorical grants for sewage treatment facilities as it phases in a program of grants for States to capitalize State revolving loan funds.

These funds will provide the capital for municipal wastewater treatment facilities in the future. States can make low or no interest loans available to communities for construction of treatment facilities. As loans are repaid to the State revolving loan funds, the funds will be able to loan money to additional communities.

In addition, Mr. President, this bill will help spur the construction of needed sewerage facilities. In the case of municipalities which proceed to begin construction with their own funds, refinancing is permitted from a State revolving loan fund. Presently, most municipalities wait until it is their turn to receive Federal construction grant funding before they begin constructing needed facilities. This refinancing feature of the Revolving Loan Program would eliminate the disincentive for municipalities to move ahead quickly with construction that now exists with the grants program.

Municipalities are facing a 1988 deadline for installing sewage treatment facilities which provide secondary treatment. EPA has threatened to restrict development in municipalities which are not in compliance with the 1988 deadline. New Jersey imposed sewer bans in many municipalities and has warned others that they face such bans if the discharge from their sewerage plants will not comply with requirments of the Clean Water Act. The reimbursement provisions in the conference report to S. 1128 should stimulate cities to meet the 1988 deadline.

Under the bill, States will have to enact legislation to give a legal entity of the state the powers prescribed in the act. During consideration of S. 1128 in the Environmental Pollution Subcommittee, the committee agreed that this legal entity can be an existing or new State entity or agency. When the States enact legislation to implement State revolving loan funds, they will have the flexibility to determine how the fund will operate subject to the requirements of this provision of the Clean Water Act.

For example, States would be able to establish loan terms based on the financial needs of municipalities with easier loan terms available to poorer municipalities. States can decide to initiate their loan funds prior to fiscal year 1989, the year they are required to do so. When States enact revolving loan legislation, they can determine whether to begin using their construction grant funds to capitalize their revolving loan funds prior to fiscal year 1989 and if so, under what terms.

Mr. President, I believe that the revolving loan concept contained in the bill will provide a stable source of funding for the construction of sewerage facilities while providing states

with the flexibility to minimize the financial burden of these facilities on local municipalities.

The Clean Water Act amendments only slightly revised the allocation formula for construction grants. I would have preferred the Senate approach, which would have provided New Jersey with $15 million more in grant funds. But New Jersey stands to receive approximately the same amount it has been receiving—up to about $100 million—in such funds under the conference agreement.

The conference report to S. 1123 also includes S. 30, the Raw Sewage Abatement Act of 1985. This legislation, which I sponsored, limits the discharge of raw sewage by New York City. At the time I introduced this legislation, New York City was the only major municipality in the country which still discharged raw sewage and wastewater into surrounding waters, without preliminary treatment of its wastes. It did so because of the absence of sewage treatment facilities in two major drainage areas in New York City. Two court ordered deadlines to cease this practice were disregarded by the city.

The provision that I sponsored imposed a cap on raw sewage discharges from the drainage areas in New York City which were without treatment plants, if the city failed to meet the deadlines for achieving advanced preliminary treatment contained in its current consent decree. If these deadlines were met, the cap would be unnecessary because all raw sewage discharges will cease. If the city failed to meet these deadlines, a cap was to be imposed in the drainage area in violation of the decree. It was to stay in effect until the city brought the affected plant on-line and it operated successfully for 6 months.

The imposition of a cap on raw sewage discharges upon a violation of the consent decree in effect said to the city of New York, "You cannot continue to grow without restraint if you cannot treat your wastes."

Upon violation of the cap, the city would be subject to the enforcement provisions in section 309 of the Clean Water Act. These penalties would be addition to those provided for violation of the consent decree. They include tough civil and criminal penalties, and would enable EPA to seek a temporary or permanent injunction against the city, to bring civil actions against the city and to initiate criminal prosecution in cases of negligence or falsificaiton of records.

With the changes adopted in the conference report, to section 309 of the Clean Water Act, a violation of the cap imposed by this amendment could result in substantial penalities of up to $50,000 a day. A violation stemming from a criminal conviction could lead to imprisonment.

Finally, Mr. President, the legislation states that it is the sense of the Congress that EPA should not extend the deadlines in the city's existing consent decree any further.

I am pleased to note that following the adoption of my amendment, New York City come into compliance with court-ordered schedules for construction of its North River and Red Hook sewage facilities. North River is currently on schedule to attain secondary treatment by 1991. Red Hook is on schedule to attain primary treatment by 1989. While Red Hook is on schedule, the fact that it is not operational means that discharge of raw sewage into the East River still continues. This legislation will ensure that New York's facilities stay on present compliance schedules, with no more extensions, and move us toward eliminating the dumping of raw sewage in the waterways of New York and New Jersey.

New Jersey has had its share of water quality problems. But not one New Jersey municipality is discharging raw sewage. Treatment plants in northern New Jersey are all achieving advanced preliminary treatment, and the major plants serving northern New Jersey are achieving secondary treatment.

The New Jersey Department of Environmental Protection has imposed numerous sewer hookup bans in a number of New Jersey municipalities to improve compliance with the Clean Water Act. Several communities may finance the upgrading of their sewage treatment plants to secondary treatment without any Federal or State aid. In some cases, the Department of Environmental Protection in New Jersey required private sector parties to contribute to local efforts to upgrade sewage treatment facilities as the price of securing a sewer hookup permit and proceeding with planned development.

Mr. President, New Jersey and New York do not need to grow at each others' expense. Regional growth is good for both States. By the same token, Mr. President, this growth should be accompanied by appropriate environmental protection. It must not come at the expense of the environment. It must not come at the expense of New Jerseys tourist and commercial and recreational fishing industries.

Mr. President, these provisions in the conference report on S. 1128 will provide strong incentives for New York City to keep complying with its consent decree and bring its sewage treatment plants on line as quickly as possible.

The conference report on S. 1123 contains a number of other provisions which will strengthen this Nation's effort to clean up its water. These include:

Establishing a new program for cleaning up toxic "hot spots"—waters that will not meet water quality goals even after industrial dischargers have installed the best available cleanup technologies required under existing law;

Requiring States to develop plans for combating nonpoint source pollution, such as polluted runoff from city streets and farmland. Conferees agreed on a $400 million authorization to help States implement the plan;

Restricting the use of fundamentally different factor waivers from national discharge standards;

Prohibiting, except in certain narrowly defined circumstances, so-called "backsliding," or weakening of cleanup standards when industrial and municipal discharge permits are renewed or reissued;

Establishing a national estuary program to solve pollution problems in interstate estuaries such as Delaware Bay and the Hudson-Raritan estuary;

Requiring EPA to establish toxic contaminant criteria for sewage sludge use and disposal and to establish a public health and environmental protection basis for these criteria;

Authorizing a total of $85 million for lake water quality activities, including $30 million for the Clean Lakes Program and $15 million for acid mitigation projects; and

Retaining the existing law's requirement that discharge permits be renewed every 5 years. The House bill would have extended the permit term to 10 years for certain discharges.

Mr. President, I believe that enactment of the Clean Water Act Amendments of 1986 represents a positive step in the Nation's effort to clean up its water resources. Again, I commend the conferees that worked so hard to bring this bill to the floor. I urge the President to sign this bill.

Mr. STAFFORD. Mr. President, at this point I ask unanimous consent that the Senate recede from its disagreement to the amendment of the House to the title of the bill.

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

Mr. STAFFORD. Mr. President, I am prepared to yield back the remaining time on this side.

Mr. MITCHELL. Mr. President, I yield back the remainder of our time.

The PRESIDING OFFICER. All time has expired.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

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 Nevada [Mr. LAXALT] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho [Mr. SYMMS] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN] and the Senator from Colorado [Mr. HART] are necessarily absent.

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

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 347 Leg.]

YEAS—96

Abdnor	Garn	Melcher
Andrews	Goldwater	Metzenbaum
Armstrong	Gore	Mitchell
Baucus	Gorton	Moynihan
Bentsen	Gramm	Murkowski
Biden	Grassley	Nickles
Bingaman	Harkin	Nunn
Boren	Hatch	Packwood
Boschwitz	Hatfield	Pell
Bradley	Hawkins	Pressler
Broyhill	Hecht	Proxmire
Bumpers	Heflin	Pryor
Burdick	Heinz	Quayle
Byrd	Helms	Riegle
Chafee	Hollings	Rockefeller
Chiles	Humphrey	Roth
Cochran	Inouye	Rudman
Cohen	Johnston	Sarbanes
Cranston	Kassebaum	Sasser
D'Amato	Kasten	Simon
Danforth	Kennedy	Simpson
DeConcini	Kerry	Specter
Denton	Lautenberg	Stafford
Dixon	Leahy	Stennis
Dodd	Levin	Stevens
Dole	Long	Thurmond
Domenici	Lugar	Trible
Durenberger	Mathias	Wallop
Eagleton	Matsunaga	Warner
Evans	Mattingly	Weicker
Exon	McClure	Wilson
Ford	McConnell	Zorinsky

NAYS—0

NOT VOTING—4

Glenn	Laxalt
Hart	Symms

So the conference report was agreed to.

□ 1230

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. DOLE. May we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senators will take their seats. The Senate will be in order. Senators will cease conversations. The distinguished majority leader is recognized.

Mr. DOLE. Mr. President, if I could have the attention of my colleagues, I would like to make some statement on the program.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, the Senate is not yet in order.

The PRESIDING OFFICER. The Senate is not in order. The majority leader will not proceed until the Senate is in order. He has important announcements to make. We would like to hear about what the program is for the rest of the day.

The distinguished majority leader.

Mr. DOLE. Mr. President, first let me thank the managers of the bill which we just passed. That is another one off the laundry list we have before we can adjourn sine die. It is a major piece of legislation. It was disposed of in less than an hour. As I understand it, we are back on immigration.

The PRESIDING OFFICER. That is correct.

Mr. DOLE. I understand there will be a budget waiver vote on that hopefully almost immediately. Then if we can reach some time agreement on that, we would like to do that.

If not, I promised the distinguished Senator from Iowa that he would be recognized to offer a resolution and an up or down vote. I hope that will not take much debate. At least we will have the vote.

Then we will turn to the continuing resolution. I hope we might be able to complete that rather rapidly. There could be four or five amendments, and maybe more that would require votes. That would leave only the reconciliation package, the debt ceiling, and other matters that may come over, conference reports and maybe other wrap-up matters that we can obtain consent from both sides.

Again, I believe it is possible if we continue to work as we have done since 9 o'clock this morning to really be in a position to tell Members late this evening that we might get out of here tomorrow sometime.

I want to thank all my colleagues for their cooperation.

□ 1240

I sort of sense that people have decided that it is about time to leave. One thing we hope to determine before we do that, of course, is whether or not the Superfund legislation will be signed. Again I would encourage my friends to sign a letter that I have circulated. It would be very helpful.

Mr. HATCH. Will the Senator yield?

Mr. DOLE. I yield.

Mr. HATCH. Under certain circumstances with some of the amendments in disagreement, it may be that that will take a little longer than contemplated. I hope not. I hope we can resolve these difficulties. But the issues are important, as the majority leader suggested.

Mr. DOLE. Let me indicate, I have discussed one particular item with the Senator from Utah, Senator HATCH, and I know of his concern. I hope that can be resolved in a satisfactory way.

Mr. BYRD. Will the Senator yield?

Mr. DOLE. I am happy to yield.

Mr. BYRD. I wonder if we can get a time limitation on the resolution which Mr. HARKIN will call up which will provide for no amendments.

Mr. DOLE. I think last evening he was agreeable to 10 minutes.

I ask unanimous consent that when the resolution of Mr. HARKIN is called up there be 20 minutes, equally divided, with no amendments to be in order.

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

Mr. DOLE. I would guess that could be pretty much the same resolution that we had yesterday.

Mr. STAFFORD. Mr. President, while the Senators are here and the leaders are here, I hope we might know the disposition of the White House on the Superfund. I would hope it might be possible for this body to stay in session, possibly pro forma, long enough so that a pocket veto would not occur. I would volunteer to be one of those who would remain around here, if that becomes a necessity.

Mr. LEAHY. Will the Senator yield?

Mr. DOLE. I yield.

Mr. LEAHY. I join with my distinguished colleague from Vermont. The senior Senator from Vermont has put together not only a superb piece of legislation but a bipartisan package. I have signed a letter which he and Senator DOLE have circulated. I would hope that others, Democrat and Republican, would sign the same letter. Then we might be able to get the President to agree to go along with this legislation. If not, I, for one, am prepared to come back for a vote on the veto override.

Mr. EXON. Will the majority leader yield for a question on another important matter, while the senior Senator from Vermont is here? Where are we on the highway bill?

Mr. DOLE. We are in the middle of the road.

Mr. STAFFORD. If the majority leader will yield to me, Mr. President, we are about to meet with the conferees in the House once more on the highway bill. I see my colleague and able Senator from Texas, Senator BENTSEN, is here, and I would say that the two Houses are far apart. We are far apart on demonstration projects, the 85-percent minimum, highway beautification, and one other which escapes me at the moment.

The other one is the speed limits. We are having great difficulty making any progress in those areas.

Mr. EXON. I thank the Senator.

Mr. BENTSEN. We have had an overwhelming majority for the bill in the Senate. We have found that we are getting nowhere at all in the House. I am not at all hopeful.

IMMIGRATION REFORM AND CONTROL ACT OF 1986—CONFERENCE REPORT

Mr. DOLE. Mr. President, a parliamentary inquiry. What is the pending business?

The PRESIDING OFFICER. The motion to waive is the pending business.

Mr. DOLE. The budget waiver has been filed?

The PRESIDING OFFICER. It is pending.

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

The PRESIDING OFFICER. They have not been ordered.

Mr. DOLE. 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. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, we are about to have a vote on waiving the budget point of order. I want to be sure that everybody understands exactly what we are voting on here, not just technically what we are voting on, but what we are committing ourselves to.

Let me begin, Mr. President, by talking about the technical point of order.

The technical point of order here is a 303 point of order and it has to do with creating an entitlement in a year when no budget has been adopted.

The great wisdom of this point of order has been borne out many times in the last 20 years, as Congress has created entitlements in the future only to find when the future arrives that tremendous amounts of money have been obligated without anybody ever taking into account how they are going to pay for the program.

Mr. President, there is an additional point of order that may lie after the continuing resolution is passed if the adoption of this bill pushes us above the aggregate limits set out in the budget; that would be a 311 point of order, which would require 60 votes.

Were it not for the Long exception, there would be a third point of order and that point of order would be that this makes appropriations in a year for which no budget has been adopted.

We have come to a procedure which allows us to circumvent that. But I would ask my colleagues to take into account on this vote that a point of order would lie in 1988 on expenditures committed under this bill, but this bill would already be law. So by waiving the 303 point of order here we are committing ourselves not just to a new entitlement, but to new appropriations in 1988 and beyond.

What kind of money are we talking about here? What kind of decision are we making?

Let me remind my colleagues that we are under a binding constraint in the Gramm-Rudman-Hollings law that requires that the deficit be reduced to $108 billion next year and then reduced in three equal steps to zero in fiscal year 1991, calendar year 1990.

My purpose in asking for this vote is that if we waive this point of order and commit to move ahead with the immigration bill, which we may or may not choose to do, I want our colleagues to be on record. That way no one can come back next year or the year after and say, "Well, we cannot meet the targets of Gramm-Rudman because of the immigration bill."

I want everybody to be on record, if we waive this point of order today, that we know what we are committing to down the road, when a benefit has to be cut from some powerful interest group.

□ 1250

When people who are in need or who have entitlements are denied, or when some come forward and say we have to raise taxes because nobody anticipated what the immigration bill would cost, I want people on record as to where they stand on that issue.

Let me tell you how much money we are talking about, Mr. President. In the immigration bill, we have direct appropriations, appropriating on an authorization bill, of $4 billion in fiscal years 1988, 1989, and 1990; $4 billion in direct appropriations. We also have new entitlement programs which lie under the 303 point of order in addition to that.

In addition to both the new entitlement creation and direct appropriations made by this bill—appropriations that do not have to be contained in legislation adopted in fiscal years 1988, 1989, 1990, or 1991 in order for the taxpayers' money to be expended—in addition to the $4 billion of direct appropriations and the creation of new entitlements, we also have in this bill many actions that will lead to appropriations next year and through 1991 and in the future. In fact, we have had estimates on the cost of this bill overall, just in terms of the assumptions the bill makes—very conservative assumptions. The House bill was estimated to cost as much as $9 billion.

I submit, Mr. President, that we really do not know how much money we are talking about. We know this bill will legalize between 4 and 5 million people who are illegal aliens in the country today.

We are all familiar with the process it sets up, a process that means that if people were here prior to 1982—or can get a sufficient number of people to say they were here—then they move to become permanent resident aliens. Then, they are eligible for some forms of Medicaid, they are eligible for State and local welfare in the Federal portion of some of those programs. They are not initially eligible for AFDC, but they become eligible for AFDC.

However many people out of the initial 4 or 5 million are going to opt for those benefits, how much they are going to cost the taxpayers, I submit, Mr. President, nobody has the foggiest idea.

In addition to the 1982 legalization date, we are committing ourselves to one of the most bizarre proposals that I have ever seen in legislation adopted in my 8 years in Congress. I intend to debate this at great length as we debate the bill itself, but I have to allude to it here because it reflects on this budget figure. If someone worked in New Mexico or Texas or Arizona or California or anywhere else in agriculture only 90 days last year—just 90 days—they are eligible for permanent status. They move on track to become permanent resident aliens; they qualify for certain Medicaid benefits and certain State and local benefits on a faster track, then they ultimately qualify for AFDC.

I submit, Mr. President, that we have not the foggiest idea what that kind of amnesty is going to mean in terms of outlay on this bill. Now, so this is not the point at which I intend to have extended debate on these issues. I do intend to debate them at a later point because I think they are important. I realize that the odds of this bill passing and becoming law are overwhelming, but I am deeply concerned about it, and I think that Members of this body should hear full debate and they will.

The point of order that we will vote on here technically as a 303 point of order is a point of order that relates to new entitlements being created. Because of the Long exception, we are going to look the other way on $4 billion of appropriations in this bill over the next 4 years.

I ask my colleagues on this vote to realize that they are not just voting on this technical 303 point of order. This point of order may be the only one that we get an opportunity to vote on. What we are voting on here is, are we willing today to commit ourselves to waive the budget to commit a minimum of $4 billion in appropriations on this bill alone, without any other action on the part of the U.S. Congress in the future? Are we willing to create entitlements in the future, with

no clean-cut way of measuring what they are? And in addition, are we willing to say that under Gramm-Rudman over the next 4 years, we are going to cut domestic programs to pay for these things as 4 to 5 million people initially move to permanent resident alien status and qualify for some Medicaid benefits, some welfare benefits, and ultimately qualify for AFDC?

No one knows how much that is going to cost. I simply think it is important that we have a vote on waiving the Budget Act so that next year and the year after and the year after, when there are those who stand up and say we cannot meet the requirements of Gramm-Rudman because nobody ever knew what the immigration bill was going to cost, nobody ever told us, we will have it on the record.

Or when the time comes in the future to pay for this, are we going to have to cut the heart out of the family budget by raising taxes because, it will be said, nobody anticipated this, this was an act of the gods—I submit that it is not an act of the gods. It is an act that we are committing here today if we vote to waive 303 of the Budget Act.

I ask my colleagues to look at this bill. This is not a bill that we previously voted on. This is not just a bill that sets up blanket amnesty from 1982 on, no matter what you may think of that. I can assure you the American people do not support it. But this is a new and extraordinary bill that would move toward legalization of people who worked in this country for only 90 days—only 90 days. It has been a long time since I got married, but my guess is that there are some places where it is harder legally to get married than it is to move toward citizenship of this country and toward the benefits produced by the fruits of the labor of the working men and women in this country.

So when asked to vote for this waiver, Mr. President, I am giving people an opportunity to say here and now, whether we are willing to commit ourselves to billions of dollars of expenditures, knowing that under Gramm-Rudman, we will have to cut other benefits for citizens of the country?

Or are we committing ourselves to raise taxes on the working men and women of America as we set aside this budget waiver? I, therefore, ask my colleagues to vote not to waive section 303 of the Budget Act, to stand fast against this commitment of expenditures.

Mr. SIMPSON. Mr. President, I think that we should go to this vote. Senators heard the comments of Senator DOMENICI before. I share with my friend from Texas that I am perfectly willing to support a move to make these entitlement programs subject to the appropriations process. I am committed to that, but we are unable to do that in this conference report.

With that, the yeas and nays have been requested, Mr. President I think it appropriate that we go forward and vote on the waiver. I ask for that vote.

The PRESIDING OFFICER. Is there further debate? There being no further debate, the question is on agreeing to the motion to waive section 303 of the Budget Act.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Nevada [Mr. LAXALT] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho [Mr. SYMMS] would vote "nay".

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN] and the Senator from Colorado [Mr. HART] are necessarily absent.

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

The result was announced—yeas 75, nays 21, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—75

Andrews	Goldwater	Metzenbaum
Baucus	Gore	Moynihan
Bentsen	Gorton	Murkowski
Biden	Grassley	Nunn
Bingaman	Harkin	Packwood
Boren	Hatfield	Pell
Boschwitz	Hawkins	Proxmire
Bradley	Heinz	Pryor
Bumpers	Hollings	Quayle
Burdick	Inouye	Riegle
Byrd	Johnston	Rockefeller
Chafee	Kassebaum	Roth
Chiles	Kasten	Sarbanes
Cranston	Kennedy	Sasser
D'Amato	Kerry	Simon
Danforth	Lautenberg	Simpson
Dixon	Leahy	Specter
Dodd	Levin	Stafford
Dole	Long	Stennis
Domenici	Lugar	Stevens
Durenberger	Mathias	Thurmond
Eagleton	Matsunaga	Trible
Evans	Mattingly	Warner
Exon	McConnell	Weicker
Ford	Melcher	Wilson

NAYS—21

Abdnor	Garn	McClure
Armstrong	Gramm	Mitchell
Broyhill	Hatch	Nickles
Cochran	Hecht	Pressler
Cohen	Heflin	Rudman
DeConcini	Helms	Wallop
Denton	Humphrey	Zorinsky

NOT VOTING—4

Glenn	Laxalt
Hart	Symms

So the motion was agreed to.

□ 1320

If there is no further debate, the question is on the conference report.

Mr. GRAMM. Mr. President, I make a point of order: A quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the motion to waive the Budget Act was agreed to.

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

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, let me just make a brief statement.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, on October 14 of this year a conference committee of the House and Senate favorably reported a compromise version of the immigration bill.

This committee consisted in the House of Congressman RODINO, chairman of the House Judiciary Committee, Congressman HAMILTON FISH, Congressman MAZZOLI, Congressman LUNGREN, Congressman SCHUMER, Congressman PANETTA, Congressman BERMAN, and other five people who have been working diligently and with extraordinary effort toward resolving the issue of illegal immigration.

In the Senate, our fine and respected chairman, Senator THURMOND, was extraordinarily important in his role as chairman of the conference committee. It consisted of Chairman THURMOND, myself, Senator DENTON, Senator METZENBAUM, Senator KENNEDY, Senator MATHIAS, and Senator SIMON.

There were 31 House conferees and 7 of us from the Senate.

I can only assure you that a great many terribly tough issues were confronted there and tough issues were hammered out under the twin hammers of some pretty heavy debate and some spirited discussion.

All of the nine major issues were resolved by the members with dispatch. There were some 91 other differences where staff recommended changes and the members in most cases agreed to them.

The bill reported by the conference—and I assure my colleagues that this is correct—contained the same essential elements that had passed this body, this Senate in years past by a vote of 80 to 19, by a vote of 76 to 18, and by a vote of 69 to 30.

Those essential things are employer sanctions, meaning penalties against those who knowingly hire illegal undocumented persons, a secure system to determine worker eligibility in the United States, an increase in the enforcement resources of the Immigration and Naturalization Service and the border patrol and legalization.

Under this conference committee report the resources of the border

patrol will double together with assuring additional sums for the INS to perform their functions.

We provide a program for agriculture workers and a legalization program.

There were some issues indeed that I felt very strongly about, having worked in the area for so long, and yet I receded on certain segments along with the rest of my Senate conferees because of the strong feelings on the part of the House.

The House had some very strong feelings on extended voluntary departure. They receded there. Congressman JOE MOAKLEY presented his case magnificently and yet did not wish to slow the process of this bill and withdrew that subject to orderly processing of it next year.

Mr. RUDMAN assumed the chair.

Mr. SIMPSON. We have no cutoff date on employer sanctions. There is a legalization. That is very clear. The cutoff date for that was moved up to January 1, 1982.

Let me share with my colleagues that when we started this legislation in 1982, the legalization date was 1980. Now we have slipped the legalization date so that in this year, late 1986, the legalization date is January 1, 1982. I think that is quite fair and yet also more restrictive than what we started with. Because it is called legalization, or amnesty it seems to stick in the craw of Americans. I understand that. I do indeed, having grappled with this issue, as I say, an issue filled with emotion, fear, guilt, and racism.

But let me share with you that the alternative to legalization is to go hunt for them. If you couldn't find them coming in how do you find them to get them out? The alternative to legalization is deportation. And the only way you are going to find the persons to deport is to go find them.

And so I have often said to people who insist that this is a very treacherous thing, I say: Are you going to be part of the group that goes to a Mexican-American in Brownsville and taps on the door and says, "Are you deportable?"

I will skip that procedure. Because if that's what is demanded they can erase my name from this measure. Those that would not allow legalization know the alternative is deportation and hunting for them. That is what we would do. The hunt would be on. That is repugnant to me.

There were some other House provisions that were terribly troublesome to all of us. The House receded on them. The sunset on employer sanctions, extended voluntary departure, which as I said, was deleted. There are also some major provisions that this body has never considered before in as great a detail as we visited in conference.

Senator WILSON, Congressman PANETTA, and Congressman LUNGREN fashioned a proposal for temporary agricultural workers and then permanent resident aliens in agriculture. It grants temporary status to those who have performed 90 man-days of labor in agriculture alone during the previous 3 years in the United States—that must be 3 consecutive years—with the opportunity to convert to permanent residence after that time.

I think it would be interesting for you to know that Mexican nationals who come to the United States and obtain permanent resident alien status—which would then enable them to go into citizenship after 5 years—that the statistics of those who determined to go on to naturalize as U.S. citizens is between 5 and 12 percent. They do not go on to naturalize because they prefer to retain their citizenship of the United States of Mexico and yet have the full labor protection of working in the United States with a green card under permanent resident alien status. So I share that with you if you come to a concern about numbers, that through our history only 5 to 12 percent of these permanent resident aliens with 5 years or more already in toward citizenship ever go on to naturalize.

There is another provision that would create a new antidiscrimination agency in the Justice Department. It will be under the control of the Attorney General. The principal officer will be appointed by the President for a 4-year term. It would handle the issue of citizenship and national origin discrimination. It is very carefully tied down in the statement of managers to the effect that it is not to be a tool for harassment of employers. In no way will it be so. It is not a violation of the EEOC interpretation of title VII. The changes there do not open the door for additional expansion of discrimination based on sex or age or whatever it may be.

Neither of those provisions, I say, Mr. President, were something that I would have suggested or recommended, but it became quite apparent during the House and Senate conference consideration of this legislation that they were quite necessary for final passage.

So there is the package, Mr. President. I want to share with you that it is a work product of Congressman RODINO, who started with the issue in 1972, when he and the House passed employer sanctions without anything else, in an attempt to stop the exploitation of illegal, undocumented persons in the United States. Congressman RODINO and I were on the Select Commission on Immigration Refugee Policy. Senator MATHIAS, Senator DECONCINI, Senator KENNEDY, and myself served 2 years on that commission under the sterling leadership of a lovely friend father Ted Hesbergh of Notre Dame. This is the basic work product of it.

I share with you that there are things in here that cause me concern. There are things that caused the other conferees concern. But, on balance, you have the very absolute, quintessential essence of immigration reform. You have employer sanctions, strong penalties, verification, work authorization, legalization, increased enforcement, and protection of the employer and the employee.

So this is the presentation I make to you. This measure passed the House yesterday, the conference committee report, by a vote of 238 to 173; some 65 votes, having never enjoyed a margin before of that nature. All of the things that are centerpiece of immigration reform are in this bill.

The bill would so significantly improve the status quo with regard to illegal immigration that a failure to act, I think, would be a tragedy. And I am not obsessed by this legislation. I have lots to do around this place. If it should not go, I would wait again and see what we could do the next time. I shared that with my colleagues in the House. But I think this would be a sadly missed opportunity.

I talked to the President of the United States this morning—a marvelous half hour. He has been my greatest ally in this cause. Every time someone would lay the snares and traps, I would say, "I have to talk to the President." He was always there—perceptive, warm, responsive—saying, "We need immigration reform. I am committed to it. I am going to stick with you."

And so it was said again this morning with a condition that we clarify—and Congressman RODINO is doing that in the House at this moment—clarify exactly again what the conference committee determined with regard to the Frank amendment; that it is not a tool of harassment, that it is not something to put depression upon the hearts of the employers of America.

Let me share with you briefly what that is because I think it is very important. There is no intent under the Frank amendment—and I want to commend BARNEY FRANK—for he started with a very critically high spirited piece of legislation 2 years ago and, in the course of it all, he was courteous and understanding enough to watch us amend and yet keep many of the basic things that he wished and yet assure us all that this was not to be a tool of harassment and that it did not change the EEOC and its coverages. And so this is what we are doing. The statement of managers indicates it. The statute indicates it with regard to attorneys' fees, so that if there is a just defense, they are not burdened with attorneys' fees.

There is no intent whatever—and I emphasize this with the body—to permit the use of the special counsel provisions of the bill to harass employers; that is agricultural employers, business employers, or any others.

Let me review with you the statement of managers on this point.

The antidiscrimination provisions of this bill will only provide the broadened protection while the employer sanctions are in effect. It ties it tightly to sanctions. If the sanctions are repealed—and we have a sunset provision here where we can repeal this particular proposal—if they are repealed by joint resolution under expedited procedures the antidiscrimination provisions will also expire. That triggers the expiration because the justification then for that Frank provision will also have been removed.

□ 1340

The antidiscrimination provisions would also be repealed in the event of a joint resolution approving a GAO finding that the sanctions have resulted in no significant discrimination or that the administration of the antidiscrimination provisions has resulted in placing an unreasonable burden on employers.

With this provision we sought to make vividly clear that harassment litigation will not be tolerated. And there are some activist groups in the United States who I think have been off in the wings kind of slavering at the chops, waiting for their opportunity to go find a whole new crew of plaintiffs to begin a whole new exercise against employers in their national efforts. This is wholly discouraged. It will be the subject of the most careful oversight by myself, and by Congressman RODINO.

In this regard the conferees also expect that GAO would specifically inquire into the issue of whether antidiscrimination mechanisms and remedies are being utilized in a manner that is inconsistent with their original purpose, which is of course to guard against employment discrimination based on national origin or citizenship status.

The conferees wish to strongly emphasize that the antidiscrimination provision has been included solely in order to respond to the fears and concerns expressed by some that employer sanctions will result in employment discrimination based on national origin or citizenship status. Thus, this is all so very important.

The antidiscrimination provision does not in itself in any way set any precedent for the expansion of other title 7 priorities, or protections.

Furthermore, nothing in this bill shall prevent the use of language being a bona fide occupational qualification. If employers need only employees who speak English or Spanish, whatever it may be, or Danish that is not affected here.

This is a very narrow provision intended to address only employer sanctions, and not to provide this avenue for activist groups and organizations to harass employers with nuisance suits. We specifically address this possibility in the conference report by providing the sunset provision which would be triggered if the Frank amendment were to create an "unreasonable burden on employers." I want the Senate to hear that and to be very clear or that point.

I see my colleague from Ohio in the Chambers. My colleague from Ohio is on the floor presently. I want to inquire of my friend from Ohio who has served with me as a conferee in two separate conferences. I owe my friend a great deal of gratitude. He has followed the issue more closely than anyone could possibly follow it and not be a member of the subcommittee. The subcommittee consisted of myself, Senator KENNEDY, Senator GRASSLEY, Senator DENTON, and Senator SIMON. It has been a remarkable group to work with. Senator METZENBAUM I think has heard what I have just now been saying about the Frank amendment and the intent of what we were doing, and what we intended to do. And I would inquire as to whether what I have stated is also in full agreement with the understanding of the Senator from Ohio.

Mr. METZENBAUM. It certainly is the understanding. I do not know of any provision that was given more attention, and more time, or more negotiation and more fair consideration by parties on both sides in order to try to craft it in a fair way to all parties concerned.

I have heard the manager of the bill spell out exactly what he understands the antidiscrimination provision to mean, and I think that he reflected the views of all of those who are on that committee and certainly the views of the Senator from Ohio.

Mr. SIMPSON. I thank the Senator from Ohio. I again appreciate his extraordinary work in conference.

With that, Mr. President, I will not go on to say anything further. Asking Senator SIMPSON about immigration reform is like asking Noah about the flood. It may get a long response. So I would not want to get started up fully because the task has been a consuming one for some 6½ years.

It is a topic that has been before us, before Congressman RODINO and I, Congressman MAZZOLI, Congressman FISH. Senator KENNEDY has been most helpful. He has never been able to actually come to the final determination of support but he has been of most extraordinary assistance, and has been always gracious in dealing with the issue since he comes from a State that is just shredded with some of the problems of illegal immigration. I understand his position fully. He has been very accommodating, and very up front.

Senator GRASSLEY has just been an extraordinary sidekick on this issue all the way through.

Senator SIMON is a new member of the subcommittee and has taken it on with great vigor and interest. And Senator DENTON has been so very steady and helpful and has paid particular attention and followed it closely.

As we present that committee effort I cannot help but reflect and comment that Senator STROM THURMOND has been such a marvelous supporter and a most extraordinary proponent. He is the impeller behind me and he never let it sit still. He would often urge, "You have to keep it moving, and you must keep going." He always pressed me on.

Senator BYRD has also been remarkable in this instance. He has rendered me continual encouragement. I commend him for his continuing support.

My courageous and able majority leader has been in my corner from the beginning. He stayed the course. Arranging floor time, offering sage counsel, clearing the path. I owe him more than I can repay. Thanks to them all.

Mr. HATFIELD. Mr. President, I wish to call attention to provision under section 204 of the Immigration Reform and Control Act pertaining to State legalization impact assistance grants. This section not only creates a new entitlement program, but appropriates $1 billion for each of the fiscal years 1988 through 1991.

It is my intention to amend this provision in a subsequent appropriations measure to make this entitlement funding subject to the annual approprations process.

Mr. SIMPSON. I certainly understand concerns that State legalization impact assistance grants be subject to annual appropriations, and that this legislation be in compliance with the Budget Act. At the same time, I stress the President's commitment to sufficient funding for this legislation, and seek assurances that every effort will be made through the appropriation process to provide the amounts required.

Mr. HATFIELD. I wish to express my full support for providing necessary appropriations to fully implement this legislation, and will do all I can to ensure that sufficient funding is made available.

Mr. SIMPSON. With that assurance I thank the senior Senator from Oregon for his support, and assure him of my support for his efforts to make this program subject to annual appropriations.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I rise to support this piece of legislation which I think might more appropriately be called the ultimate patience bill because I do not think any piece of legislation in my time in the Senate has had more hours spent on it, more tedium, more negotiation, more conferences broken up and then reconvened, or more willingness on the part of the Members to give of themselves in order to bring about this piece of legislation.

I am sure that no immigrant, legal or otherwise, no agricultural employer, or any other kind of employer, no future citizen who is not now legally in this country, whose presence may be legalized by reason of this legislation, will ever appreciate the effort that has gone into crafting this piece of legislation. It is to my mind almost a miracle in happening.

Of course, the one man who has been the miraclemaker, in addition to those on the House side, has been the Senator from Wyoming, who I know from many other dealings with him—and I want him to pay attention to what I am saying—that he is not always so patient, is not always so relaxed, is not always that willing to negotiate, but in this instance you cannot believe how patient he was, how willing he was to work back and forth, how willing he was never to throw up his hands and say, well, that is it, I am walking out.

I think it is a real tribute to him that the House has now passed this bill; and barring any unforeseen developments, which I would not anticipate in view of the vote on the motion to waive the Budget Act, I think it will become law with the President's signature affixed to it.

It is a real tribute to ALAN SIMPSON, and he has a right to stand tall and proud because in addition to all other factors that must be considered we must recognize that this is not a special kind of Wyoming problem. My guess is that there are not 50 votes in Wyoming that are really concerned one way or the other about the passage of this particular piece of legislation, but it was an example of his perseverence, his dedication, and his willingness to work with a host of groups, each one of which had their own position to sell. And he listened to them all, and worked with them all. And he and Congressman RODINO, and so many others on the House side whom he has already mention, have brought about this legislative development.

It was an exceptional effort to craft a bill. In all candor it is not a perfect bill. If you were to ask me to draft a more perfect bill, I think I could do it. But that legislative process is a process of giving and taking. It is a process of compromise.

□ 1350

I stand before this body and say it is not a perfect bill, but it is a good bill, a very good bill under the circumstances. In my view, it is too generous to the Western growers. I think we gave away a lot of the whole ballpark. But that was the price of being able to finally have a bill, and I think the totality is worth far more than some of the component parts.

Political reality is that the growers demanded concessions, and the growers had many spokespersons who were on the conference committee and many in the House, some in the Senate, who were concerned about their problems. I find no fault with their looking out for those growers. But I say for one that I think we went too far. Having said that, I think it is the price we had to pay to get this bill.

I believe that the good provisions outweigh the bad provisions.

I believe in the last analysis, when all is said and done, the crux of the issue, the real issue, is the question of gaining control of our borders, gaining control of our borders so that you will not have, literally, hordes of people coming across in one part of our Nation while others strive so hard to be permitted to enter this country.

I remember when I was down on the Mexican border and I saw people walking across the border. I said, "Is this not incredible? We have people who want to come from other parts of the world who cannot come in. But here are people walking back and forth and you cannot do anything about it, except with employer sanctions."

For once, we will have employer sanctions in place, and they are tough employer sanctions. Those sanctions are a key part of the bill. Without it, I do not think the bill would be worth passing.

But you cannot have a policy of enforcing immigration control in this country unless you have some control over those employers that sign the paychecks for the illegal immigrants who want to work for them.

The bill provides amnesty for those who have been here since 1982. I think that is fair to them. I think it ensures a better quality of life. I think you can make an argument against it; you can make an argument for it. This is the compromise solution that we have been able to bring about which is in the bill, and I think it makes the bill a better bill by reason of it.

The strong antidiscrimination provisions which became one of the most controversial parts of the bill as I have already said were negotiated long and hard. They are in the bill. I think they are fair. I think the Senator from Wyoming has appropriately described those antidiscrimination provisions. I am satisfied that the fear of discrimination is not warranted because of the protections that are now in the bill.

I am frank to say, I am pleased that we have finally taken this step. I think it is a great day for the American people. I think that we have an obligation to do something about illegal immigration in this country. We have been talking about it and talking about it while more and more immigrants, illegal immigrants, poured across our border.

I think finally we are coming to grips with the problem.

Congress has faced up to the issue of controlling our borders in a fair and sensible way, and I hope that shortly we will get on about the job of passing this bill and send it to the President for his signature. It will be a job well done and we will all have a right to be very proud of our achievement.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me begin by saying that I share many of the opinions expressed. I have a very high regard for Senator SIMPSON and the others who worked on this bill. This is a difficult issue. It is an issue that is emotion charged. It is an issue that will have profound impact on the country. It tries to deal with a problem which is a problem of crisis proportion. And it is an issue that in some way affects all of us, not just economically and socially, but because we are all people who have sprung as children and grandchildren and great-grandchildren of immigrants. My grandfather came to this country right after the turn of the century from Germany. My wife's father came to this country as an indigenous laborer to the sugar plantations, and her grandmother came as a picture bride. So I can identify with people who want to come to America, and I am very blessed, in a sense, as are all the others who are here in this body and many millions in the country, because their grandparents and great-grandparents came before there were any legal bars to coming to America.

My concern about this bill is not a concern about the sincerity of those who have written it. My concern is not a concern about the crisis proportions of the problem we face. The immigration problem is one of the most perplexing, difficult, and important problems in the country. It is a problem of crisis proportion.

Anybody who would assert that there is no problem clearly does not understand the problem.

That is not what we are debating here today. The debate on this bill is not a debate as to whether or not there is an illegal immigration crisis. Nobody knowledgeable of the problem or in their right mind could debate that subject, at least on the side of saying there is not one. The questions that this debate really boils down to

and the questions that I intend to pose as we move to a vote on this bill, are these:

Is this the best bill that can be written? Is there reason to believe that given one more try we cannot do better? Is there reason to believe that our colleagues and, in fact, our employers, the people of America, have their feet set in concrete on the amnesty provision? Is there reason to believe that the people of America really want these amnesty provisions, that they are the price we must pay to try to gain control of our borders?

I hope there are some who are persuaded that the answer is no by what I will have to say here, and hopefully what others will have to say.

The question is, Is this the best we can do?

I hear my colleagues talking about years of work. I have been here for 8 years and I have witnessed that work and I honor it and I respect it. But it reminds me a little of an old theory of value in economics that came into vogue with John Stuart Mills and with David Ricardo. It was called the labor theory of value. The theory was the longer something was worked on, the more labor it embodied, the more valuable it was.

Well, Mr. President, that theory of value was rejected long, long ago.

I ask my colleagues, do not judge this bill based on your respect for the people who did the work. If that were the issue, I would be a proponent of this bill.

Do not judge this bill based on the number of years we have worked on it. That is an indication of how difficult the problem is and how important it is, and, I think, an argument that after all that work we ought not to settle for this bill.

I ask my colleagues to judge this bill based on whether or not it solves the problem; whether or not it is the best we can do.

I would like to begin by talking about the amnesty provisions of this bill.

When we voted on this bill, we had amnesty provisions that sought to deal with a very real problem. What do you do about people who came here illegally, who have been here a long time, who have put down roots, who have become part of the fabric of our society?

The distinguished Senator from Wyoming talks about the alternative being expelling people from the country.

Well, I submit, Mr. President, the question ought to be put more clearly than that. The question is, who has put down roots? How much have they become part of the fabric of society?

Nobody is saying, no matter how we resolve the immigration issue, that there are not going to be some people who came here illegally, who, judged on any kind of individual merit basis, should not be allowed to remain in the country. In fact, we pass private bills every year making people citizens who came here 20, 30, or 15 years ago, who subsequently have served in the Armed Forces with great valor in defense of the Republic. It happens all the time.

No one is proposing, and I would never propose, that there are not any people who came here illegally who, because of their individual merit, because of what they have done since they came here, ought to be given permanent legal status. That is not the question. The question is, how do we decide who gets to stay? Of the people who violated the law in coming, who are in violation of the law by being here, who should get legal sanction to remain in America? That is the question. That is what the whole legalization or amnesty question is about.

I submit, Mr. President, that that is an important question. It is important for a lot of reasons. One of the reasons it is important is, just as was true when my grandfather and when many of your grandfathers came to this country, America is still a giant magnet of opportunity that attracts people to come here because they want to share in what we have. Mostly, they want to share in our freedom.

I thought it would be instructive in this debate to get records from the Immigration and Naturalization Service on how many people as of now have applied to come to America, how many people would like to come here legally if they were given the opportunity. I thought my colleagues would be interested in knowing that as of January 1986, 1,903,475 people from all over the world have sought through the legitimate channels to come to America. Many will have to wait for years, to hope and pray for the opportunity of coming to America under established patterns of immigration; 1,903,475 people. When we pass a bill that sets out a policy for legalization or amnesty, we are saying to these 1,903,475 people that those people who broke the law in coming here, who are here in violation of the law, are going to be given preference and status over you. People who came here illegally and who have stayed here in violation of the law are going to be given benefits that over 1.9 million people who sought to do it the legal way, probably will never have an opportunity to have.

I believe we should not do that. We have to set some standard for people who are already here. Even if we could stop the hemorrhaging of our borders, with millions of people coming across illegally, even if we could deal with the incentives of people to come, we still have to decide what to do about the people who are here.

The question is, Who gets to stay? I could go through a long list of the people who want to come to America. Interestingly enough, there are 366,820 people from Mexico who would like to come to America legally. They are waiting all over Mexico for that opportunity to come. Should those who came illegally, should those who have been here only 90 days be given preference over 366,820 people who sought to come legally? I submit, Mr. President, that if we submitted that to the American people, not 5 percent of the population would say that somebody who came into this country illegally for 90 days last year should be given preference over 366,820 people from Mexico who have been waiting years for an opportunity to come legally, or that they should be given preference over 1.9 million people all over the world who are following the rules—people from Mexico, the Philippines, Korea, Mainland China, Vietnam, Taiwan, Jamaica, the Dominican Republic, Hong Kong, and Pakistan, and the list goes on and on.

Where is fairness? Where is fairness for those who want to abide by the law versus those who have broken the law?

We have heard, Mr. President, that we have to take these blanket amnesty provisions in order to get a bill. Let me first outline what they are. There is great confusion in this body as to what this bill does. We still hear much of the debate on the basis of the bill that was adopted in the Senate or on the basis of moving the legalization date to 1982.

I say to my colleagues that, in the old traditional Southern way of expressing these things, I have prayed over this issue long and hard. If we were simply debating a legalization date of 1980, which was the provision in the Senate bill, or 1982, which was in the House bill, it is very doubtful—and I submit to my colleagues that this is a very difficult issue for me as I know it is for many of you—but it is very doubtful that if the threshold for legalization were having been here since 1980, the vast majority of the American people would say that it was sufficient.

They would say that that is not sufficient when 1.9 million people have been waiting, in many cases for longer than that, to come legally. That is not sufficient to be put on a fast track to become a citizen. But if that is what we were choosing, my guess is I would swallow hard and accept it. But that is not what we are choosing.

We are choosing here one of the most absurd proposals I have ever heard. In fact, try as I may to understand it, I did not. Quite frankly and not in any way trying to impugn the motives of anyone, it is almost as if there were a poison pill to kill the bill, only nobody ever took the pill and we

are on the verge of seeing an absurd proposal become law. I ask my colleagues' indulgence to think through this proposal with me. Let me start with the best parts of it first, the most reasonable parts first. Then I want to get down to the ultimate absurdity in the proposal.

Under the bill, anyone who has been here since 1982 can qualify to become a temporary resident alien, can qualify immediately for certain Medicaid benefits, State and local welfare benefits with some Federal matching, and move toward the receipt of some AFDC benefits after the expiration of a period of time.

(Mr. CHAFEE assumed the chair.)

Mr. SIMPSON. Mr. President, may I ask my colleague if he will yield for a question?

Mr. GRAMM. I shall be happy to yield, but I would like to go through this whole point, because it is the crux of my argument.

Mr. SIMPSON. I could have come over and handed that note to you. There is a message. I shall forget the question. Then you can share the information with your friend [Mr. RUDMAN].

Mr. GRAMM. None of the numbers listed here would be in the ballpark.

Mr. SIMPSON. I see. I thank the Senator very much. I shall save the question for later.

Mr. GRAMM. Mr. President, let me begin with the most reasonable of these new proposals, then go to the most absurd. I ask my colleagues, do we really want to make this the law of the land? Let me start with the most reasonable.

An individual who has worked in agriculture illegally for at least 90 days in each of the last 3 years would be eligible for temporary residency that may be adjusted to permanent residency after 1 year.

□ 1410

A person who has worked in agriculture in the United States illegally for 90 days a year for the last 3 years would be made a temporary resident. That can be adjusted to a permanent resident alien after 1 year, and then that person is on a fast track toward potential receipt of public assistance and citizenship.

This is a substantial departure from the whole argument for amnesty. What is the argument for legalization? I listened to my distinguished colleague from Wyoming, and I am impressed and I am in agreement when he says you cannot just throw out people who have put roots down in America. You have to have some kind of legalization program for people who made a life here.

But who is going to argue that someone who worked in agriculture for at least 90 days for the last 3 years has put roots down in America? Who is going to argue that somebody who has worked in agriculture at least for 90 days illegally is part of the fabric of America? Who is going to argue that they ought to be given preference over 1.9 million people all over the world who dream of coming to America? Nobody would make that argument, nobody in America, or no substantial number of people in America would ever buy that argument, but that is the argument this bill makes. The bill does not ask have you been here since 1982? Not, have you put down roots? Not, have you become a productive member of society? Not, are you gainfully employed? Not, have you had children or gotten married or become part of mainstream America, as many of our parents and grandparents did. But, did you work here for 90 days a year for the last 3 years illegally? What part of mainstream America is that?

I submit to my colleagues that is the best part of the proposal. That is the best part of the proposal. Let me go to the next best part. The next best part begins to border on absurdity. We argue for an amnesty provision to protect the people who have come here illegally, but who become part of America, who put down roots. We are not going to go in and drag people out of their houses and send them back to a foreign land that they have long ago given up. Nobody is for that. I am adamantly opposed to it.

But what does this bill propose? This bill proposes that if last year, if in 1985, you worked illegally in this country for 90 days in agriculture—or you can get somebody to say you did—then you are given preference over 1.9 million people from all over the world who go to bed every night dreaming about coming to America. This bill says that if you violated the law for 90 days last year, or can get somebody to say you did, you are given preference over almost 2 million human beings, some of whom have waited decades to try to come to America.

Now, what is right about that? There is nothing right about that, and everybody in this body knows it. That is an absurd proposal—that because somebody violated the law for 90 days last year we are going to claim that they are part of the fabric of America. That somehow they are being uprooted because they are not going to be given preference over 2 million people, many of whom have waited decades to come and be part of the American dream. That is an absolute absurdity.

Now, this bill may have been worked on for 6 days or 6 months or 6 years or 60 years or 600 years, but I do not care how long it has been worked on; that is an absurd proposal, and if the American people knew that this proposal was in this bill it would be laughed out of the country and laughed out of this body.

But that is not the most absurd proposal.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Texas has the floor.

Mr. GRAMM. Now, Mr. President, I have spoken in very strong words about this proposal, about this 90-day citizenship, but it is not the most absurd part of this proposal. And I hope my colleagues will listen carefully to this one, because if this one does not turn your stomach, then I submit you have a different perspective on this bill than I do.

Mr. DOMENICI. Will the Senator yield?

Mr. GRAMM. I will be happy to yield.

Mr. DOMENICI. Before the Senator goes to the next point, will he tell the Senator from New Mexico—on the 90 days the Senator said they are given preference—will the Senator explain to me, what kind of rights do they receive and do they have any further responsibilities?

Mr. GRAMM. If they have been here for 90 days, then they are eligible to be temporary resident aliens, which may be adjusted to permanent resident aliens after they have been here for 2 years. That is a clear and distinct preference over the 1.9 million people who are waiting to get an opportunity to come to America.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. GRAMM. I want to make my third point because it fits into what I am trying to say.

Mr. KENNEDY. Just on this very point.

Mr. GRAMM. I will be happy to yield.

Mr. KENNEDY. Can the Seantor share with us, how long do they have to remain as a permanent resident alien before they can become a citizen?

Mr. GRAMM. They could become a permanent resident alien in 2 years.

Mr. KENNEDY. Then how long do they have to wait before they can become a citizen?

Mr. GRAMM. I was getting ready to answer the question.

Mr. KENNEDY. Can the Senator tell me now what it is?

Mr. GRAMM. They have to wait 4 years.

Mr. KENNEDY. Five years.

Mr. GRAMM. Five years.

Mr. KENNEDY. I thank the Senator.

Mr. GRAMM. But those 5 years they are here, they are permanent resident aliens. They are eligible for Medicaid, they are eligible for State and local welfare, and they have benefits that these 1.9 million people do not have. So the fact that they have to wait to become citizens for 5 years is largely irrelevant; they are in America.

And let me assure you there are people who come to America to vote but that is fairly low on the priority. Most people come here to get a job, to have freedom, to build a life, to educate their children. Yes, these people have to wait 5 years for citizenship, but so do the people who get the visa to come. They have to wait 5 years, too. So the point is an interesting one but an irrelevant one.

But I have not gotten to the most absurd proposal. I ask my colleagues to listen to this one. Because we anticipate that the people who were here 90 days last year working in agriculture who became temporary resident aliens and then permanent resident aliens and then citizens are going to move on to other jobs, this bill provides a replenishment program.

Because we anticipate that having been legalized, after having been here for 1 year, people are going to move on just like my grandparents did and many of your grandparents did, there is going to have to be a replenishment program for agriculture.

Now, how is this replenishment program going to work? Well, the replenishment program is going to work in the following way: Beginning in 1989, when the people who have come in under this 90-day agreement would qualify to stay if they left agriculture, people will be allowed to come into the country if they work at least 90 days in agriculture for the first 3 years that they enter, and then they are eligible to become permanent resident aliens.

Now, listen to this a minute. If a person comes in under this replenishment program and works 90 days a year for 3 years in agriculture, then they become permanent and they are here legally during that period.

Now, my colleagues, this is reminiscent to me of an indenture. In fact, maybe because of my history and my family's history, it reminds me of the conditions under which my wife's grandfather came to America. Those conditions were basically that the plantation paid for him to come and in return he worked a certain number of years. When they were up, he quit.

□ 1420

Do we really want to go back to indenture of labor in agriculture? Do we really want to go back to a program where people who come to America have to commit to work in a certain industry for a certain period of time?

I am absolutely amazed that people who otherwise support labor laws and guarantees which in some cases go beyond the stretch of the imagination or the limited scope of government are willing to support a proposal that says to somebody who comes to America: "You can come to America, but you don't have the freedom to say where you work. You have to come to America and for 3 years you have to work in agriculture for 90 days, and then you can get the ticket that everybody wants as a permanent resident alien."

Are we going to have physicians coming from Germany, who will say, "I'm willing to work in agriculture for 3 years to get to come to America. I have been waiting. I'm one of these people on this waiting list. I've been waiting for decades to come to America."

Nearly 2 million people have applied to come to America. People who have been here 90 days are going to be given what those people have been waiting a lifetime for. Most of those people waiting will never get it. But we will say: "Because we have the special replenishment program, we are going to let you come: if you work in agriculture for 90 days a year for 3 years, you can be an American like all the rest of us."

Mr. President, one thing I am proud of is that when my grandfather came to this country from Germany, he was an American like everybody else. Nobody told him: "You have to work in a certain industry for a certain number of years before we are going to make you a real American."

This proposal is an absolute outrage—an absolute outrage—that we are going to say that people in this Replenishment Program will come here and will have to work in a specific industry for 90 days a year, for 3 years, in order to be Americans like everybody else.

What we are going to have, I would guess, if it is available to people from other parts of the world, is that people will be writing us from Germany, England, Italy, Mainland China, and Vietnam, saying: "How do we get into this replenishment program? I happen to be a nuclear engineer. I have won a Nobel Prize in engineering, but I want to come to America. I am one of these 1.9 million people. People violated the law last year, and you are giving them what I'm dreaming of having. I have a Nobel Prize, but I'll pick the berries for 3 years, let me come to America."

How absurd is that proposal! I do not understand why that provision was ever adopted. I just cannot believe that anybody meant for that to become law. I have to believe that this was a poison bill that nobody ever swallowed.

I hear my colleagues talking about having been to the border. I assure you that I have been to the border. This year, I went to El Paso and walked up and down between those fences. There were holes cut in the fences, with people ready to dart across at any moment.

We are concerned about how to deal with the problem. Does anybody think this bill is the way to deal with the problem? I submit that it is not.

I ask my colleagues to look at this fact in determining whether or not this is the best we can do.

My point is this: I hear that we have to take these absurd provisions, that we have a replenishment program, that we have to let people who work illegally for 90 days qualify to be here permanently and ultimately to be citizens, because the support for amnesty is so great. I would like to know where it is. I do not see it.

In fact, on October 9, in the House of Representatives Mr. MCCOLLUM, of Florida, offered an amendment, and his amendment was not to simply strike these absurd provisions I have outlined here. That was not what his amendment was. His amendment was to strike the entire legalization program. His amendment was to strike the entire amnesty provisions of the bill.

Our colleagues on the conference tell us that we have to take these provisions or else we cannot have a bill. Well, how strongly did the House feel about it? Not just about the 90-day provision. Not just about the replenishment program, which would turn an iron stomach. That was not what his amendment was.

Out of the clear, blue sky, with nobody lobbying on it, no groups which would support it back home, Representative MCCOLLUM, on October 9, offered an amendment that said strike all the legalization provisions. In other words, nobody who came here illegally will have any status, no matter how deep their roots may be in America.

I do not support that policy. But do you know what the vote was in the House of Representatives on that policy, much less this absurdity that I have been outlining here? The vote in the House of Representatives was 192 Members saying: "Let's strike the whole amnesty provision. Let's strike the whole legalization provision." If somebody has been here 40 years, had five children, two of them died in Korea and one of them in Vietnam and one of them won the Congressional Medal, they would still have no status whatsoever. On a vote on the basic legalization program, 192 said no legalization program; 199 leave the bill as it is, and 41 did not vote.

I submit to my colleagues that that is hardly a great mandate for legalization, much less the kind of absurdity that we are talking about here.

I see no basis of support for these sweeping provisions. I do not believe the American people are in favor of it; and I know that the House of Representatives, by a vote of 192 to 199, with 41 Members not voting, a swing vote of 4, came to the verge of stripping the whole amnesty provision.

Mr. President, this brings me to the fundamental point I want to make, and it is a simple point.

□ 1430

There is no basis of support in this country for those broad sweeping amnesty provisions. Most Americans would heartily reject a blanket amnesty for anybody who has been here illegally since 1980. Most Americans would reject out of hand an absolute blanket amnesty for people who have been here illegally since 1982. Most Americans would reject as absurd providing permanent residency and amnesty for people who worked in agriculture for 90 days a year for the last 3 years. I do not know how many Americans would support——

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

Mr. GRAMM. I am happy to yield.

Mr. SIMPSON. As I recall during the debate on the floor of the Senate the last time I believe the Senator from Texas voted for the Wilson amendment which has a provision for temporary agricultural workers which in effect limited those workers to agriculture. Is that not correct?

Mr. GRAMM. I voted for the Wilson guest-worker program, that is correct.

Mr. SIMPSON. And that did limit those persons to agriculture only, a type of limitation without question binding them to the job?

Mr. GRAMM. Let me respond to that by saying, I voted for a guest-worker program that would have led up to a program that would have advertised in Mexico, that would have provided temporary employment and medical and housing guarantees for people who were willing to come on a seasonal basis and work in this country and then, under the supervision of the Department of Labor and the Department of Agriculture, when the work was done they were paid and they would go back to Mexico. That is certainly correct.

I see no inconsistency between that and the point that I have made here.

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

Mr. SIMON. Mr. President, will the Senator yield on that point?

Mr. GRAMM. Mr. President, reserving my right to the floor, I yield to the majority leader.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I hate to interrupt this very good discussion, and it is a good discussion. But we need to get on to the continuing resolution.

Much as I dislike setting this aside, I made a promise to the Senator from Iowa that if he would let us clear something early this morning, we would move to his resolution with 10 minutes on the side.

So I ask unanimous consent that we now go to the Harkin resolution.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. I wonder, if the majority leader will yield for a question: Could we incorporate that perhaps we will go to the continuing resolution immediately following the Harkin amendment?

Mr. DOLE. Right. We are going to the CR immediately following.

Mr. HATFIELD. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

The Senator from Kansas.

Mr. DOLE. As I understand there are 10 minutes on each side.

The PRESIDING OFFICER. The Senator is correct.

REPORT ON POSSIBLE NICARAGUAN INVOLVEMENT

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I have a joint resolution which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A joint resolution (S.J. Res. 429) to require a report by the President on possible involvement by U.S. Government personnel in the provision of military support by American citizens to the Nicaraguan democratic resistance.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, the joint resolution which I offer on behalf of myself and Senators KERRY and KENNEDY is very simple and direct.

My resolution adopted and signed into law would require the President by February 1, 1987, to transmit a report to Congress providing a full and complete accounting of all contacts, including advice, logistical support, and any other assistance to Eugene Hasenfus, Max Gomez, Wallace Sawyer, William Cooper, and all other private American citizens providing military support to the Contras or Nicaraguan democratic resistance.

I want to make it clear this joint resolution would not withhold any of the $100 million in aid that is in the continuing resolution. My resolution does not assign blame, nor does it declare this or that member of the administration provided support or assistance to the Contras and thus violated the law.

My joint resolution does require a full and complete disclosure of all contact, if any, with the United States Government personnel and members of the National Security Council and United States military group and United States Embassy in El Salvador, in the so-called private war in the Contra operation in Nicaragua.

Mr. President, I wish to make it clear that I understand that there will be investigations made into this by the appropriate intelligence committees and by the Foreign Relations Committees of both the House and Senate perhaps. But I believe that those investigations, of course, will be conducted basically on the staff level. It will be staff investigations.

Quite frankly, if you do not ask the right questions you do not get the right answers. That is why I think it is important for us to insist that the President make a full and complete report to Congress so that we can evaluate early next year whether or not any of the laws that were passed by Congress——

The PRESIDING OFFICER. The Senate is not in order.

The Senator is entitled to be heard.

The Senator from Iowa.

Mr. HARKIN. Thank you, Mr. President.

Because by having the administration report to us then we can really evaluate whether or not we have all the complete information that we need to assess whether or not any laws were broken.

I know that in the continuing resolution there is a provision for $100 million for aid to the Contras. My position opposed to that is quite clear. However, Congress has spoken and that I assume will go through.

That does not, however, absolve the administration in any way from having their feet held to the fire on observing the law that was in effect or will be in effect up until the time the continuing resolution is signed into law.

I believe there are a lot of allegations and indications that certain individuals within the administration, within the executive branch, perhaps some in the military branch of the armed services have violated those laws.

I believe it is incumbent upon us as Members of the Senate and House, Members of Congress, that if we are passing laws that we make sure that the administration follows those laws.

I believe that again we need this kind of information that this resolution would require the administration to report.

We have seen the downing of the plane in Nicaragua, the capture of Mr. Hasenfus, who I say I feel sorry for. I have no doubt in my mind Hasenfus thought he was working for the CIA and thought he had the backing of the United States Government and now he is in Nicaraguan hands and no one

knows of him, no one claims him. He is sort of like a man without a country. And the plane, where did the plane come from? No one claims any kind of support for the plane.

I think the administration should be more forthcoming on this incident and let us know all the facts and details surrounding any contacts, advice, any kind of support that may have been provided to this flight, to this mission or to any other missions in and over Nicaragua that were in violation of the laws passed by Congress.

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

Could I inquire how much time I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. HARKIN. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Minnesota has 10 minutes.

Mr. DURENBERGER. Mr. President, I rise in opposition to the joint resolution of my colleague from Iowa. I remind my colleague that we had a colloquy here on the floor last night on this subject in which I tried to explore with my colleague from Iowa what might be different or distinctive about his resolution from the activity that is an ongoing activity on the part of either the Intelligence Committee and the Foreign Relations Committee, and I think we heard the answer in his first 5-minute presentation, and that is that he has some feeling that there might be inadequate investigations by either the Intelligence Committee or the Foreign Relations Committee and the suggestion was that we may not at the staff level or whatever be asking the right questions.

I cannot find in a reading of the Senator's resolution what questions ought to be asked. So in each of these cases we are left to ask our own questions.

Because we do not have time I am not going to take the Senator from Iowa through the various laws that are involved that relate to the Neutrality Act, that relate to the Arms Export Control Act and some of the other acts that might possibly regulate activities of American citizens in or against countries with whom we have recognized relations.

I think it might serve a useful end if I did but we do not have the time to go through that.

I will just say to my colleagues that this is no longer as far as I am concerned strictly an Intelligence committee issue. In our oversight functions since 1980 when the administration began its involvement in support of democratic resistance in Nicaragua, the Senate Select Committee on Intelligence and its House counterpart have spent a great deal of their time at the staff level and in particular at the Member level in overseeing the specific activities of the U.S. Government in Nicaragua or in adjacent countries in support of activities by others in Nicaragua.

We had the sad experience in 1984, as I recall it—actually it began in 1983 in July—with a decision in the White House and culminated in January 1984 with the planting of detonating mines in certain harbors in Nicaragua and then finally culminated in a little public explosion over here on the floor of the Senate in which the senior Senator from Massachusetts was a part in April of that year.

□ 1440

And it was sort of a vacuum, if you will, in total oversight during that period of time. And the result was that in June, and I think again in September 1984 the Congress, on behalf of the American people, acted in the best interest of this country to stop the covert, the overt-covert support of paramilitary activity in Nicaragua.

Now, there are some of us that feel that perhaps the administration has not gone far enough in actually stopping what support they could stop, because the President and everyone around the President had done as much as they possibly could to encourage the private involvement of American and other citizens in support of the democratic resistance. There is no question about that.

I am not sure that it was in the spirit of American democracy, as the Assistant Secretary of Latin American Affairs testified yesterday, in the words of de Tocqueville, "when government does not act, the American citizens go about acting," and liken that to the church building and the barn building and so forth that he observed in the 1830's. I think it is an inappropriate comparison.

But the point is that from April 1984 until today the Senate Select Committee on Intelligence and the House Committee on Intelligence have not left the intelligence community side of your Government up off the ground on the issue of their involvement in any way in support of Nicaraguan resistance, which they started but which, by law, they have been prohibited from assisting.

Now is there anybody else in the Government, as the Senator's resolution would suggest? We certainly have an interest on the intelligence side in who else there might be. We have, both of us, on the House and the Senate side, asked the predecessor to the current National Security Adviser of the President to appear before us in person when the allegations came out a year ago that members of the National Security Council were actually directing, supporting, providing some assistance to the Nicaraguan democratic resistance in their supply from the outside. And the adviser to the President came, appeared personally before both committees, and assured us on that occasion that the kind of support that the Senator from Iowa and I and others fear was not being directed in any way from the White House. And I believe him. And I believe the current adviser to the President when he says the same. I believe the President of the United States when he says the same.

Now, if somebody is going to go after some detailed particulars, perhaps somebody in Foreign Relations is going to want to explore that part of it. But on an ongoing basis, both of these committees are concerned about the implementation of national security and foreign policy in this country. They are both concerned, as the Senator from Iowa is, that those policies can be adversely affected by the acts of privateers and particularly if those privateers are being directed in some way from inside the Government.

So I certainly assure my colleagues that institutionally we have come to learn the problems that are involved for all of us in ignoring some of the problems created for all of us by the administration in Nicaragua. We have learned our lesson. We are discharging, I think, appropriately, as best we can, that function.

I do not think that voting for this joint resolution is going to add one piece of information for the American public or anybody here. In fact, probably it would be better if you did not vote for this joint resolution but did leave it to these two committees, which are very bipartisan committees—there are not two more nonpartisan committees in this place than the Intelligence Committee and the Foreign Relations Committee—leave to them the appropriate congressional oversight of who did what to whom as that fact relates to not only the past but in particular to our future. Because, as the Senator said, the future is probably more important today than the past, since we are about to vote for a continuing resolution which will in effect put our $100 million into this kind of activity.

So I would urge my colleagues to vote against this joint resolution. By doing so, you are not voting against an investigation, you are not voting against getting the facts out, you are not voting to not find out exactly what is going on, because you do have an institutional process at the present time that would do much the same.

I reserve my time. I think the chairman of the Foreign Relations Committee may be on his way.

The PRESIDING OFFICER. Who seeks recognition?

Mr. LEAHY. Would the Senator from Iowa yield me 1 minute?

Mr. HARKIN. I yield 1 minute to the distinguished Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I rarely, if ever, disagree with the distinguished Senator from Minnesota because of my respect for him and the way we work together.

I must say, I rise in support of this joint resolution. Senior intelligence officials with whom I have spoken categorically deny any activity by officials from the intelligence community any way helping the private benefactors. I have reported that to the Senate and have those assurances. But the press continues to dig up new information and new allegations. I think just for the sense of credibility of this Government about this operation we ought to have the report asked for by Senator HARKIN.

Mr. President, I rise in support of this resolution to require a report from the administration on the issue of alleged encouragement and cooperation by U.S. officials in private efforts to supply military equipment to the Contra rebels in Nicaragua.

I have been troubled for some time by continuing reports in the United States and foreign press of connections between administration officials, usually with military or intelligence backgrounds, and the various private organizations that are raising money and shipping supplies to the Contras. I have asked questions of senior intelligence officials about reported involvement. In every case, these officials categorically deny any activity by officials from the intelligence community in any way helpful to the private "benefactors."

Nevertheless, the press continues to dig up new information and new allegations. Perfunctory denials by administration spokesmen simply are not answering these disturbing reports.

Mr. President, why should any of us be concerned that U.S. officials may have been working with, advising and helping private supply efforts to the Contras? After all, Congress is on the verge of approving a new $100 million military aid program that takes us directly back into this war. I oppose that program, but it is going to become law very soon.

The reason every Member of this body, whether pro- or anti-aid to the Contras should be deeply concerned is that this alleged activity has been going on while Congress, by law, has banned U.S. assistance, direct or indirect, to the Contras. That ban was modified last year and again this year to allow so-called humanitarian aid, but the prohibition on assisting the Contra insurgency remains on the books.

This resolution by the distinguished Senator from Iowa simply asks for information from the executive branch. Did any U.S. officials, civilian or military, have any connections with the American civilians killed on the recent supply flight to Nicaragua? Were there any connections with Eugene Hasenfus? What about Mr. Gomez and Mr. Medina, whom Eugene Hasenfus named as those in charge of the supply flights? Who is paying for these flights and who is buying the supplies? Are the Neutrality and Arms Export Acts being violated? Are congressional prohibitions on direct or indirect assistance to the insurgency being circumvented?

Mr. President, these are reasonable questions, ones I would hope the administration is already asking of its own officials. Congress has both a right and a duty to find out the facts and to insist on compliance with the law.

I urge all Senators to support this resolution.

Mr. HARKIN. Mr. President, I thank the distinguished Senator from Vermont for his support.

I want to just respond to the points raised by the distinguished Senator from Minnesota. First of all, this joint resolution and report is in no way meant to substitute what the appropriate committees of the Congress are doing on this issue right now. Indeed, it is meant to complement those investigations, to help fill in the holes.

As I said, a lot of times the staff does not know exactly what questions to ask. I believe a report coming from the administration, as outlined in this joint resolution, will complement, not substitute the investigation that is now going on, but be a complement to it.

Second, we have a right to know if the laws have been obeyed by this administration. Now there is a difference. The distinguished Senator from Minnesota said about encouraging private support, the administration has been encouraging private support. Well, that is fine. There is no law against that.

But there is a difference between encouraging private support and actually aiding and abetting and provide funds and support and assistance to those groups that have been operating in and over Nicaragua.

Now the questions I have are not about the Central Intelligence Agency. I will admit openly that I am probably about 95 percent convinced that the Central Intelligence Agency's hands are clean on this. I really believe they did obey the law.

My questions really revolve around the inner workings of the White House and the National Security Council. I would just make the observation that the Intelligence Committees of the Senate and the House have oversight over the CIA, but not the National Security Council. They are not going to come forward unless we make them come forward with this kind of report to tell us what kind of contacts they have had right directly from the National Security Council to these private groups.

So it is not the Central Intelligence Agency that concerns me. It is the National Security Council. And that is why we need this kind of report from the administration.

We do not have to just sit back and hope that somehow we are going to get to the bottom of this. We have got to hold nonelected officials accountable for whether or not they have obeyed the law. We are all held accountable. In a couple of weeks, we will be held accountable in the polls, at least some of us will be. But these nonelected bureaucrats are never accountable. I believe we have to hold them accountable.

I see the distinguished Senator from Minnesota. I just say once again that it is not the Central Intelligence Agency that I am so concerned about. It is the National Security Council. What I am concerned about is that this investigation, either by the Foreign Relations Committee or by the Intelligence Committee, will not probe that area because that is not an area really under their jurisdiction.

This resolution would require the administration to come forward with the report detailing activities not just of the CIA, but of any individuals in the executive branch of Government. I think it is important for us to hold the administration's feet to the fire, to have them report to us so we can know and tell the American people, once and for all, that the administration either did or did not obey the laws.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 1½ minutes.

Mr. HARKIN. I reserve the balance of that time.

Mr. HATFIELD. Mr. President, they are part of what Assistant Secretary of State Elliot Abrams calls "a kind of old boy network," and their flight was one of many described by the administration as "quite in line with * * * a well established tradition in our country." Three U.S. citizens, part of a murky underworld of counterinsurgency experts, and an unidentified fourth took off last week in a plane loaded with military hardware: automatic rifles, ammunition, and an assortment of other tools of destruction. Their destination? Somewhere in the jungles of Nicaragua, where the rebels we so delicately call "freedom fighters" await their arrival. But before they can deliver, the Nicaraguan Armed Forces shoot the aged C-123 transport plane down. Three of the men perish—a fourth, a Wisconsin man named Eugene Hosenfus, is cap-

tured and quickly paraded around Managua.

As we wonder what to do about the first "unofficial" prisoner of our undeclared war against Nicaragua, Mr. President, the questions far outnumber the answers. Where did the flight originate? Who owns the plane? And who owns the cargo? The administration promises an investigation of these questions.

But, of course, the most important question raised by last week's incident is what degree of involvement the U.S. Government had with these men and their mission. Mr. President, I believe the people of this country have a right to know the answer to that question. Have we spent the past 9 months debating a $100 million assistance package to the Nicaraguan Contras while our Government has been a coconspirator in private efforts to supply them? I believe we ought to know the answer.

The truth is that regardless of whether Mr. Hosenfus and his colleagues were working with, or for, the Central Intelligence Agency or any other agency of the U.S. Government, they are part of what Assistant Secretary Abrams calls "a kind of old boy network." That network, which has been active since the Contra debate first surfaced in 1982 and has supplied the rebels with untold millions worth of both "freedom fighter friendship packs" as well as guns and ammunition, carries with it the tacit endorsement of the administration.

I am not convinced that administration support for, or collaboration with, this network's various organizations does not go far deeper than tacit endorsement. But at the very least, the administration has given those organizations the tacit endorsement, and that alone is too much.

Tacit endorsement means Assistant Secretary Abrams' salute to the heros who died last week. Tacit endorsement means convincing the leaders of Civilian Military Assistance, the organization which owned the helicopter shot down over Nicaragua in 1984 and to which the two United States citizens killed in the incident belonged, to change the group's name to Civilian Material Assistance. And tacit endorsement means looking the other way when potential violations of the neutrality laws are involved.

Mr. President, hostile expeditions of the sort Mr. Hosenfus clearly was a part, against a nation with which the United States is at peace, amount to a private usurpation of congressional authority to declare war, as well as the President's authority as Commander in Chief of the Armed Forces. While selective enforcement of the letter and intent of the neutrality laws in cases like this one may suit the immediate agenda of the administration. Anything short of strict enforcement of Federal authority in all matters of foreign policy ultimately will undermine the integrity of U.S. foreign policy around the globe.

Let me paint the scenario: the United States recognizes the Government of Nicaragua, and is officially at peace with the Sandinistas. And yet for several years, a debate has raged in Congress over the necessity for, and level of, United States military assistance to the Nicaraguan Contras, a motely crew attempting to overthrow that government. The assistance was the brainchild of the administration, and has become a cornerstone of the so-called Reagan doctrine. For several years, Congress resisted administration pressure and approved only so-called humanitarian assistance to the Contras. During that time, a variety of organizations formed in the United States to raise money for the Contras and their guerrilla war. Their members were U.S. citizens, and their warchests soon grew.

Of course the administration did not mind: The Contras were getting weapons and supplies, and just because they said "made in the USA" on the label did not mean congressional intent had been undermined and of course did not mean that the United States was a part of any effort to overthrow the Sandinistas. Now comes congressional approval of $100 million in military assistance to the Contras. We are, of course, still at peace with the Government of Nicaragua and Congress has not been asked to approve the deployment of United States troops. But why dirty the name of U.S. foreign policy—not to mention fight a fierce battle with Congress—with a declaration of war and the involvement of our boys in the jungles of Nicaragua? The private organizations seem more than willing to slide down that slippery slope, just so long as the administration looks the other way.

William Walker has returned, my friends.

Mr. President, there is something desperately wrong with that scenario. The peasants of Nicaragua can hardly be expected to distinguish a private citizen from a U.S. troop when the private citizen walks, talks, and offers his cargo of weapons like the U.S. troop. And the Government of Nicaragua is far too smart to think those private citizens would be free to execute their own foreign policy agendas without a little help from their friends in Washington.

It may not satisfy the de jure requirements, Mr. President, but what we have here is a de facto war against Nicaragua. The only problem is that we were never asked to declare it. Sound familiar? Go ask the four men fasting on the steps outside this Chamber if it sounds familiar to them.

We are entering a no man's land, a land without laws, Mr. President. And whether the Government of this country is directly involved or not, it has in its hands the power to retreat from that all too well trodden path before it is too late.

Mr. President, I support the resolution now before us—not because I believe it will halt United States involvement in Nicaragua but because the people of this country have a right to know just how dirty this little war is.

□ 1450

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, we are awaiting the arrival of the chairman of the Foreign Relations Committee. We are holding up the $600 billion continuing resolution. I hope we could vote on this mischievous joint resolution. It is just another effort to get at the President of the United States. If we are going to do this, we ought to include finding out who is helping the Sandinista government, Ortega's government, which is supported by Russia and Cuba. If we want to report, and if we want an investigation, let us make it fair and across the board instead of just aimed at those who are trying to fight for freedom and democracy in that part of the world.

I yield back the time on this side.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I am sorry the distinguished majority leaders said this is mischievious. There is nothing mischievious about it. Darn it, if someone is wrong, and disobeys the law we ought to know about it. We ought to demand a full accounting. Sure, we should hold Moscow, Havana, and everybody else accountable. But they are beyond the purview of our laws.

Congress passed laws that they were not to do these things. And yet every indication we get from the press day after day is that individuals high up in the administration, and in the National Security Council, are heavily involved in this.

It is not mischievious to demand a full accounting from any administration—this one or any Democratic administration—as to whether or not they have obeyed the laws passed by the Congress.

I do not believe that is being mischievious, Mr. President.

I yield back the balance of my time.

Mr. BYRD. Mr. President, before the Senator yields his time back——

Mr. HARKIN. I yield to the distinguished minority leader.

Mr. BYRD. Mr. President, I ask unanimous consent to have my name added as a cosponsor of the joint resolution.

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

Mr. HARKIN. I thank the distinguished minority leader.

WAR IN NICARAGUA

Mr. BYRD. Mr. President, I strongly support the resolution offered by the distinguished Senator from Iowa, Mr. HARKIN. The resolution requires a full report of the circumstances surrounding the incident which occurred on October 5, 1986, when a C-123 cargo plane was shot down in Nicaragua. As everyone knows, one American was captured, and two died when their plane was shot down after violating Nicaraguan airspace. From any perspective, the violation of Nicaraguan airspace by a plane clearly unfriendly to the Sandinista government was illegal. If Mr. Hasenfus was an employee of the CIA, he was in Nicaragua in violation of United States law. If he was a private individual pursuing his own war against the Sandinista government, he was in violation of another U.S. law.

There are many unanswered questions, allegations, and conflicting reports and assertions concerning this incident. I have withheld making a statement, and a judgment, on the downing of the aircraft. There have been assertions, and one may certainly draw inferences, that the U.S. Government is pursuing an illegal hidden war, not authorized by the Congress. I addressed this question directly in an amendment which I offered to the military construction authorization bill this past August. The amendment failed narrowly, 52 to 48, mainly on party lines.

My amendment would have prohibited all forms of assistance to the Contras except the $100 million authorized by Congress. It sought to prohibit the provision of assistance beyond the $100 million through such devices as bailment, credit, loan, lease, guaranty, insurance, or other services which would have the effect of providing additional unauthorized assistance. The principle behind the amendment was simple: Congress and the American people ought to know, and approve in advance, deepening involvement by the United States in the Central American conflict. Without a consensus behind such involvement, it certainly could not be sustained over the long run.

I withheld reoffering my amendment to the continuing resolution on the strength of assurances by the administration that they, indeed, would not provide additional assistance through the use of such devices. I am not accusing the administration today of doing so, or of planning to do so. But, the latest aircraft incident does raise disturbing inferences, and so, Mr. President, the report required by Mr. HARKIN's resolution will be useful in clearing the air and resolving many of the questions which have been raised regarding the C-123 incident.

In addition, Mr. President, I am today writing the distinguished chairmen of the Senate Foreign Relations Committee and the Senate Intelligence Committee, asking them to pursue vigorous oversight of the administration's program in Central America to ensure that the provision of unauthorized additional assistance is not occurring. In this way, the record of the next few months can be effectively reviewed early in the 100th Congress and appropriate action taken, if need be, expeditiously.

The PRESIDING OFFICER. All time having been yielded back, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The resolution having been read the third time, the question is, Shall the joint resolution pass? 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 Nevada [Mr. LAXALT] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN] is necessarily absent.

The PRESIDING OFFICER (Mr. GRAMM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 47, nays 50, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—47

Baucus	Grassley	Mitchell
Biden	Harkin	Moynihan
Bingaman	Hart	Nunn
Boren	Hatfield	Packwood
Bradley	Heinz	Pell
Bumpers	Inouye	Proxmire
Burdick	Johnston	Pryor
Byrd	Kasten	Riegle
Chiles	Kennedy	Rockefeller
Cranston	Kerry	Sarbanes
DeConcini	Lautenberg	Sasser
Dodd	Leahy	Simon
Eagleton	Levin	Specter
Exon	Matsunaga	Stennis
Ford	Melcher	Weicker
Gore	Metzenbaum	

NAYS—50

Abdnor	Garn	McConnell
Andrews	Goldwater	Murkowski
Armstrong	Gorton	Nickles
Bentsen	Gramm	Pressler
Boschwitz	Hatch	Quayle
Broyhill	Hawkins	Roth
Chafee	Hecht	Rudman
Cochran	Heflin	Simpson
Cohen	Helms	Stafford
D'Amato	Hollings	Stevens
Danforth	Humphrey	Thurmond
Denton	Kassebaum	Trible
Dixon	Long	Wallop
Dole	Lugar	Warner
Domenici	Mathias	Wilson
Durenberger	Mattingly	Zorinsky
Evans	McClure	

NOT VOTING—3

Glenn Laxalt Symms

So the joint resolution (S.J. Res. 429) was rejected.

□ 1510

Mr. DOLE. I move to reconsider the vote by which the joint resolution was rejected.

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

The motion to lay on the table was agreed to.

CONTINUING APPROPRIATIONS, FISCAL YEAR 1987—CONFERENCE REPORT

Mr. DOLE. Mr. President, I submit a report of the committee of conference on House Joint Resolution 738 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. GRAMM). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 738) making continuing appropriations for the fiscal year 1987, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 15, 1986.)

Mr. HATFIELD. Mr. President, the conference report on House Joint Resolution 738, the continuing resolution for fiscal year 1987, was adopted by the House last evening by a vote of 235 to 172. According to a letter from OMB Director Jim Miller received yesterday, the administration urges adoption of this conference report while remaining opposed to two of the six amendments remaining in disagreement. Echoing the language of Mr. Miller's letter, Mr. President, I urge adoption of this conference report, and I ask unanimous consent that Mr. Miller's letter be printed in the RECORD at this point.

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

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 15, 1986.

Hon. MARK O. HATFIELD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Based on our preliminary analysis and representations made by the conferees, we urge adoption of the Conference Report.

During the course of negotiations, the conferees made substantial progress toward meeting the objections raised by the Administration. In particular, the Conference

Report reasonably holds the line on most spending; provides funding for defense and foreign assistance that has been agreed on with representatives of the Administration; provides essential aid for Contras and for Central America; and includes the carefully negotiated agreement on arms control.

However, to make the resolution acceptable to the President, I also urge Congress to delete two provisions that are in true disagreement. Both of these provisions—the so-called "Buy American-Outer Continental Shelf" and "Double Breasting" provisions—have been opposed consistently and most strongly by the Administration.

Sincerely yours,

JAMES C. MILLER III,
Director.

□ 1520

Mr. HATFIELD. Mr. President, we all know that this is the largest single appropriation measure ever considered by the Congress. It embraces the funding recommendations and general provisions normally covered in the 13 regular appropriations bills for fiscal year 1987. The conference agreement recommends funding levels of $557.2 billion, more than a half trillion dollars. The conference report and the accompanying statement of managers total more than 1,200 pages, and I might raise it for all to see. Over 8 inches high, it weighs 18¼ pounds. That is the funding mechanism for the coming year. Not to only say that it is a massive piece of legislation, but I agree with those who argue we should not deal with the financing of Government operations in this manner.

I do not know anyone who is happy about this process at this moment. But, Mr. President, notwithstanding where we are historically at this moment, this is a good piece of legislation and a satisfying result to a long and difficult year in the appropriations process. It is the product of a year of hearings by 13 subcommittees, 13 subcommittee markups, 13 full committee markups, 1 week of debate on the floor of the Senate, and 10 full days in conference with the House of Representatives. We have successfully removed from this conference agreement all the provisions of the now famous "A" list of the Office of Management and Budget with the exception of two amendments in true disagreement that we will deal with after adoption of this conference report.

This conference agreement provides funding levels on defense and foreign assistance that are acceptable to the administration, strikes a good balance on nondefense spending in a way that "reasonably holds the line," according to the administration, provides emergency assistance to the Philippines and El Salvador, and carries important provisions on arms control that have been negotiated with all sides. And it does all this, Mr. President, while remaining with the constraints of the budget resolution. This continuing resolution is within our 302(b) allocation under the budget resolution and within our revised subcommittee allocations.

Mr. President, I once again urge the adoption of this conference report. And may I say the manager on the Democratic side, our subcommittee chairman and ranking minority members and I are ready to respond to any questions Senators may have. I hope we can proceed in an expeditious way, adopt the conference report, act on the amendments remaining in true disagreement and conclude congressional action on this continuing resolution. I would like to yield to my very outstanding and treasured comanager and ranking member of the Appropriations Committee, the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I am sure we all want to thank the chairman for the excellent service he has rendered in the preparation of this bill, which is characteristic of him always, and all the other chairmen of subcommittees and other committees. The amount of work that has been carried on by them and their valuable staffs day and night is amazing. It is unbelievable. I feel they in their talented and dedicated way, with the knowledge they have of the subject matter, have put the parts of this entire matter in place and have a very strong bill, an adequate bill, in my opinion, with adequate funds, and the best selections that could be made.

At the same time, I want to make it clear that I do not approve of the idea of resorting to a method that puts 13 appropriations bills into the same bill before the body for debate and for passage or rejection. I think that will gradually erode and ruin the committee system. The committee system is what the Senate is better known for and its better work is done there.

However, we have a fact here rather than a theory. We have to pass on it. There are a few points where agreement was not reached. They are few and far-reaching. I think we can work out something on that, make the choice and vote on them. I am afraid it would hinder and delay and injure this bill if we do not proceed now to prompt consideration and I hope prompt passage.

I yield the floor.

DEFENSE CHAPTER OF THE FISCAL YEAR 1987 CONTINUING RESOLUTION

Mr. STEVENS. Mr. President, I am pleased to report that the defense appropriations contained in the continuing resolution for fiscal year 1987 are well below the budget resolution targets established in the 302(b) allocation. The new budget authority recommended totals $274 billion compared to $277.1 billion reported to the Senate last month in S. 2827. CBO estimates outlays of $262.5 billion which is well within the allocation for defense.

The original Senate Appropriations Committee recommendations in S. 2827 included $2.96 billion to replace the space shuttle *Challenger.* The conferees on the continuing resolution, however, propose that these funds be made available to NASA for the replacement orbiter, and therefore the HUD-Independent Agencies Appropriations chapter has been increased to reflect this adjustment. By originally proposing that the orbiter be funded in the defense chapter, the Senate successfully raised the issue and cut through several months of bureaucratic haggling over how to fund the orbiter. Now we can get on with the key element of the Space Recovery Program.

The recommendations of the conferees also include a rescission package totaling more than $5.3 billion. This is the first, comprehensive defense rescission package proposed in my tenure as chairman of the Defense Subcommittee. It is designed to achieve two objectives. First, rescinding prior year funds will have the effect of reducing outlays in fiscal year 1987 by $1.5 billion. This significantly contributes to our efforts to comply with, what I consider, the unrealistic outlay targets in the budget resolution. Second, rescinding prior year moneys will go a long way toward clearing the impression that persists that somehow there is a "slush fund" in the Department of Defense. The rescissions are derived from contract savings and lower costs from declining inflation. The rescission package was developed after exhaustive review by a GAO analyst on loan to the committee and the committee staff. By rescinding the money, the image that there is a DOD funding reserve should be put to rest.

Most of the Senate's key provisions pertaining to contract profit policy revisions have been retained. The conferees recommend a 5-percent reduction in progress payment rates, a requirement that defense contractors bear responsibility for 50 percent of the cost of production tooling, and most significantly, the provision contains a requirement that profits be calculated on the basis of investment and contractor risk. The objective of the provision is to reward efficiencies in productivity and reverse the trend of awarding profits based on increasing procurement unit cost.

In full compliance with the agreement struck between Congress and the administration, this bill also includes all the arms control provisions which are also included in the Defense Authorization Act passed last night. Although the appropriations conferees did not negotiate this agreement, it was our understanding that the agree-

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ment should be carried over to the continuing resolution and we have complied with that request.

With regard to other authorization agreements, we must recognize that both the authorization and appropriations bills have been moving concurrently. We've tried to coordinate information and data over the last few weeks to avoid accounting conflicts, but I have no doubt that differences will exist. Without a complete authorization agreement prior to our conference, I can only state that we have tried to minimize the differences. Aside from delaying consideration of the continuing resolution, there was no other alternative available.

In summary, the conference agreements for defense represents the absolute best settlement the Senate could expect. The appropriation levels recommended are adequate to continue the President's strategic modernization programs, support the existing force structure, and continue the high state of readiness which has been achieved over the last few years. It was a difficult task to achieve these results and also comply with the congressional budget requirements to cut $25 billion from defense. Several key programs and production rates had to be trimmed back significantly to meet these targets. In effect, the appropriations levels recommended in the conference agreement represent a "hard freeze" since we are at the same numerical levels as the fiscal year 1986 rate of spending. I am not sanguine that a repetition of this circumstance next year will yield similar results.

AIRPORT SLOT GIVEAWAY

Mr. HOLLINGS. Mr. President, I seek recognition not to offer any legislative proposal, but rather to note for the record one of my sincere disappointments of the 99th Congress. I am referring to the failure of Congress to override one of the most outrageous public policy initiatives ever perpetuated by the Department of Transportation, or for that matter, any Federal agency.

We are all fully aware of our current budgetary woes, being forced to sell off Federal assets, as well as to impose major funding reductions on important Federal programs. Yet, in late 1985, the Department of Transportation acted to willfully give away public assets, without charge, that have earned hundreds of millions of dollars for private companies.

I am referring to the rule allowing airlines to buy and sell, for their profit, landing slots at high density airports. This is a rule which the Senate correctly voted to repeal earlier this year, by an 82 to 12 margin. But unfortunately, time and a lack of action in the House have resulted in our inability to gain final enactment of legislation to remedy this insult to public policy.

I want my colleagues to clearly recall that we are talking about a rule which gave, free of charge, the landing rights at congested airports to the airlines fortunate enough to have been using them last December. The rule further said that after waiting a long and painful 90 days, those airlines could then sell the slots to other not-so-lucky airlines for any amount they can command, which, as it turns out, has amounted to hundreds of millions of dollars. In fact, in May of this year, some $65 million was paid from one airline to another as a part of a single package of landing slots!

How do we explain this generosity to a group of airlines when we stand here day after day making painful cuts to critical Federal programs?

I want to alert my colleagues that I intend to make sure that this rule is repealed as soon as official business begins in the 100th Congress. In fact, I intend to make sure that every piece of aviation legislation that comes out of the Commerce Committee next year will have an amendment on it to repeal this airline windfall profit rule.

This DOT rule is bad public policy. It was overwhelmingly rejected by the Senate. And I am committed to seeing it finally repealed in 1987.

Mrs. KASSEBAUM. As the original sponsor of legislation overturning DOT's "buy/sell" rule, S. 1966, I want to join my colleague on the Commerce Committee in expressing my continuing opposition to that provision. I have stated on a number of occasions that I do not believe that the DOT rule is good public policy or good transportation policy and I continue to feel that way.

There are some 4,200 total slots at the four airports in question. Exact figures as to the real value of these slots remain unknown, as carriers swapping slots are not required to report the value of such transactions. Suffice it to say, however, that these public assets amount to a very large windfall to the airlines that currently claim to own them.

I offered the text of my bill as an amendment to the National/Dulles Airport transfer bill in April of this year, believing that it was appropriate to link the two measures. My colleagues agreed overwhelmingly, both on substance and procedure, as the amendment was adopted by an 82 to 12 margin.

Since that time, the Senate bill stalled in the House of Representatives, forcing proponents of the transfer bill to separate the two measures. While that legislation was attached to the continuing resolution, I deferred, believing that it was inappropriate, at the late hour of this Congress, to add further to the weight of the omnibus funding bill.

Let no one think, however, that our inaction on this bill in this Congress, is a signal that we intend to let this issue die and fade away. On the contrary, I support the comments made by my friend from South Carolina on our need to act early next year, and wish to be associated with them entirely.

Mr. HOLLINGS. I want to thank the distinguished chairman of the Aviation Subcommittee for her statement of support. She has been a strong leader on aviation issues and I am pleased to be working with her on this particular matter.

I would now like to ask my friend, Senator EXON, the ranking Democrat on the Aviation Subcommittee, for his views on this matter. I know he has been a strong advocate of repealing the buy/sell rule, and is particularly concerned with the potential effect it could have on small community airline service.

Mr. EXON. I want to thank my distinguished colleague from South Carolina and join him in his remarks about the flaws of this preposterous regulation. I certainly think this rule will, in the long run, freeze many smaller communities out of any significant access to key airports in this country.

When the Aviation Subcommittee held hearings on this matter early in 1986, we heard testimony from airport executives, State and local officials, general aviation groups, and several airlines, all of whom agreed that small communities will end up the losers in this process.

Can anyone deny the fact, that once an airline pays millions of dollars for access to an airport, it will use those slots to serve the most lucrative markets? I think not. And as a result, the small communities that now rely on airline service to the major airports, will see the airlines take their slots, and begin service to major markets like Miami, Los Angeles, or Dallas.

I want my colleagues to know that I appreciate their intentions to repeal this outrageous rule, and I will be happy to join them in those efforts. Further, I would like to suggest that we consider making such amendments retroactive, so that the public, whose assets are being given away, does not lose out because of congressional inaction.

Finally, I hope that when we do take up legislation next year, we consider asking the Internal Revenue Service for a ruling on the tax consequences of any slot sales that may have been allowed to stand. Considering that the airlines selling the slots obtained them at no cost, I would be interested in hearing the IRS's interpretation of whether these transactions should stand alone for tax purposes, or if an airline should be allowed to expense other costs against these unearned profits and entirely avoid taxation on subsequent slot sales.

Mr. HOLLINGS. I thank my colleague from Nebraska for his comments. And I agree that we should examine the issues that he raises early next year.

Mr. FORD. If the Senator will yield, I would like to join him in his efforts to offer a friendly reminder that our work on this matter is not done. His efforts in ensuring that this issue is not forgotten are to be commended, along with those of the chairman and ranking Democrat of the Aviation Subcommittee.

The Senate overwhelmingly approved Senator KASSEBAUM's amendment to repeal this rule earlier this year. I think that sentiment has not changed, and I look forward to early enactment of similar legislation in the 100th Congress.

Mr. HOLLINGS. Mr. President, I appreciate the opportunity to address this issue here today. And I appreciate the comments made by my colleagues. With that, Mr. President, I yield the floor.

ECONOMIC DEVELOPMENT ADMINISTRATION SECTION OF THE CONTINUING RESOLUTION

Mr. D'AMATO. Mr. President, I rise to provide clarification on the section of the continuing resolution, House Joint Resolution 738, that concerns the Economic Development Administration and funding for projects in the city of New York. This clarification serves to avoid any questions as to the meaning or interpretation of this section of the bill.

Mr. President, at this time audits for approximately 22 projects remain to be closed out, and appeals by the city of New York concerning the disallowance of certain costs for other projects are still pending. Accordingly, the total amount of funds previously authorized and appropriated under title I of Public Law 94-369, but currently obligated and not disbursed, has yet to be finally determined. Such amounts can, and shall, only be determined through established audit close out guidelines, procedures, and practices. These include the city of New York's right of appeal in the event of the disallowance of cost concerning any specific project subject to audit.

In addition, reference was made to the availability of $14.1 million for New York, NY, in report language to accompany section 108(a) of last year's continuing resolution—Public Law 99-190. Such amount was provided the Economic Development Administration as a best estimate prior to audit close out of currently obligated, but undisbursed, funds available for reobligation and expenditure. As clearly indicated in section 108 (a) of last year's continuing resolution—Public Law 99-190—any funds currently obligated and not disbursed shall be available for reobligation and expenditure in New York, NY. Accordingly, the language referring to $14.1 million should not be interpreted to impose a limit on available funds to the city of New York. The total amount of funds shall be determined only through the established audit close out process.

Mr. President, the Economic Development Administration has been directed to provide these funds to the city of New York and to adhere to the purpose and intent of this legislation as stated.

Thank You, Mr. President.

FOREIGN OPERATIONS

● Mr. KASTEN. Mr. President, I would like to take just a few minutes to make some comments about the foreign assistance portion of the continuing resolution which is now before the Senate.

Mr. President, while the conference was deadlocked on the foreign assistance portion of the continuing resolution for several days, I am pleased to report that we were able to finally come to a resolution of our differences and more importantly, we were able to resolve most of those issues along the lines suggested by the Senate, especially with reference to increased funding for such important programs as the Child Survival Fund, the Agricultural Development Program, and the African Development Foundation.

In addition, while the conference did not agree to enact the F.M.S. reforms as passed by the Senate, the compromise agreement goes a significant way in that direction, and in addition, the managers, in the conference report, agree that the Senate proposals on F.M.S. reform have merit and should be considered by the administration and presented to Congress early next year.

This is a good compromise. The conferees recognized the potential problems pointed out by the Senate that something has to be done with the F.M.S. debt situation, or it potentially could cost the American taxpayers significant amounts of money.

Mr. President, I'm not going to go into all of the various items in the agreement, but I would like to point out that we agreed to provide $200 million in additional economic support funds for the Philippines, $50 million for emergency earthquake relief and rehabilitation for El Salvador, and once again this year we agreed to allow military assistance funds which are provided to Israel to be used for their aircraft program.

The language of the agreement with respect to the LAVI provides that not less than $300 million shall be for the procurement of defense articles related to that program in Israel, and for other activities if requested. It is assumed, however, that at least $250 million of the $300 million would be for the LAVI Program, with the potential for all of it being for the aircraft program.

Mr. President, two provisions in the continuing resolution entitled "limitation on development assistance" are intended to assure that obligations for Africa and Central America from fiscal year 1987 development assistance funds will be at least at the same percentage of total development assistance that each region received in fiscal year 1986. This does not preclude the total obligated for either region in fiscal year 1987 from exceeding the percentage that either region received last year.

Mr. President, a number of my colleagues have expressed concern that some of the funding for various programs is too low, but very frankly, with the budget situation, this is the best we can do.

Obviously, in these difficult budget times, foreign assistance must share cuts mandated by Gramm-Rudman-Hollings and the budget resolution.●

GIFT TO JACKSON FOUNDATION

Mr. STEVENS. Mr. President, I want to advise Members of the Senate that the continuing resolution includes an appropriation of $10 million for the Henry M. Jackson Foundation as a memorial to our late friend and colleague. This was proposed by Senator JOHNSTON and warmly endorsed by me and other members of the Defense Appropriations Subcommittee and the full Appropriations Committee.

The Jackson Foundation was established shortly after Senator Jackson's death on September 1, 1983. It has already raised more than $4 million in gifts and pledges from individuals, labor unions, corporations and governments. The Foundation hopes to raise its initial goal of $5 million by Scoop's 75th birthday on May 31, 1987. It has a long-term goal of raising $10 million from private sources.

Although there is no formal matching requirements for the appropriation to the Foundation, it is my hope that this Federal contribution will be viewed by Scoop's friends and supporters not as an end, but rather as a beginning: and that they will redouble their efforts to reach the Foundation's announced goal of $10 million from private sources, thereby matching the appropriation dollar for dollar.

The Foundation's program, focusing primarily on educational activities, sustains the Senator's belief in the basic importance of education in creating better understanding of the forces which shape our world today. It has already financed on an interim basis a chair in Modern Chinese Studies and support for graduate students in Chinese studies at the Jackson School of International Studies at the University of Washington.

Action by Congress in approving this appropriation to the Foundation will enable the Foundation, and its distinguished Board of Governors, to broad-

en its program of helping to educate the next generation of leaders in managing critical world relationships.

● Mr. ROTH. Mr. President, I would like to comment about some of the defense procurement reforms included in the fiscal year 1987 Department of Defense [DOD] appropriations bill, which is part of the fiscal year 1987 continuing resolution conference report.

I want to focus on those defense reforms which are part and parcel of the recommendations of the President's Blue Ribbon Commission on Defense Management otherwise known as the Packard Commission.

Mr. President, it's been 2 years since I went to the White House to recommend the creation of the Blue Ribbon Commission on Defense Management. In urging the creation of the Packard Commission, I set out an agenda of critical management and security issues I believe needed to be explored.

These issues included creating an independent civilian procurement office, ensuring the accuracy of cost estimates, and eliminating excessive defense contractor profits.

Mr. President, after the Packard Commission submitted its final report to the President, I introduced legislation which closely complemented many of the Commission's recommendations. The legislation, S. 2268, would establish in DOD the position of Under Secretary of Defense for Acquisition. It would also increase the efficiency of the management structure of major defense acquisition programs by reducing the number of officials to whom a weapons program manager must report.

It is encouraging to see a number of provisions of my bill incorporated in the fiscal year 1987 DOD appropriations bill that begin to implement the Packard Commission's recommendations. One provision includes creating the position of Under Secretary of Defense for Acquisition. The Under Secretary will be a civilian with significant authority to supervise the entire defense acquisition system. The Under Secretary will also have the responsibility to see that new programs are thoroughly researched, that military requirements are verified, and that realistic cost estimates are made before the start of full scale development.

How would such a proposal help improve the management of the defense acquisition process? It would ensure that someone—the Under Secretary of Defense for Acquisition—is identified and held accountable for the performance and cost of a weapon program. This person would have to answer for the cost increases and technical problems. This person would also enjoy the rewards and recognition of a job well done.

Other provisions in the Defense appropriations bill consistent with Packard Commission recommendations include a strategy for competition among prototypes of major weapons when the weapons are in development. The Packard Commission recommended competing prototypes and testing prototypes under simulated operational conditions, especially weapons systems involving unproven technology.

A third provision requires the Secretary of Defense to submit a plan to Congress on methods to enhance the professionalism, training, and education of acquisition personnel. This is consistent with the Commission's recommendation that DOD must be able to attract, retain, and motivate well qualified acquisition personnel.

Finally, a provision in the bill requires the DOD to establish cost, performance, and schedule data for all major acquisition programs.

There are other provisions consistent with the Commission's recommendations, Mr. President, but these are the ones in defense procurement that I believe are most important.

Mr. President, we've known for some time that DOD is in need of constructive reform. The acquisition process has been examined repeatedly over the years and we are all familiar with most of the many problems cited at one time or another as major factors in cost growth and mismanagement: Poor or overly optimistic cost estimates, "gold-plating", poor testing, lack of competition in contracts and schedule "stretchouts." Whether these are in fact the real causes of cost growth, or just symptoms of the problem, there is little doubt in my mind that 3 years of hearings on acquisition management in my Governmental Affairs Committee have convinced me of that fact.

In outlining the serious problems we face in improving the management of acquisition programs, it becomes apparent to me that the solutions of the past are no longer adequate. I believe we should consider more comprehensive and far-reaching changes which may threaten the status quo, but could help set the stage for real and lasting improvements.

That is why, Mr. President, I am encouraged by the reforms implementing the Packard Commission recommendations. With passage of the continuing resolution and the reforms it includes, we can finally see some action taken for lasting improvements to the defense acquisition system.●

ENERGY AND WATER DEVELOPMENT HIGH-LEVEL WASTE

● Mr. BENTSEN. Mr. President, I am pleased that the conferees resolved their differences on the funding level for the High-Level Waste Repository Program run by the Department of Energy [DOE]. The conferees agreed to a funding level of $420 million, with the possibility of an additional $79 million upon subcommittee approval. The approval is contingent upon DOE meeting the consultation requirements of the Nuclear Waste Policy Act.

This reduced funding level sends a strong signal to the Department of Energy that Congress is dissatisfied with the manner in which DOE has implemented the Nuclear Waste Policy Act. As I have stated repeatedly, Texas has had to bear the brunt of DOE's inability to carry out its responsibilities under the act.

The agreement reached by the conferees acknowledges these problems and puts a halt to site-specific activity at the first and second repository and the monitored retrievable storage facility. Clearly, DOE is prohibited from shutting down just the second repository and funneling the savings to the first repository program. Last May 28 DOE decided to abandon the second repository. Congress in this agreement rejects this determination and instead mandates that the entire High-Level Waste Program be scaled down until all of us have an opportunity to review the situation.

This agreement prohibits any site-specific activity, at first or second round sites. In Texas, this means that there can be no land acquisition, no drilling of bore holes, no sinking of exploratory shafts. The DOE is barred from undertaking any activity at the Deaf Smith County site during this fiscal year.

I plan on monitoring the situation closely to assure that DOE does not attempt again to contravene the will of Congress. As the conference agreement indicates, the concerns about DOE's implementation of the act, such as those I have expressed, are not just parochial concerns, but reflect concerns of the entire Congress. DOE would do well to heed the direction provided by Congress in this legislation.●

FUNDING LEVEL FOR THE DEPARTMENT OF ENERGY'S NUCLEAR WASTE PROGRAM

Mr. SIMPSON. Mr. President, I have just a few brief comments about the provisions contained in this continuing resolution affecting the Department of Energy's Nuclear Waste Program. I have been intimately involved with the nuclear waste disposal issue since virtually the day that I arrived in the Senate in 1979 and assumed my role as a member of the Subcommittee on Nuclear Regulation of the Committee on Environment and Public Works, first as ranking minority member and then, beginning in 1981, as chairman of that subcommittee.

In fact, as an original sponsor of the bill that led to the enactment of the Nuclear Waste Policy Act of 1982—the law which establishes the requirements that the Department of Energy must meet in carrying out this most crucial national program—I must say that I am deeply troubled by the

course that the Department of Energy has elected to take in carrying out this law. In May of this year, Mr. President, the Department indefinitely postponed work on the second geologic repository—a decision that is a clear violation of the act.

The provisions in the Nuclear Waste Policy Act requiring the Department of Energy to pursue a program for the development of two repositories were fashioned by the Subcommittee on Nuclear Regulation in 1981—with the leadership and perseverance of my fine friend, the exceedingly capable Senator GORTON—and I am intimately familiar with the delicate political and regional balance that we ultimately had to strike when we reported these provisions from the subcommittee. The basic two-repository structure was retained essentially intact by both Houses of Congress, and is now reflected in the provisions of the Nuclear Waste Policy Act.

A careful analysis of the legislative language makes it abundantly clear that the Department's decision to postpone indefinitely work on the second repository is a blatant violation of the act. In fact, both the General Accounting Office and the Department's own general counsel have advised that the decision taken last May violates the clear language of the Nuclear Waste Policy Act. In short, Mr. President, it is illegal.

I am not speaking today, though, Mr. President to address the question of whether DOE's action was illegal. The answer to that question is clear and I anticipate that, ultimately, the courts will so rule. I rise to address a much more fundamental problem facing DOE today—a problem that I think is reflectd in the decision that we are about to take in approving a substantial reduction in DOE's request for the Nuclear Waste Program. In short, Mr. President, the Congress no longer has confidence in the way that DOE is carrying out this program. It is abundantly clear to me, Mr. President, together with many of my colleagues who I worked alongside in fashioning the Nuclear Waste Policy Act in 1982, that decisions are being made in part—perhaps in very large part—based upon only the basest political ramifications of those decisions, and that, as a result, the entire program has been dangerously undermined and the technical credibility of this effort has been crudely sacrificed.

Accordingly, I endorse the decision reached by the conferees to reduce substantially the funds requested by DOE for carrying out this program, pending an opportunity for DOE to redouble its efforts to address the concerns that have been raised by the States and Indian tribes. Since I was not a conferee on this continuing resolution, though, Mr. President, I should like to ask the Senator from New Mexico, Mr. DOMENICI—who was not only a conferee on this bill, but also serves on both the Environment and Public Works and Energy and Natural Resources Committees, the two committees with jurisdiction over this program—if he could expand on the purpose of this provision and the underlying rationale for taking this drastic step.

Mr. DOMENICI. Mr. President, I certainly concur in everything that my good friend from Wyoming has said about the Nuclear Waste Policy Act, the rationale for requiring DOE to proceed with a program for the development of two repositories, and the purpose of this particular provision. He and I have been laboring in the trenches since the late 1970's on the issue of nuclear waste disposal and it is with great dismay that we are now witnessing the unravelling of this carefully crafted program and the disruption of the delicate political and geographic balance that is so essential to a successful program.

The conferees were deeply concerned about the course that this program is taking and the clear violation of the law as a result of DOE's decision to postpone indefinitely work on a second repository. Accordingly, we have reduced substantially the funds available for DOE in fiscal year 1987. The bill provides for a reduction from DOE's request of $769 million to a level of $499 million, with $79 million of this amount "fenced" until DOE certifies that a good faith effort has been made to comply with the requirements of section 117(c) of the Nuclear Waste Policy Act and both Subcommittees on Energy and Water Development appropriations of the House and Senate approve the expenditure of these funds. In addition, we have prohibited DOE from undertaking work involving the drilling of any exploratory shaft at any site in fiscal year 1987.

The conferees expect, Mr. President, that DOE will dedicate its efforts under this provision to addressing the concerns that the States and Indian tribes have raised, to resolving the pending litigation, and to restoring a strong measure of credibility to this program, rather than to charge forward with business as usual in the flawed course that DOE is now on.

The Continuing Resolution further provides that the funding reduction shall be taken against DOE's entire program effort. It would be my hope, Mr. President, that DOE will ensure that this reduction is applied uniformly to both the First and Second Repository Programs, as well as to all of the other programs, rather than to take disproportionate cuts in some programs, but not others. It is obvious to me, Mr. President, that we need to restore the work previously underway on the second repository program—and this uniform approach to allocating the reduction would enable DOE to move in that direction, by providing greater funding for the Second Repository Program. In fact, Mr. President, I specifically questioned my fellow conferees on this issue around the table at the time that it was discussed about whether the second repository work should move forward, and they all concurred that this effort should proceed in accordance with the requirements and schedules in the act.

In light of the decisions that have been taken by DOE this year, Mr. President, this program is now in deep trouble. Between now and the beginning of next session, DOE has an opportunity within the framework of this provision to restore a measure of credibility and technical soundness to this program, and to get this program back on track. From what I see, though, Mr. President, I am not optimistic—particularly since DOE persists in its view that the decision to postpone indefinitely the work on a second respository is not only legal, but a wise policy decision, even in the face of this program crumbling before their very eyes. Thus, unless fundamental changes are made between now and the beginning of the next Congress, Mr. President, I anticipate that we will see a major effort to reopen the Nuclear Waste Policy Act and that this effort will be successful.

Mr. SIMPSON. Mr. President, I thank the Senator from New Mexico for his comments. I might just add that unless a credible and adequately funded Second Repository Program is restored, I do not think that this program will succeed in the bizarre "one-legged" posture that DOE has it in now. In fact, if we return in the next Congress with no progress to restoring this program to the carefully balanced posture intended by Congress—and confirmed by the legal analyses undertaken by the General Accounting Office and the Department of Energy's general counsel—I intend to lead the effort to reopen the Nuclear Waste Policy Act and revisit the entire question of just how we intend to pursue nuclear waste disposal in this country. We can't duck this one. I trust that no one would find the present situation to be in the best interest of this program, but I see no other option for us in the face of DOE's insistence on heading along what I think is a reckless and shallow course.

DEFENSE SPENDING—MAKING TOUGH CHOICES AND SETTING REALISTIC PRIORITIES

Mr. LEAHY. Mr. President, as the 99th Congress draws to a close, it is important to reflect on what the past 5 years of defense buildup has accomplished. After spending over $1 trillion on defense, we must be stronger, but the question is, how much stronger? Have we made the difficult choices

and set the right priorities? Has an outpouring of the taxpayers' dollars bought us sound, balanced defense forces capable of deterring war or of fighting it if it comes?

Simply put, Mr. President, is our Nation as secure as it should be after the largest defense budgets in history?

Obviously, there have been important improvements. I am extremely pleased, for example, by the outstanding recruitment and retention rates of the All Volunteer Force. In absolute numbers, we have more weapons and more ammunition than 5 years ago. Nevertheless, it is clear that, given the massive resources committed to national defense, it is taking too long to see real gains in the capabilities of our general purpose forces. Our capability to wage conventional war is still well below what is needed to defend U.S. interests from the most likely challenges abroad. We are still far from reducing our excessive and dangerous overreliance on nuclear weapons to offset conventional imbalances with the Soviet Union.

These are not meant to be partisan observations. The roots of the present deficiencies in U.S. conventional forces go back through several administrations. Ultimately, they can be traced to the distortions and dislocations of the Vietnam war. However, a fundamental reason for the disturbing trends of recent years in defense spending priorities is the misplaced emphasis of the current administration on buying extremely costly and complex weapons, both nuclear and conventional, at the expense of conventional force readiness and combat sustainability. Between 1980 and 1985, spending for hardware grew by 95 percent, compared to only 37 percent for operations, training and other support, and a mere 13 percent in military pay. I am gratified that Congress this year has been able to slow down planned weapons purchases and to defer new program starts, while protecting and even increasing somewhat funding for operations and maintenance and for personnel.

Prior to this year, spending on equipment had gone up nearly three times as much as for the nuts and bolts of maintaining and operating the weapons. It had risen seven times as fast as the pay of the men and women who operate them. Congress has finally taken long overdue corrective action in bring weapons procurement and operations, maintenance, training, stockpiles, and pay into a more healthy balance.

Looked at in dollars, investment in new weapons programs has cumulatively totaled more than $470 billion from fiscal years 1981-86. The Pentagon now has unspent balances from prior year appropriations of more than $270 billion, exceeding by far estimates for this year's Federal deficit. Yet, despite this enormous sum, we are actually getting fewer and fewer weapons for more and more money. The Director of the Congressional Budget Office [CBO] recently testified that during the first 4 years of the current defense buildup, the United States spent over 150 percent more for tanks than under the Carter administration, but the number of tanks bought grew by only 30 percent. There are many, many examples of dollars spent yielding little in the way of increased defense capability. Despite 75 percent more dollars in the last 4 years for aircraft procurement than the Carter administration, the Reagan administration has bought 12 percent fewer airplanes. The present administration has bought 23 percent more ships in its first 4 years than the Carter administration, but spent 48 percent more to get them. In the last 4 years, the Army has bought 40 percent more helicopters but has paid 50 percent more for them. After spending over $1 trillion on defense in its first 5-year plan, the Reagan administration has managed to increase our uniformed personnel by only 70,000, while civilian bureaucrats in the Pentagon have mushroomed by nearly double that number.

Nor, unfortunately, have these larger investments resulted in economies of scale. According to the CBO, during the 1981-85 period, actual cost increases per unit for certain major weapons systems were higher than expected by anywhere between 9 to 64 percent. While these higher cost estimates were finally realistically projected in the last 2 years, resulting in a stabilization of prices for at least some systems, there is no doubt that unanticipated cost overruns accounted for a huge share of the tremendous spurt in procurement funding since 1981.

The marked tendency in the early years of the present administration to understate the real procurement costs of major systems led the CBO to conclude that investment accounts in the Pentagon have been underfunded by at least $100 billion—and when the bills came due much of that money was found in readiness, training, spare parts, operations and maintenance, and ammunition accounts. Unlike the big, multibillion-dollar weapons programs, there are no well-paid lobbyists to protect training or operations and maintenance, and these are the first to be sacrificed to pay for procurement.

Despite the huge expenditures of the last 5 years, the Soviets continue to enjoy numerical advantages in many major weapons categories. I am not a believer in the "bean counting" way of comparing military forces. However, the Pentagon's love affair with overengineered, excessively complicated, hard-to-maintain weapons could have very serious consequences for our men on the battlefield. Weapons will break down, replacements will be lacking, and our forces could be overwhelmed by sheer numbers.

After studying the results of the 5-year defense buildup, a defense specialist at the Congressional Research Service put it this way:

> The bottom line under wartime balance is that $1 trillion over the last 5 years did hardly anything to rectify the quantitative imbalance and it did a lot less to keep our technological superiority intact than we would like.

A study recently released by Congressman LES ASPIN, chairman of the House Armed Services Committee, concludes that the total spending on defense research and development had a real increase of 56 percent between 1980 and 1985. Yet, by the Pentagon's own comparison between the United States and the Soviet Union in 15 key military technologies in 1980 and again in 1985, there was no change in the relative standings in 11 of these categories. The U.S. position improved in one and declined in three—indicating, according to Congressman ASPIN, a "modest decline in the relative position of the United States overall despite the huge investment."

Where has all the money gone, or more appropriately, where has it not been spent?

As its first priority, the administration has emphasized the development and deployment of nuclear weapons. CBO estimates the President's strategic modernization program costs over $50 billion a year and will total more than $250 billion over fiscal years 1984-88. In the administration's first term, the share of the defense budget dedicated to strategic nuclear forces had an average annual real growth of 27 percent, compared to only 8.5 percent for general purpose or conventional forces and only 9 percent for the defense budget as a whole.

The 27 percent figure for strategic nuclear forces does not take into account the 15.5 percent average annual growth in the Department of Energy's nuclear warhead programs or the substantial amounts spent for ongoing research and development during the life of a major system such as the B-1 or the MX. It also does not reflect dollars going into the Strategic Defense Initiative or for so-called theater nuclear forces. The CBO estimates that cumulative real growth in spending for strategic weapons between 1980 and 1985 totals 182 percent, compared to 87 percent for conventional forces in that same period—more than twice as much, even though most defense experts agree the Nation's more urgent need is stronger conventional forces.

While the gap in real growth between nuclear and conventional forces has declined somewhat over the last 2 years, the improvements needed in conventional readiness will not be at-

tained without a substantial reordering of administration defense spending priorities.

The President's strategic modernization program has been justified on the basis of closing what he used to call the window of strategic vulnerability. Supposedly, that window was opened in the decade of neglect—the 1970's. That was the decade when the Trident submarine and Trident ballistic missile programs were begun. Five of the nine Trident submarines now operational were deployed before President Reagan took office. In that much maligned decade, the Minuteman II ICBM replaced the Minuteman I, the Minuteman III MIRVed ICBM was deployed, the B-52 began a major modernization program that extended its service life well into the 1990's, and the air-, ground-, and sea-launched cruise missile programs were started. The advanced technology stealth bomber, the most capable and sophisticated strategic system this Nation will have to maintain deterrence into the next century, was inaugurated and expended. The 1970's was the decade when the MX program was begun, a program intended to produce a mobile, survivable replacement to the silo-based and vulnerable Minuteman force. In what has to be one of the most dubious and illogical strategic decisions of the last 20 years, President Reagan has determined that MX will not be mobile and will in fact be placed in vulnerable Minuteman silos.

The hard truth is that neither the administration nor the military services have forced themselves to make difficult choices or set tough priorities in a fiscally restrained era. They continue to plan and budget for defense as though the Nation were not running staggering deficits and as though the national consensus in support of a major defense buildup had not been affected by the urgent need to get Federal spending under control. Rather than being guided by the principle of survivability, the administration has chosen to place first-strike MX missiles in vulnerable silos. That is easier than the painful decision to junk the MX as a costly failure, a dinosaur, from another age. We will spend almost $25 billion to buy 100 obsolete B-1 bombers, even though improved B-52 will remain effective until the 1990's—during which time the highly survivable stealth bomber will become operational. Rather than make the hard choice to kill the B-1 for good, the administration took the easy way out, and bought two new bombers when we need and can afford only one.

Despite the recommendations of the President's own Commission on Strategic Forces, the Scowcroft Panel, the administration is now starting to back away from the small, mobile, single warhead ICBM and is inching toward a bigger, MIRV'd version. But, to follow the Commission's recommendation to put strategic stability over mere warhead numbers is politically hard. So, the administration takes the path of least resistance. Fortunately, many in Congress are determined that our future modernization plans will include this small, single warhead, stabilizing missile, and are fighting hard to protect the program.

Unfortunately, starving conventional forces in order to spend more on nuclear weapons is not the only misplaced priority. Since the President's star wars speech in March 1983, the administration has poured billions into SDI research at the expense of basic technologies which affect the military balance between the United States and the Soviet Union. Massive funding increases for SDI in each of the last 3 fiscal years raise serious questions about the management, feasibility, and direction of this program. In a rare display of determination to resist the administration and the hordes of lobbyists for defense contractors roaming the halls, Congress has voted to cut this year's SDI request from $5.3 billion—a 75-percent increase over last year—to $3.2 billion. If Congress can hang tough next year, we will have gone a long way to getting this runaway money burner under some control.

There is more to the SDI story, and that is the impact it has had on conventional force readiness. Last year, the President exempted SDI from Gramm-Rudman cuts. In protecting SDI from Gramm-Rudman, the Secretary of Defense last year did not exempt readiness, training, spare parts, or ammunition from the cuts. This is a sad illustration of a pronounced bias to shortchange conventional forces in general, and politically unglamorous readiness accounts in particular, in order to protect high visibility programs like SDI.

A comparison of the administration's projections in the fiscal year 1986 defense budget with actual program requests in the fiscal year 1987 budget provides further evidence for just such a tendency.

In the fiscal year 1986 defense budget, the Air Force estimated it would ask for an increase of $2.5 billion in the fiscal year 1987 budget to cover needed initial and replenishment spare parts. However, in the actual fiscal year 1987 budget, that $2.5 billion increase was not requested. Perhaps not coincidentally $2.5 billion was approximately the increase the administration sought for SDI. Funding requested by the Air Force in the fiscal year 1987 budget will meet only 56 percent of replenishment requirements and 58 percent of fiscal year 1988 estimated rquirements. Such trends suggest that the Air Force will not have the spare parts it will need to sustain intensive combat operations for very long.

Looking at the Army, the actual fiscal year 1987 budget request for ammunition was $800 million below what Army planners had estimated in the fiscal year 1986 budget they would need for ammunition stocks. The actual fiscal year 1987 request was $243 million below the level appropriated in fiscal year 1986 for ammunition. In fact, if the current 5-year plan is followed, we will not attain the 1985 funding level for ammunition until 1991. Lawrence Korb, former Assistant Secretary of Defense for Manpower, Installations and Logistics, has publicly conceded that the Army itself has cut back on combat sustainability goals by lowering the requirement for a 60-day ammunition stockpile by 1988 to only a 50-day supply.

Some improvements are being made in munition reserves. CBO estimates that between 1981 and 1985 the Pentagon has spent $46 billion on ammunition stocks of all types. However, according to the CBO, "major gaps still exist between what the services have, and what they say they need." An analysis by the House and Senate Budget Committees, for example, indicates that by the end of 1987, the Army will still meet only 83 percent of its stated munitions requirements, the Navy 35 percent, the Air Force 42 percent, and the Marine Corps 57 percent.

These disturbing munitions shortages are exacerbated by the failure of our NATO allies to come even that close to meeting agreed ammunition stockpile targets, Commenting on the ammunition shortfall among the NATO allies, Lawrence Korb has said: "They don't have enough conventional munitions to fight the way as long as may be necessary to keep it from escalating. In the words of a former Pentagon official, 'ammunition always takes second place, until you get into combat.' "

Moreover, Pentagon officials have publicly questioned whether in a general mobilization U.S. industry would be able to make up for these years of neglect and misplaced priorities. The Pentagon's Assistant Secretary for Logistics, Readiness and Sustainability told Congress last year that "the capacity of U.S. industry is well short of the mobilization requirements."

While the administration takes pride the technological complexity and virtuosity of the equipment it is buying, unfortunately, it cannot justifiably claim that U.S. forces will either have the quantity of weapons required or, equally importantly, the necessary combat sustainability to wage large scale operations very long after the outbreak of a major conventional war.

Mr. President, I think it is fair to say the Defense Department has in large part been able to keep up major weap-

ons procurement even with tightening budgets only by stinting and cutting back on critical programs designed to make the United States capable of fighting and winning a large-scale conventional war. Another source of procurement funding is the so-called inflation dividend, the annual windfall the Pentagon receives thanks to padded inflation assumptions woven throughout the Defense budget. Because the Department of Defense contends that the prices of major weapons systems rise more rapidly than general prices, prior to the fiscal year 1986 budget inflation for such weapons was estimated at a rate 30 percent higher than overall inflation. The result, according to the General Accounting Office, has been the accummulation of a $44 billion slush fund over fiscal years 1982-86, not counting overestimates for the price of fuels.

Last month, Senators PRYOR, GRASSLEY, and I offered an amendment to require the Defense Department to use the same inflation estimates as all other agencies of the Federal Government. This amendment, which was endorsed by the National Taxpayers Union, would have also prohibited use of the Pentagon's special inflation "kicker," which adds on another 30 percent to the inflation adjustments in contracts for major weapons systems.

Mr. President, we simply can no longer afford to allow the Pentagon to conduct business like this. We can and we must control defense budgets better and set clearer spending priorities. We need what I have called a smart-defense philosophy to guide our basic defense spending decisions. The ingredients of a smart defense grow out of the many deficiencies in our current defense policy which I have described thus far.

First, and foremost, our strategic nuclear modernization should be based on three fundamental principles: stability, survivability, and deterrence. In our own security interests, we must avoid programs which depend on hair trigger launch for survivability, which themselves pose a first strike threat, and which are designed to wage rather than to deter nuclear war.

Second, the modernization of conventional forces must be the top national defense priority for a sustained period. The growth in weapons procurement should not outpace spending on key conventional force needs such as training, ammunition, spare parts, and operations and maintenance—and it most certainly should not be maintained at the expense of these programs. Our conventional forces must not only be modern, they must also be manned, maintained, and supplied in a manner which will give us the capability to sustain a major and prolonged conventional conflict without being forced to resort to nuclear weapons to avoid defeat.

Third, we can no longer allow research accounts to be so dominated by the strategic defense initiative. After all the massive spending on research and development since 1980, the technological balance between the United States and the Soviet Union remains essentially unchanged. This is unacceptable, especially when the West continues to rely so heavily on quality of weapons to offset quantitative disadvantages. Funding priorities need to be better balanced, particularly to achieve more progress in technologies which show real promise in improving our conventional capabilities against Soviet armor, artillery, tactical aircraft, attack submarines, and other categories in which they enjoy numerical leads.

Fourth, we should place much greater priority on buying simpler, more durable weapons in greater quantities if our forces are to have a chance of surviving the opening round of a conventional conflict with the Soviet Union. We must look to greater simplicity in weapons designs. For example, spending nearly $20 billion for one larger nuclear aircraft carrier and its supporting battle group makes no sense when, for the same price, we could buy several light carriers armed with Harrier VSTOL-type aircraft to meet our power projection needs. Spending half a billion dollars apiece to reactivate old World War II battleships—plus anywhere up to another billion and a half to arm them with cruise missiles and other weapons—isn't smart. We can get the most modern destroyers and cruisers for that money, without the huge manpower requirements to operate a battleship, and without its near total vulnerability in a major war at sea.

Fifth, the weapons we do buy should be tested under realistic battlefield conditions before they can be purchased in quantity. And, the troops which will have to operate them in combat should help design the tests. Let's stop letting the civilian and military bureaucrats in the Pentagon, helped by the weapons designers themselves, set up the tests. The people who are going to build the weapons should not be the ones to devise the tests the Pentagon will use to make its contract decisions.

Sixth, Congress and the President, in a constructive partnership, must act vigorously against massive waste, fraud, and abuse in the Defense Establishment. Timely implemenation of the Packard Commission recommendations would go a long way toward eliminating the horror stories about $800 hammers and $1,000 coffee pots.

Finally, being smart means having a coherent global defense strategy that matches commitments with capabilities. It means eliminating interservice rivalries over shares of the budget. It means providing the best military advice to the President without regard to parochial service interests. Congress has already taken a major step in this direction by enacting the Defense Reorganization Act under the courageous and enlightened leadership of Senators BARRY GOLDWATER and SAM NUNN.

Mr. President, there have been many improvements in our Nation's defense over the last 5 years—but we can do better, and we must do better so that our country is as secure as it can be.

URANIUM ENRICHMENT "OVERFEEDING"

Mr. SIMPSON. Mr. President, I should like to ask the Senator from New Mexico about a certain provision in the continuing resolution which he worked on in the conference. The provision that I have a question about deals with a practice which the Department of Energy has said it wishes to implement, and some claim they have been doing, at the uranium enrichment complex—a practice referred to as "overfeeding." This is a practice whereby DOE uses stockpile uranium to supplement the uranium delivered by its customers. I believe the Senator from New Mexico addressed this issue in the conference in a manner that prohibits DOE from engaging in this practice. Would the Senator from New Mexico be so kind as to explain to me this particular provision in the continuing resolution?

Mr. DOMENICI. Mr. President, I would be happy to. What we have done in the CR is selectively reject certain of the criteria for operating the uranium enrichment complex which were sent to us in July by the Department. The conferees agreed to restrict the ability of the Department to use stockpile uranium for overfeeding under both the Department's contractual and administrative authorities. In September 1985 when the Department found that the uranium mining and milling industry was not viable, the Secretary of Energy informed the Senate that he was going to postpone the Department's plans to do this overfeeding for 1 year. What we have done, in effect, is continue that moratorium on this practice. I will include the letter of the Secretary in the RECORD if that would be a help and I ask unanimous consent that it be included.

Mr. SIMPSON. I thank the Senator for his explanation.

The letter follows:

THE SECRETARY OF ENERGY,
Washington, DC, September 26, 1985.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Pursuant to the requirements set forth in section 170B of the Atomic Energy Act of 1954, 42 U.S.C. 2210b, I am transmitting the annual determination of the viability of the domestic uranium mining and milling industry.

Section 170B directs me to make an annual determination for the years 1983 to

1992. The attached determination covers calendar year 1984. The determination has been made in accordance with the criteria established by regulation (10 C.F.R. §§ 761.1-.8 (1984)). The annual assessment of the industry's condition, prepared by the Energy Information Administration, is also enclosed. This study, "Domestic Uranium Mining and Milling Industry: 1984 Viability Assessment," September 1985, provides the underlying information and analysis for this determination.

I have determined, in accordance with the provisions of the Act and the regulations, that for calendar year 1984 the domestic uranium mining and milling industry was not viable. In view of this determination, I have authorized the Department of Energy to offer its customers for enriched uranium an option that, if exercised, could have the effect of increasing domestic uranium sales. I have also directed the Department to postpone for one year a plan to feed some of its own uranium stockpile into enrichment plants.

In addition, I have requested the United States Trade Representative to examine this situation with a view to determining the appropriate available courses of action under U.S. trade laws. The Trade Representative has been requested to provide preliminary recommendations within three months.

Yours truly,

JOHN S. HERRINGTON.

DEPARTMENT OF ENERGY'S URANIUM ENRICHMENT REGULATIONS

Mr. SIMPSON. Mr. President, I am so very pleased to commend my good friend and colleague from the State of New Mexico, Senator DOMENICI, for the yeoman work that he has undertaken and the perseverance that he has shown in this bill in fashioning an approach that starts us down a most important road—the road to restoring our domestic uranium industry to a healthy, competitive position.

The provision contained in this bill addressing the Department of Energy's uranium enrichment criteria represents a most important step by this body in our efforts to get America's uranium industry back on its feet—for it is the first time that the Congress has acted since the Department of Energy declared that our domestic uranium industry is no longer viable. More importantly, it constitutes a firm message to the administration that we will not stand idly by as the Department of Energy presides at the funeral services for our domestic uranium industry.

Mr. President, it is time for the Congress to move forward swiftly and decisively to address the very serious problems that the domestic uranium industry faces today. Over the past 6 or 7 years, we have seen a steady and dramatic decline in the health and vitality of the uranium industry in this country. Wyoming employment in the industry has dropped to all-time lows, as mines and mills have been closed down, and we are on the verge of seeing this most valuable domestic resource go untapped or be regulated out of existence and lost indefinitely to foreign-supplied uranium.

In Wyoming, we have gone from over 5,000 employed in our mines and mills back in 1980 to only a few hundred toay. In fact, Mr. President, the State of Wyoming, which was once among the world leaders in production of yellowcake, now has only one uranium mill still in operation.

We cannot afford to continue down a road of ever-increasing reliance on foreign sources of energy. I have no legislative history as a protectionist, Mr. President, but our uranium industry is so vital to our country's efforts to achieve energy independence, as well as to assure our national security, and we must take all necessary steps to turn this grave situation around.

The provisions in this conference report constitute a solid beginning toward getting Wyoming's uranium industry back on its feet and Wyoming miners and millers back to work. We are prohibiting the use of uranium from the stockpile—a practice referred to as "overfeeding"; we are requiring the Department of Energy to offer its customers a free choice of transaction tails in the 0.2 percent to 0.3 percent range; We are prohibiting DOE, as they had proposed, from collecting the unrecouped costs associated with the enrichment enterprise, and declaring that Congress, not DOE, will make that determination; and we are sending a strong message of concern about DOE's approach to the enrichment of foreign origin uranium—the Department is under an obligation under section 161(V) of the Atomic Energy Act to address the ever-increasing flood of imported uranium.

This provision, Mr. President, is but a modest step—but I do think that it is an important step. Much work remains to be done, and I will continue to work for the enactment of the comprehensive package that Senator DOMENICI and I introduced in this Congress, S. 1004, so that we may get on with resolving many of the vexing and troublesome problems facing this vital domestic industry, ranging from the cleanup of the active uranium mill tailings sites, to the issue of imported uranium, to the issue of DOE's enrichment program. I commend my courageous colleague from New Mexico for the fine work that he has done on this provision before us today, and I look forward to a continued alliance with him as we seek to restore the domestic uranium industry to a healthy, competitive position.

Mr. McCLURE. Mr. President, the measure we are addressing today is not a provision to "Buy America" but an attempt by one industry to prop themselves up at the expense of another.

Nobody feels worse than I about the current situation of our domestic steel industry. I have been a strong proponent of our industrial and natural resource industries, especially as they relate to our national security. However, it makes little sense to use the argument that this provision will aid the steel industry and increase employment, when in fact it will do just the opposite.

The provision says that 50 percent of the materials and supplies on structures used for exploration and production activities on the Outer Continental Shelf [OCS] be of domestic origin and these structures be built in the United States.

A major purpose of the proposal is to protect domestic steel producers and fabricators of structures used in offshore production from foreign competition. However, the oil industry already purchases many of the most costly components of offshore platforms from domestic firms. And, over the life of a project, 90 percent of the total project cost is spent domestically, even if the jackets and piles are produced offshore.

As a result of this proposal, many marginal oil prospects will be abandoned, especially at today's oil prices, because the additional cost of the rig could not be justified in a benefit or cost ratio. For example, last year a major contract bid came in for a project offshore California in which the domestic bid of $200 million for the jacket and piles, was twice that of the nearest foreign bidder. Contrary to what many would like to believe, an additional $100 million in costs will cause most if not all oil companies to abandon even the best prospects for future development.

In addition, reduced offshore drilling and production would reduce employment directly in the oil and gas industry and indirectly in industries that supply inputs to petroleum drilling and production. According to a Battelle Pacific Northwest Laboratories study prepared for API in June 1985, up to 56,000 workers would be displaced by the year 2000 if "Buy American" requirements were imposed on OCS activities.

The ramifications of this provision are far reaching, not only affecting the worthy and necessary objectives of income and employment in other domestic industries, but also the U.S. exports of goods and technology and the national security objectives of offshore development of oil and gas resources.

To quote former Deputy Secretary of the Department of Energy, Kenneth Davis, at the recently held World Energy Conference in Cannes, France, "the oil outlook in the United States is bleak," the level of U.S. proved oil reserve additions is now just 600 million barrels a year, or roughly one-fifth of the country's annual production rate. Because of low oil prices, worldwide exploration investment is down consider-

ably. Spending on development has dropped another 20 percent this year and the number of exploration engineers has been cut by 10 to 20 percent.

The new "oil frontiers" are offshore. We cannot afford greater reliance on foreign sources by cutting off access to our own reserves.

Where would our steel industry be if we were to impose this so-called "Buy America on them? Let me tell you—while the increased cost of domestically produced jackets and piles to the oil industry would amount to $400 million to $500 million from 1986 to 2000—this represents 20 new planned platforms times the additional average costs of $20 to $25 million per platform—the cost to steel companies would be an additional $7 billion for domestic ferroalloys that are now imported over the same period of time at 1985 prices. This does not include the cost of imported metallurgical coal or coke which steel companies now use to process steel.

I do not use this example to suggest that I would support such an imposition on the steel industry any more than I support the proposal before us today. But I ask you, Mr. President, why should we be less concerned with the impact of this provision on our oil industry and the future of our domestic oil supply?

I implore my colleagues to vote with me in opposition to this ill-conceived provision.

URANIUM ENRICHMENT CRITERIA

Mr. GARN. On July 24, 1986, DOE submitted proposed new uranium enrichment criteria, as required by section 161v of the Atomic Energy Act, to relevant congressional committees for their consideration. I understand that two House committees and the Senate have disapproved the criteria as a package, and that now the joint conferees have enacted a section of the continuing resolution funding Government operations that withholds funds for implementation of some aspects of the criteria. As the Senator knows, I am extremely concerned about the adverse impact of the criteria on the domestic uranium industry; especially in light of the statutory requirement that DOE assure the maintenance of a viable domestic uranium industry and in view of DOE's acknowledgment that the industry is nonviable. What exactly have the joint conferees done?

Mr. DOMENICI. The Senate has now twice passed resolutions formally expressing its disapproval of DOE's proposed new criteria. As early as August of this year, the Senate passed section 612 of the House Joint Resolution 668, increasing the public debt limit. This section formally disapproved the criteria. More recently, the Senate adopted an amendment to continuing resolution House Joint Resolution 738 that prohibited the use of public funds for implementation of the criteria.

On the House side, both the House Committee on the Interior and the House Committee on Energy and Commerce passed resolutions with language similar to the language embodied in the Senate version of Senate Joint Resolution 699 rejecting the DOE criteria. It now appears that in Congress' rush to adjournment, a floor vote on the House resolution disapproving the criteria, much less coordination with the Senate, will not be possible.

As an interim measure, the conferees on the continuing resolution have today adopted a provision that prohibits use of Government funds for implementation of certain specific aspects of the enrichment program. Under the continuing resolution, Government funds will not be used to implement: First, unrestricted enrichment of foreign source uranium, except until such time as the pending court litigation on the proper interpretation of section 161v is resolved, at which time Government funds can be used for this purpose only if and to the extent such use is in accordance with the court's decision; second, limitations on free choice of transaction tails assays from 0.2 percent to 0.3 percent U-235 or imposition of an additional charge for selections in that range; third, the provision of the criteria purporting retroactively to validate enrichment contracts permitting unrestricted enrichment of foreign-source uranium for domestic end-use even in the event of a contrary court decision; fourth, any provision of the criteria that permits or results in reduction of feed material provided to DOE for enrichment by means of reduction of Government stockpiles; and fifth, any provision of the criteria that purports to determine the level of unrecouped costs that must be returned to the Treasury by the Enrichment Program.

Mr. GARN. How, if at all, does this affect the pending litigation between the domestic uranium industry and the Department of Energy?

Mr. DOMENICI. This legislation was intended to be neutral as far as the ongoing litigation goes—that is to say, we wish the court to resolve the litigation as if DOE had not issued its new criteria. The legislation allows the DOE to continue to run the Enrichment Program, with certain restrictions, pending the outcome of the litigation. It also allows DOE to continue to enrich foreign-source uranium for domestic end-use until the U.S. Court of Appeals for the Tenth Circuit rules on that issue. The legislation recognizes that the decision concerning the proper interpretation of section 161(v) is now pending before the court. But it makes very clear that Congress will allow DOE to continue such a practice only until the tenth circuit rules on the issue, and if the tenth circuit decides that section 161v requires restrictions on enrichment foreign source uranium, then DOE must abide by that judgment, and no Government funds may be used in any way inconsistent with that judgment.

As one who has been close to the section 161(v) issue for many years, and who was a cosponsor of the legislation that became section 170B of the Atomic Energy Act, I personally have no doubt that DOE's position that it has unfettered discretion under section 161v to withhold enrichment restrictions on foreign-source uranium for domestic end-use even if the domestic industry is nonviable is wrong as a matter of law. I believe that the plain language of section 161v, its legislative history, and prior administrative interpretation are very clear on this point. Indeed, as I've previously stated, section 170B was intended to reinforce DOE's obligation to take some action restricting enrichment of foreign-source uranium by requiring a formal annual viability determination to trigger such action in the event of a determination of nonviability.

Mr. GARN. I concur in the Senator's interpretation of sections 161v and 170B. Is there some sort of "legislative stay" provision in this legislation that could allow DOE to continue unrestricted enrichment of foreign-source uranium even in the event of a contrary ruling from the tenth circuit pending the time DOE could petition the Supreme Court to review that ruling?

Mr. DOMENICI. No, the language of section ——— is very clear. It says that Government funds may continue to be used to enrich foreign-source uranium for domestic end-use only "until final judgment or dismissal in the pending litigation." This means that, if the tenth circuit decides that section 161v requires imposition of enrichment restrictions on foreign-source uranium, DOE must impose those restrictions and cannot continue to use Government funds for unrestricted enrichment of foreign-source uranium.

Of course DOE would be free to petition the Supreme Court for certiorari, and could petition for stay of the tenth circuit decision pending disposition of its petition for certiorari.

Mr. GARN. Is the conference action in any way intended to alter the requirements of section 161v?

Mr. DOMENICI. No. We do not intend to alter section 161v, on the requirement that DOE assure the maintenance of a viable domestic uranium industry. This amendment should assure that the DOE cannot simply come in through the backdoor and overturn the legal requirement to have a viable domestic uranium industry. The district court in Colorado has

recognized this fact by its decision of last June.

Mr. GARN. I thank the Senator.

S. 2181 AND H.R. 281, THE CONSTRUCTION INDUSTRY LABOR LAW AMENDMENTS OF 1986

Mr. ABDNOR. Mr. President, I note with regret that the House of Representatives has again voted to support the inclusion of the Construction Industry Labor Law Amendments of 1986 in the continuing resolution for fiscal year 1987.

As a member of the conference committee working on the continuing resolution, I have strongly resisted all efforts to include this harmful measure in any funding bill.

That amendment would have far-reaching consequences for construction workers and could be easily extended beyond just this segment of workers.

Supporters of this legislation say that it simply clarifies current construction labor law. I don't equate clarification with mandatory union membership and this is exactly what this amendment would do. It would force thousands of construction workers across the Nation into joining a union in order to gain work.

One target of this measure is employers who operate both union and nonunion businesses under separate entities. This measure would make legitimate dual shops illegal, thereby eliminating "double breasting."

This amendment would also allow common situs picketing. A labor dispute with any subcontractor could result in the shutdown of the whole construction site. Clearly the sole purpose of this provision is to enhance the power of union leadership.

An even more dangerous weapon would be the legitimization of multisitus picketing. This would permit unions to strike a contractor, say in New Jersey, in response to a labor dispute with the same contractor in South Dakota. In other words, out of State pressure exerted by Eastern labor bosses could be used in any State to force both employers and employees into dealing with a union.

Enactment of this amendment would be tantamount to Federal repeal of State right to work laws. No worker in his right mind would refuse to join a union knowing he would be at its mercy under a union shop. His ability to freely choose the conditions of employment would be sharply restricted if not destroyed.

The people of South Dakota strongly support the right to work concept. They do not want South Dakota's right to work law, which expresses their will, compromised by legislation dictated by giant labor bosses. They do not want strikes and labor disputes encouraged by interests outside our State.

This amendment would also expand the use of compulsory union dues for political purposes by forcing union membership on these construction workers. Americans have always honored and treasured the principle of freedom of choice. This legislation would deny this right to thousands of workers across the Nation and set the stage for even larger union power grabs in the future.

I urge my colleagues in the Senate to resist the efforts of union bosses to force this legislation on the workers of our Nation.

CLARIFY THE LABOR/HHS APPROPRIATIONS CONFERENCE REPORT

Mr. WEICKER. Mr. President, I rise today to clarify a vital point regarding the Title Ten Family Planning Program. This issue was raised by House conferees to the Labor/HHS appropriations bill and I believe it merits further explanation.

As happens all too often around here, the administration—in this case, the Office of Population Affairs at the Department of Health and Human Services—is proposing significant changes to a program it would probably kill if it had the chance. Especially troubling to this Senator was the announcement of these changes just days before the scheduled adjournment of the 99th Congress.

First, as most of my colleagues know well, title 10 of the Public Health Service Act is the major family planning effort of the Federal Government. At a time when teenage pregnancy is at epidemic proportions, at a time when grinding poverty is the guaranteed lot of thousands of unwanted children each year, title 10 family planning is the linchpin of Federal involvement. Programs that receive Federal money in this effort are successful precisely because they offer what many non-Federal programs do not: That is, a full range of medically expert counseling and referral for such things as proper prenatal care, contraception and options for unintended pregnancy, including abortion. The importance of this full range of medical information is not just a good idea according to Congress, it's considered essential by the American College of Obstetricians and Gynecologists.

There has been a tremendous amount of activity regarding title 10 in the 99th Congress. Last year, the Senate Labor and Human Resources Committee passed unanimously a 3-year reauthorization of the program, which is currently on the Senate Calendar. If the bill was to come to the floor tomorrow, I know there would be serious and well-meaning attempts to change the Federal role in this area. I'm confident we could defeat those amendments, but apparently the time involved would be too great according to the leadership. That's unfortunate. The Senate should be permitted to address the issues covered under title 10 and I'm confident it will in the 100th Congress.

In the House of Representatives, two committees—the Committee on Appropriations and the Committee on Education and Labor—rejected by overwhelming margins efforts to restrict information available to women under title 10.

Now, despite defeat in the House and unanimous committee support of longstanding title 10 services in the Senate, the Department of Health and Human Services has decided to accomplish administratively some of the very changes opponents of the title 10 program have been unable to make legislatively.

First, without consulting Congress and providing only the barest information, the Department reportedly will make certain types of counseling optional for programs of family planning that want to receive Federal money. For the first time, agencies that refuse to mention abortion when counseling a woman with an unintended pregnancy could receive Federal money for this sort of so-called family planning service.

Second, HHS is proposing to change the title 10 funding allocation formula, a change that will benefit some regions, while hurting others, and is certain to produce a major disruption in family planning services in the interim. It would be one matter, Mr. President, if this funding change was proposed for fiscal 1988 and subject to review or comment, but it is not. It is instead to be made now in fiscal 1987. Again this is a change made unilaterally by the Department. Congress and constituents of family planning services were kept completely in the dark.

The conference report for the Labor/HHS appropriations bill contains language urging that the title 10 program be left intact pending action on the reauthorization bill, and directing the Secretary of HHS to administer the entire program for fiscal year 1987 in the same manner, and under the same allocation formula which governed program operations during fiscal year 1986.

As chairman of the House-Senate conference, I joined with my colleagues from the House in directing the Secretary to refrain from making any change—in either the guidelines or the allocation formula—at this time. If substantive changes are to be made in the Family Planning Program, the reauthorization bill is the place to make them, not through the back door by administrative fiat as the Department is attempting.

Mr. HATCH. Mr. President, as we turn to consideration of the continuing resolution, I would like to ask my friend and colleague, Senator WEICKER, for a clarification concerning the use of funds made available to

reduce the demand for new drugs. When the statement of the managers was written to accompany the continuing resolution, changes were being further refined to reflect a different distribution of the funds. This is why today I seek clarification that it is the intent of the managers of the conference that the authorizing legislation supersedes the language for distributing the new funds for treatment, rehabilitation, prevention, and education program.

Mr. WEICKER. That is certainly my understanding. We have every intention that the most recent agreements made between the House and the Senate shall be the method by which the funds appropriated shall be expended. There was no effort to proscribed the method by which these new funds should be distributed. As consideration of the continuing resolution proceeded, the authorization, a snapshot of the authorizing legislation as we believed it to exist at that time, is what is contained in the statement of the managers. Our intent is now, and has been, that the funds appropriated should follow the method of allocation outlined in the authorization.

Mr. HATCH. Thank you. There has been great concern expressed about this language and I appreciate your willingness to clarify this point.

Mrs. HAWKINS. Mr. President, I also want to thank my colleagues for clarifying that the authorizing legislation will indeed supersede the conference agreement to the continuing resolution. I appreciate my colleagues' willingness to increase the appropriation levels for the treatment and prevention provisions in our war against drugs. Certainly additional funds will provide the tools that the Federal Government and the States need to deliver essential services.

Mr. CHILES. Mr. President, I would like to join my colleagues in expressing concern about the conference report language accompanying the continuing resolution for the drug abuse education, prevention, treatment, and rehabilitation funds.

It was my understanding when we acted on title II, chapter IV to fund the programs to reduce the demand for drugs, that we were simply appropriating $200 million for the Department of Education and $241 million for the Department of Health and Human Services, leaving all the decisions on the purpose and allocations of those funds, and the shape and structure of those programs, to the authorizing process.

It is my understanding that report language was meant to be broadly descriptive of the types of activities and very general. My concern is that the language might be construed as prescriptive and allocating the funds along the lines of the House-passed version. And at the very time the conferees were adopting this on the continuing resolution, negotiations and movement toward a compromise on the issues were going on between the House and the Senate.

I would like to clarify two things with the leadership and the floor managers of this resolution:

First, that our legislation authorizing the demand reduction programs—education, prevention, treatment, and rehabilitation—supercedes and transcends the conference report accompanying the continuing resolution for these programs upon enactment; and

Second, that the report language is not the most current or authoritative documentation of congressional intent for the use of funds considering subsequent legislative activity.

Mr. CRANSTON. Mr. President, as I indicated when this omnibus drug legislation was first before the Senate and in separate remarks yesterday on the revised compromise version, I feel it is important that the Senate insist on providing for the VA's ongoing drug and alcohol treatment programs a reasonable amount of the drug and alcohol treatment funds that are being appropriated in this resolution. That is why I proposed the earmarking of funds that was adopted by the Senate both in its version of the continuing resolution and in the omnibus drug bill—$11 million in the former and $12 million in the latter—out of the additional treatment funds being provided for ADAMHA. Unfortunately, through a series of misadventures, specific provision for these VA treatment funds has fallen out of the conference report on the continuing resolution, but, as has just been made clear, it is intended and contemplated that the transfer of funds to the VA that is included in the most recent agreement on the omnibus drug bill is intended to be carried out—pursuant to section 2107 of the Public Health Service Act (42 U.S.C. 300aa-6) or other applicable authority—from the additional appropriations to ADAMHA contained in the continuing resolution.

I thank the Senators for this clarification.

Mr. DOLE. Mr. President, the conference report before us contains a 105 per centum limitation on per pupil payments under Public Law 81-874 to so-called super "A" districts. However, due to the fact the authorizing statute contains special provisions relating to the 5 school districts which are coterminous with military installations, including Fort Leavenworth, KS, as well as districts deemed eligible for sections 3(d)(2)(B) and 3(d)(3)(A) of Public Law 81-874, it is my understanding the payment cap is not intended to apply to the calculation of fiscal year 1987 payments to these categories of federally impacted school districts.

Mr. WEICKER. The distinguished majority leader is correct. The payment cap contained in this conference report is not intended to supercede the special provisions in the authorizing statute as amended relating to the calculation of payments made to coterminous districts and districts deemed eligible for payment under section 3(d)(2)(B) or section 3(d)(3)(A) of Public Law 81-874. Thus, the language in this conference report is not intended to reduce in any manner payments made to these heavily impacted local educational agencies.

Mr. DOLE. I thank the distinguished chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education and Related Agencies for clarifying this important matter.

OKLAHOMA UNIVERSITY ENERGY CENTER

Mr. NICKLES. Mr. President, I would like to ask the distinguished chairman of the Energy and Water Appropriations Subcommittee about the status of the Oklahoma University Energy Center project.

Mr. HATFIELD. Mr. President, I have assured my good friend from Oklahoma that I would assist him in securing a grant of up to $9 million to match 20 percent of the $34 million already committed by private sources and the State for construction of the remaining portion of the University of Oklahoma Energy Center.

Unfortunately, because of reasons beyond our control, it was not possible to appropriate additional money for this purpose during the conference on the continuing resolution.

However, I would like to assure my distinguished colleague from Oklahoma that we intended that the Department of Energy be encouraged to use up to $9 million from existing funds appropriated by this bill, if available, to provide for construction and capital equipment for the energy research center at the University of Oklahoma in Norman.

We realize the financial strain the industry and the people of Oklahoma have had from the oil downturn and want DOE to do all it can to help this fine project.

Mr. NICKLES. I thank the distinguished chairman of the Energy and Water Appropriations Subcommittee.

RIVERTON, WYOMING INACTIVE URANIUM MILL TAILINGS SITE CLEANUP

Mr. SIMPSON. Mr. President, I should like to ask the distinguished manager of this resolution, the Senator from Oregon, a question about the funding level provided in this bill for the Department of Energy's Uranium Mill Tailings Remedial Action Program. For some time now, DOE and the State of Wyoming have been engaged in extensive discussions with regard to the Susquehanna inactive uranium mill tailings site near Riverton, WY. This site, Mr. President, is one of the nine high-priority sites that

have been identified for priority attention by DOE. As I understand it, the State of Wyoming and DOE, after considerable effort and work by both sides, are near agreement on a remedial action plan for the Riverton site. If agreement is reached on an appropriate remedial action plan and if DOE and the State resolve the remaining questions on the appropriate cost-sharing arrangement, all parties should be in a position to proceed with remedial action in fiscal year 1987. Is it the understanding of the chairman of the Appropriations Committee that, within the overall funding level agreed upon by the conferees for DOE's remedial action program, this bill provides sufficient funding to undertake the remedial action work at the Riverton site?

Mr. HATFIELD. Yes, Mr. President, within the funding level agreed to by the conferees, we fully expect that the Department of Energy will be able to carry out those remedial actions contemplated in fiscal year 1987, if the State and DOE reach agreement on a remedial action plan. In fact, as one of the nine high-priority sites, we would expect DOE to allocate sufficient funding from the amount appropriated under this resolution to undertake remedial action involving the Riverton site in fiscal year 1987.

Mr. SIMPSON. I thank the Senator for his explanation.

URANIUM ENRICHMENT CRITERIA SUBMITTED BY THE DEPARTMENT OF ENERGY

Mr. HELMS. Is provision (iii) intended to modify existing utility service contracts between utilities and the Department of Energy?

Mr. DOMENICI. Provision (iii) is not intended to modify existing utility contracts. We are aware that numerous utility service contracts presently exist between U.S. utilities and the Department of Energy. It is our intention to stay neutral on the issue of contracts pending the judgment from the 10th Circuit Court of Appeals.

Mr. HELMS. Is it the intent of this provision to maintain the status quo of utility service contracts until such time as the present litigation concerning utility service contracts is resolved?

Mr. DOMENICI. It is the intent of this provision to remain neutral on the validity of utility service contracts. The validity of these contracts is presently being challenged in the Federal courts. It is not our intent to prejudge that litigation.

Mr. HELMS. Is provision (v) intended to declare congressional approval that a prior unrecouped Government cost exists and that the Department of Energy is entitled to recover such cost?

Mr. DOMENICI. It is not the intent of provision (v) to approve the Department of Energy's position that a prior unrecouped Government cost exists. This is a matter that has received a great deal of attention and should be determined by Congress next year.

Mr. HELMS. Is it the intent of this provision to prejudge litigation presently pending before the U.S. court of appeals questioning the appropriateness of the prior unrecouped Government cost provision of the Department of Energy's uranium enrichment criteria?

Mr. DOMENICI. It is not the intention of provision (v) to prejudge any litigation challenging the prior unrecouped Government cost provision. As noted above, this provision in the Department of Energy's uranium enrichment criteria drew a great deal of attention and has of yet not been resolved. This provision in no way should be viewed as resolving the matter, but rather indicates that the issue has been set aside until it can be taken up next year.

Mr. STEVENS. Mr. President, I would like to engage in a colloquy for a technical clarification in the continuing resolution provision allowing eligible Rural Electrification Administration [REA] borrowers to prepay all their REA-related debt.

A sentence in this provision which deals with direct or insured loans states that, "No guarantee or other financial assistance shall be available to the borrowers to refinance outstanding loans prepaid hereunder."

I would ask Senator ABDNOR, the chairman of the Subcommittee on Treasury and Postal Service Appropriations, to inform me that my understanding that the use of the word "hereunder" in the forementioned sentence refers only to the prepayment of direct or insured loans, and not to prepayment of guaranteed loans which are covered elsewhere in the provision.

Mr. ABDNOR. Mr. President, the Senator is correct in his understanding. The use of the word "hereunder" in the sentence he references, refers only to the prepayment of direct or insured loans.

REA PRIVATIZATION DEMONSTRATION PROGRAM

Mr. STEVENS. Mr. President, the continuing resolution, as agreed to by the conference committee Wednesday morning, would establish a Privatization Demonstration Program" for Rural Electrification Act [REA] borrowers. Under the conference committee's demonstration program, REA electric cooperatives with REA-guaranteed Federal Financing Bank [FFB] loans have the option of electing to prepay their high interest loans, without penalty. If refinancing is necessary, private capital must be used, and a 90-percent loan guarantee is made available.

In return, REA cooperatives choosing to participate in the demonstration program would be required to pay off all of their REA obligations, including their direct and insured loans from the REA revolving fund, and to forgo any future eligibility for REA loan programs.

The intent of this demonstration program as approved by the conference committee is twofold: First, to encourage and assist REA cooperatives to move into private capital markets for financing needs; and second to provide financial benefits through prepayment of high interest loans to the consumers of participating cooperatives.

The demonstration program amendment has the support of the administration. They were actively involved with my office in negotiations leading to its development. Loans prepaid under the demonstration program would result in significant outlay savings. These savings would be in addition to the $2 billion estimate for Federal Financing Bank refinancing by REA borrowers under the refinancing provisions reconciliation bill for needy cooperatives.

Mr. President, I ask unanimous consent that an October 14, 1986, letter on the demonstration program from the Director of the Office of Management and Budget be printed in the RECORD at the conclusion of my remarks.

Mr. President, I was extremely disappointed that late last night the House of Representatives adopted an amendment which would limit the demonstration program to REA Cooperatives in the State of Alaska. The House of Representatives' Alaska amendment will permit a demonstration by the Chugach Electric Association should Chugach decide to participate in the program. It is unfortunate, however, that the House will deny the benefits of this demonstration program to other cooperative utilities in other States.

I expect Congress and the administration next year to carefully review the results of this demonstration program, with an eye toward its expansion. The demonstration program is a very good idea that should result in very substantial outlay savings to the Federal Government and to consumers in the service area of participating utilities.

I and others eagerly await the privatization demonstration program's implementation and its results.

Mr. President, I ask to have printed in the CONGRESSIONAL RECORD a letter of October 14 from Chugach Electric Association, a fact sheet on the demonstration program, and a letter from the National Rural Electric Cooperative Association [NRECA] supporting this provision as modified by the House.

The letter follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 14, 1986.

Hon. TED STEVENS,
Committee on Appropriations,
U.S. Senate, Washington, DC.

DEAR TED: The Administration supports the amendment you sponsored to the Continuing Resolution which would establish a privatization demonstration program for electric and telephone Rural Electrification Administration (REA) borrowers with outstanding REA guaranteed Federal Financing Bank (FFB) loans. This program will provide an option to such borrowers to repay all outstanding REA-guaranteed FFB loans, without a prepayment premium, providing certain conditions are met.

Borrowers electing this option would be required to repay all outstanding REA insured and guaranteed FFB loans and to forgo future REA program eligibility. Under the demonstration program, any outlay savings would be in addition to the $2 billion estimate for FFB refinancing by REA borrowers under the Reconciliation bill.

We believe that your amendment provides an important opportunity for REA borrowers to make the voluntary transition from reliance on REA lending assistance to private capital markets. Under current law, this opportunity is virtually nonexistent. We therefore urge adoption of your amendment.

Sincerely yours,

JAMES C. MILLER III,
Director.

CHUGACH ELECTRIC ASSOCIATION, INC.
Anchorage, AL, October 14, 1986.

DEAR MEMBER OF CONGRESS: Chugach Electric Association strongly supports the provisions contained in the Reconciliation Act and in the Continuing Resolution [CR] permitting Rural Electrification Act [REA] borrowers to refinance their Federal Financing Bank [FFB] loans. These provisions are similar in purpose and operation and are deserving of the support of the Administration, the Congress, the public and the beneficiaries of REA loan programs.

By way of background, you will recall that the Supplemental Appropriations Act which became law on July 2, 1986, contained a provision which permitted all electric and telephone cooperatives to refinance their high interest loans from the FFB using private sector capital and without prepayment penalties. This provision of law was rendered ineffective when the Treasury Department issued implementing regulations on August 12, 1986, which, by their terms, disqualified all electric and telephone cooperatives except those which were bankrupt or virtually bankrupt.

The response of the Congress to this blatant failure of the Department of the Treasury to faithfully implement the law as enacted was twofold.

First, a provision was negotiated by some Members of Congress with the Administration in the Reconciliation Bill. This provision permitted, on the basis of "need," as determined by the Administrator of the REA, some REA borrowers to prepay their high interest loans with the FFB and to refinance these loans in the private sector using the Section 306 loan guarantee. This provision has a $2 billion "floor." However, in light of the refusal of the Administration to implement the language and policy contained in the Supplemental Act, it is abundantly clear that the legislative "floor" is also an Administration "ceiling."

Second, a further provision was negotiated by other Members of Congress with the Administration in the Treasury Appropriations Title of the Continuing Resolution [CR]. This provision extended to some REA borrowers the right to prepay, without penalty, all their high-interest loans with the FFB. This option would require those borrowers to prepay, using private sector capital, with a reduced 90 percent Section 306 loan guarantee. However, any REA borrower which chooses to exercise this option must also agree to other conditions: (1) the utility must refinance all of their loans, including two or five percent direct or insured loans, within one year of the first loan's prepayment; and (2) after once exercising this option, the utility is no longer eligible, at any time in the future, for any new loan under the REA program.

These provisions are consistent in purpose and constitute sound economic and public policy. While they do not achieve the full objectives Congress proposed in the earlier Supplemental Appropriations bill, it appears that they go as far as this Administration can be stretched in agreeing to a new option for refinancing federal loans to REA cooperatives.

The Reconciliation Bill provides important refinancing benefits to the nation's most needy electric utilities in the REA program. The CR provision opens this window a little further to give some other REA utilities with high interest FFB debt the one-time option to have the benefits of refinancing if they agree to forego all further loans under the REA program.

We urge your support for both of these measures. They provide important benefits and new refinancing options which will directly benefit the ratepayers of the nation's electric and telephone cooperatives.

Enclosed is a fact sheet on this subject for your use and information.

Sincerely,

RICHARD D. NEWLAND,
General Manager.

FACT SHEET

NEW REFINANCING OPTION FOR REA BORROWERS

The Treasury and Post Office Appropriations Title of the fiscal year 1987 Continuing Resolution adds a new Section 311 to the Rural Electrification Act (REA). This section permits electric and telephone borrowers the option to repay, without penalty, but with private capital, all of their high interest Federal loans. REA borrowers under this option must agree, however, to refinance all of their existing loans within one year and to forego any future access to REA loan programs.

Background information and the major elements of this new optional program, which enjoys the active support of the Administration, are set forth below:

The Supplemental Appropriation Act of July 2, 1986 would have permitted all REA borrowers to prepay Federal Financing Bank (FFB) loans without penalty and to refinance using private capital and the REA loan guarantee;

Implementing regulations issued by the Department of the Treasury on August 12, 1986, however, rendered this provision of law ineffective and would enable only bankrupt or near bankrupt REA borrowers to refinance;

The new program in the Continuing Resolution is totally optional for any utility borrower with REA-guaranteed FFB debt;

The optional program in the Continuing Resolution is similar in purpose and consistent with language contained in the pending Reconciliation Bill, which would permit the "neediest" REA borrowers to prepay and refinance their high interest FFB loans;

The optional program does not affect in any way the FFB refinancing provisions in the Reconciliation Bill. Any funds utilized under the optional program will be in addition to the $2 billion-plus authorized for refinancing of FFB debt by REA borrowers under the Reconciliation Bill and will reduce outlays;

Under the optional program, REA-guaranteed loans must be refinanced with private capital and will carry a Federal guarantee on only 90 percent of the outstanding balance refinanced. The 90 percent guarantee is not otherwise limited in its transferability or assignability;

REA direct or insured loans must also be prepaid under the optional program. Borrowers will be allowed to prepay their direct or insured loans at the lesser of the outstanding principal balance or at a discounted rate to be set by the Administrator of the REA. No Federal guarantee will be available for refinancing direct or insured loans;

The impacts of the optional program will be minimal on the REA revolving fund, from which direct and insured loans are made. This is because eligibility is restricted to those with outstanding high interest FFB debt guaranteed by REA. Only a few of these borrowers, which are mostly generation-and-transmission cooperatives, have any direct and insured loans. Similarly, relatively few distribution cooperatives have any guaranteed loans to qualify under the optional program. Refinancing that does occur under the optional program would result in an initial inflow of cash to the Revolving Fund, with little impact thereafter and would provide a tremendous benefit to the ratepayers of the eligible cooperatives.

Where a generation-and-transmission [G&T] borrower elects to prepay under the program, that G&T's distribution cooperative members would still be eligible for REA loan assistance for their retail consumer;

Borrowers electing to prepay under the program may still participate with eligible REA borrowers in joint projects, so long as the prepaying borrower uses private capital for its share of a project;

Borrowers prepaying under this program could, for example, sell power to a non-prepaying borrower, and could purchase REA-financed facilities with private capital; and

Prepaying borrowers could purchase power from non-paying borrowers for periods of up to 10 years.

NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION,
Washington, DC, October 16, 1986.

Hon. TED STEVENS,
U.S. Senate,
Washington, DC.

DEAR SENATOR STEVENS: As I'm sure you are aware, NRECA has been intensely involved in efforts during this Congress to secure an opportunity for rural electric systems to reduce the interest cost burden on their consumer-members through the replacement of high-cost debt owed to the Federal Financing Bank with private capital. We are especially sensitive to the particular problems of rural electric systems in Alaska in this regard.

At the same time, we believe it is vital that the financing programs administered by REA be maintained and protected from those who would dismantle them if given any opportunity to do so.

We believe that the language you have proposed to amend the Rural Electrification Act through the creation of a "Privatization Program" is a reasonable approach to the rather unique and specific situation faced by the Alaska systems. We have serious concerns, however, about the implications it would have if applied nationally.

The clarifying amendment (House Amendment No. 59) offered last night by Chairman Whitten and others adequately addresses our concerns about the privitization proposal by specifically limiting its applicability to Alaska cooperatives only. NRECA therefore will not oppose the privitization language, so long as the clarifying House amendment is included therein.

Very truly yours.

JOHN B. DAVENPORT, Jr.,
Director of Government Relations.

Mr. HATFIELD. Mr. President, if there is no further debate, I urge adoption of the conference report.

The PRESIDING OFFICER. Is there further debate?

Mr. GOLDWATER. Mr. President, are we going to have a chance for amendments?

Mr. HATFIELD. We are adopting the conference report. Then we will take up the amendments.

The PRESIDING OFFICER. Is there further debate on the conference report? If not, the question occurs on agreeing to the conference report.

Mr. METZENBAUM. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Ohio.

There is no unanimous-consent request pending. Does the Senator wish the floor?

Mr. METZENBAUM. I do.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Do I understand the question at the moment is concurrence in all of the House amendments?

Mr. HATFIELD. No. No. The procedure is that when a conference report is received, we adopt the conference report and then go to the amendments in disagreement.

Mr. METZENBAUM. I thank the manager for his clarification.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I would ask for the first amendment to be read by the clerk.

The PRESIDING OFFICER. The clerk will report the first amendment in disagreement.

The legislative clerk read as follows:

The House recedes and concurs with amendment to Senate amendment numbered 19.

The text of amendment in disagreement follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered nineteen to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

and

Activities authorized by the "Construction Industry Labor Law Amendments of 1985" as passed by the House of Representatives on April 17, 1986.

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

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I move to table the House amendment to the Senate amendment numbered 19.

Mr. D'AMATO. Mr. President, I rise today to support an important amendment, added by the House, to the pending legislation. This amendment is the Construction Industry Labor Law Amendments of 1985, or H.R. 281. It is also known as the anti-double breasting bill. The Senate struck this amendment from House Joint Resolution 738, however the House yesterday voted to retain it in the final conference report.

H.R. 281 was the subject of hearings in the Subcommittee on Labor-Management Relations on May 21, 1985. The full Committee on Education and Labor reported the bill favorably last October. It was later amended on the House floor and passed by a vote of 229 to 173 on April 17, 1986. On March 11, I introduced S. 2181, which is identical to H.R. 281 before it was amended and passed by the House.

In response to growing claims of unfair practices in construction industry labor relations, this legislation was drafted to increase the stability of collective-bargaining in the building and construction industry. This amendment would change the National Labor Relations Act (NLRA) to effectively end the practice of setting up so-called "double-breasted" operations by construction firms seeking to avoid the application of collectively-bargained agreements. It defines a single employer in the following manner:

In the construction industry, any two or more business entities performing or otherwise conducting or supervising the same or similar work, in the same or in different geographic areas, and having, directly or indirectly—

(A) substantial common ownership;

(B) common management; or

(C) common control;

shall be deemed a single employer.

The practice of "double-breasting" by contractors undermines the fundamental right of workers to join a union and to gain collective-bargaining protection. This amendment would prohibit contractors from setting up dual-shop operations for the express purpose of circumventing their union agreements.

Sometimes employers set up separate subsidiary corporations for the purpose of bidding on construction work on both a union and nonunion basis, and the two divisions may compete against each other for the same work. Under these circumstances, employers can shift work previously performed under a collective-bargaining agreement to the nonunion affiliate corporation. When employers form a nonunion subsidiary to perform exactly the same work as a unionized subsidiary and in competition with that unionized subsidiary, the company violates current law if it is a "single employer" and it refused to apply the collective-bargaining agreement to both operations. The House amendment does not alter this basic principle of fair play. It simply makes the burden of proof easier and allows corrective action, if necessary, to be obtained in a more timely fashion.

I believe that this legislation has been misrepresented by some opponents who argue that it will authorize common situs picketing, cause union contractors to close their doors and operate exclusively on an open-shop basis, and erode union benefit and retirement funds. These individuals incorrectly say that this amendment is unconstitutional, and that it will coerce millions of individuals—both employers and workers—into unwanted collective-bargaining agreements.

This, of course, is wrong. I believe that when a construction contractor signs a collective-bargaining agreement with a union that both parties to that contract have a right to expect that it will be honored. It's that simple. I don't think it's unconstitutional to expect that people mean what they say when they enter into contracts. However, by cleverly setting up double-breasted companies with union and nonunion components, contractors are able to avoid their collective-bargaining agreements. These "alter-ego" companies perform the same work in the same areas—the only difference is that workers are not receiving the union wages and benefits that were agreed to by the contractors.

A construction worker who goes from one job to another during the year may not be fully aware that some jobs are controlled by the nonunion part of a "double-breasted" contractor. That worker is in for a rude awakening when he files a claim for medical benefits and finds out that he did not have the coverage he thought he had. This amendment does not seek to do

any more than to pierce the legal veil of separation between companies that really are one and the same.

The amendment also amends section 8(F) of the NLRA to grant lawful, prehire agreements in the construction industry the binding status of agreements reached with a majority representative. Under current law, prehire agreements may be repudiated by employers after they have taken full advantage of their benefits. These agreements enable employers to learn labor costs for placing bids in advance, and provide them with a readily available supply of skilled workers from hiring halls. It is unfair for contractors to reap the benefits of signing these agreements and then disregard them. Unions must now go through the time-consuming process of proving majority support at every job site. By the time this is accomplished and certified by the National Labor Relations Board, the jobs are often completed and the workers have moved on to other jobs.

Under the NLRA, as amended, prehire agreements recognizing the union as the collective-bargaining representative for the workers and establishing wages and working conditions may be signed before the workers to be covered by the contract are hired. There are logical reasons for this. The transient nature of construction work differs, for example, from factory work performed by a stable set of employees in a fixed location over long periods of time. Due to the very nature of construction projects, workers may work on several different projects for several different employers in a given year.

Problems, however, have arisen. Entering a prehire agreement is strictly voluntary. If the agreement is not recognized by the employer, then the union must seek recognition by petitioning the NLRB for an election. Since many projects last only for a few months. The NLRB often will not conduct a representation election. Further, NLRB and the courts have permitted employers to repudiate their prehire agreements. This amendment is necessary to fulfill the congressional intent of Federal labor law provisions for collective bargaining in the building trades industry. Prehire agreements were permitted in the construction industry because of the unique characteristics of the industry. This amendment will make enforcement of prehire agreements more equitable and workable.

Finally, this amendment provides for phased-in effective dates. For contracts entered into by an employer before, the date of enactment of the legislation, the new provisions will take effect 1 year after being signed into law. In the case of contracts entered into after the date of the enactment of this legislation, the provisions will take effect on the date on which the contract is signed. Provisions relating to prehire agreements would take effect upon the date of enactment of the legislation.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the House amendment to Senate amendment numbered 19.

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate amendment numbered 59 in disagreement.

The PRESIDING OFFICER. The clerk will report the next amendment in disagreement.

The legislative clerk read as follows:

The House recedes and concurs with an amendment to Senate amendment numbered 59.

The amendment of the House to Senate amendment numbered 59 is as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 59 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 115. GENERAL SERVICES ADMINISTRATION.

FEDERAL BUILDING FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 201(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Government agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract, in the aggregate amount of $2,385,856,000 of which (1) not to exceed $125,548,000 shall remain available until expended for construction of additional projects as authorized by law at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

Alabama:

Jasper, Federal Building, $3,376,000

New Jersey:

Paterson, Federal Building (site and design), $1,500,000

New Mexico:

Columbus, Border Station, $2,680,000

Pennsylvania:

Wilkes-Barre, Federal Building (Social Security Administration), $20,672,000

South Carolina:

Columbia, Federal Building, Courthouse, Claim, $1,057,000

Construction Projects, less than $500,000, $1,000,000

Purchase:

New York:

Wellesley Island, Border Station, $1,925,000

Other Selected Purchases, including options to purchase, $93,338,000:

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further*, That all funds for direct construction projects shall expire on September 30, 1988, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That claims against the Government of less than $50,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $270,222,000, which shall remain available until expended, for repairs and alterations: *Provided further*, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

Repairs and Alterations:

Arizona:

Phoenix, Federal Building, $762,000

California:

San Diego, Old Federal Building, $1,576,000

San Diego, Federal Building, Courthouse, $1,178,000

San Francisco, Post Office, Courthouse, $1,683,000

San Francisco, Burton Federal Building, $20,000,000

Colorado:

Denver, Federal Building, Courthouse, $8,540,000

District of Columbia:

Federal Building, New Post Office, $1,700,000

Federal Building #6, $1,213,000

Federal Building #8, $1,886,500

Federal Building #9, $1,712,500

Federal Building #10A, $1,121,000

General Accounting Office, $3,552,000

Justice, $599,000

State, $2,765,000

Steam Distribution System, $8,796,000

Hawaii:

Honolulu, Kalanianaole Federal Building, Courthouse, $1,850,000

Illinois:

Chicago, Railroad Retirement Board, $5,200,000

Kentucky:
Louisville, Post Office, Courthouse, $1,500,000
Missouri:
Kansas City, Federal Building, $4,408,000
St. Louis, Federal Building (Mart), Phase I, $20,000,000
Kansas City, 601 E. 12th, $997,000
Kansas City, 1500 Bannister, $2,560,000
St. Louis, 4300 Goodfellow, $2,176,000
Nevada:
Las Vegas, Federal Building, Courthouse, $2,197,000
Oregon:
Portland, Federal Building, $12,069,000
Texas:
Dallas, Federal Building, $1,600,000
Dallas, Terminal Annex, $4,600,000
Utah:
Salt Lake City, Post Office, Courthouse, $675,000
Virginia:
Arlington, Pentagon, $7,000,000
Wisconsin:
Milwaukee, Federal Building, Courthouse, $2,799,000
Wyoming:
Casper, Federal Building, Courthouse, $1,923,000
Minor Repairs and Alterations, $141,584,000:

Provided further, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That all funds for repairs and alterations prospectus projects shall expire on September 30, 1988, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $131,442,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed $985,000,000 for rental of space; (5) not to exceed $753,219,000 for real property operations; (6) not to exceed $57,090,000 for program direction and centralized services; and (7) not to exceed $63,335,000 for design and construction services which shall remain available until expended: *Provided further,* That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further,* That none of the funds available to the General Services Administration shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further,* That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056 as amended, shall be available from such revenues and collections: *Provided further,* That the Administrator of General Services is authorized under section 210(h) of the Federal Property and Administrative Services Act of 1949, to acquire a building not to exceed 250,000 sq. ft. constructed or acquired by or on behalf of the State of Florida or a political subdivision thereof, by lease not to exceed 30 years, in Miami, Florida, on such terms and conditions as he deems appropriate. These terms and conditions may include an option to permit the Federal Government, if the Administrator deems that it is in the best interest of the Federal Government, to execute a succeeding lease: *Provided further,* That the Administrator of General Services is authorized under section 210(h) of the Federal Property and Administrative Services Act of 1949, to acquire a building not to exceed 600,000 sq. ft. constructed or acquired by or on behalf of the State of Illinois or a political subdivision thereof, by lease not to exceed 30 years, in Chicago, Illinois, on such terms and conditions as he deems appropriate. These terms and conditions may include an option to permit the Federal Government, if the Administrator deems that it is in the best interest of the Federal Government, to execute a succeeding lease. *Provided further,* That revenues and collections and any other sums accruing to this fund during fiscal year 1987 excluding reimbursement under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6) in excess of $2,385,856,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriation Acts: *Provided further,* That notwithstanding this or any other provision of this Act, Section 623 of the Treasury, Postal Service, and General Government Appropriations Act as contained in this Act shall apply only to the rural electrification program in the State of Alaska.

Mr. HATFIELD. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment No. 59.

Mr. ABDNOR addressed the Chair.

Mr. STEVENS. Will the Senator yield for just a moment.

I would like to ask my good friend a question. I am sorry to say that I did not understand that first request, that first motion to table on the first House amendment. Could we have a little more time to understand what the procedural aspects of this bill are? I think that was rather fast handling of that one amendment and I intended to make some remarks on it. As I understand, that was the double-breasting amendment that was just tabled?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. The Senator is correct.

Mr. President, let me say that I am happy to yield to any Senator at any time for any questions, as I indicated, or any comments. No one is attempting to cut off any debate on any issue. I have made a motion to concur in the House amendment to Senate amendment numbered 59. I will yield to my subcommittee chairman, the Senator from South Dakota.

□ 1530

AMENDMENT NO. 3476

Mr. ABDNOR. Mr. President, I move that the Senate concur in the House amendment to Senate amendment numbered 59 with an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. ABDNOR] proposes an amendment numbered 3476.

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

Mr. METZENBAUM. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will read the amendment.

The legislative clerk read as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 115. GENERAL SERVICES ADMINISTRATION.

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operations, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Government agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alternation of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites, maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract, in the aggregate amount of $2,279,862,000, of which (1) not to exceed $120,672,000 shall remain available until expended for construction of additional projects as authorized by law at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:
Columbus, Border Station, $2,680,000
Pennsylvania:

Wilkes-Barre, Federal Building (Social Security Administration) $20,672,000
South Carolina:
Columbia, Federal Building, Courthouse, Claim, $1,057,000
Construction Projects, less than $500,000, $1,000,000:
Purchase:
New York:
Wellesley Island, Border Station, $1,925,000:
Other Selected Purchases, including options to purchase, $93,338,000:

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further,* That all funds for direct construction projects shall expire on September 30, 1988, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further,* That claims against the Government of less than $50,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $180,166,000, which shall remain available until expended, for repairs and alterations: *Provided further,* That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

Repairs and Alterations:
District of Columbia:
Federal Building #6, $1,213,000
Federal Building #8, $1,886,500
Federal Building #9, $1,712,500
Federal Building #10A, $1,121,000
General Accounting Office, $3,552,000
Justice, $599,000
State, $2,765,000
Steam Distribution System, $8,796,000
Missouri:
St. Louis, Federal Building (Mart), Phase I, $20,000,000
Kansas City, 601 E. 12th, $997,000
Kansas City, 1500 Bannister, $2,560,000
St. Louis, 4300 Goodfellow, $2,176,000
Minor Repairs and Alterations, $141,584,000:

Provided further, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate. *Provided further,* That all funds for repairs and alterations prospectus projects shall expire on September 30, 1988, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or o ther funds have been obligated in whole or in part prior to such date; (3) not to exceed $131,442,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed $985,000,000 for rental of space; (5) not to exceed $753,219,000 for real property operations; (6) not to exceed $57,090,000 for program direction and centralized serives; and (7) not to exceed $52,273,000 for design and construction services which shall remain available until expended. *Provided further,* That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490), and buildings under this control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further,* That none of the funds available to the General Services Administration shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus. *Provided further,* That funds available in the Federal Buildings Fund may be expended for emergency reparis when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to preform its protective functions pursuant to 18 U.S.C. 3056 as amended, shall be available from such revenues and collections: *Provided further,* That revenues and collections and any other sums occruing to this fund during fiscal year 1987 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $2,279,862,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriation Acts: *Provided further,* That not withstanding this or any other provision of this Act, Section 623 of the Treasury, Postal Service, and General Government Appropriations Act, as contained in this Act shall apply only to the rural electrification program in the State of Alaska.

□ 1540

Mr. ABDNOR. Mr. President, I am offering an amendment.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABDNOR. Mr. President, I am simply offering an amendment to Amendment No. 59. The amendment, Mr. President, is relatively simple even though it took a long time in reading. Most of the words that were just spoken have nothing more than the generic form we use on any appropriation bill relating to Federal public buildings.

Let me tell you what this does very simply.

It will fund the Federal buildings fund at a level lower than the level presented by the other body by including only those new construction and repair and alteration projects which have been authorized by both the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works.

It seems to me only a very reasonable request inasmuch as we do have the authorizing committee on public works which I happen to be on, as well as the Appropriations Committee that feel very strongly that they should do the authorizing before we do the appropriating.

Mr. President, I assume many of my colleagues will want to know why I am offering this amendment. I would like to give the Senate a little background.

The conferees met several times on this issue and could not agree on a compromise. The President's budget submission did not include any major new construction projects for fiscal year 1987. The General Services Administration testified that its budget for this and the next 2 years would devote a substantial amount of funds for repair and alteration of Federal buildings, with a special emphasis on removal of asbestos, PCB's, and fire safety, something that should have been done long ago and we are trying to play catchup now and renovate and repair these buildings that we own all over the United States that have been sorely neglected.

The Public Works Committee in the other body chose to fund four new construction projects. In an effort to keep the Federal buildings fund solvent, they chose not to authorize several repair and alteration projects. Quite understandably, the Appropriations Committee has provided money for those projects on the other side.

Mr. President, my debate is not with my counterparts on the Treasury Subcommittee, for I have acted in the same manner by providing funding for projects authorized by the Senate Public Works Committee. The problems I have come with the fact that the House Public Works Committee authorized funding to begin construction on four new buildings. In the case of three of those buildings, money was provided for only site acquisition and design—not to fund the entire amount of construction at this time. The site acquisition and design totals over $36 million. Maybe this does not sound like a huge sum of money to you, but the General Services Administration tells me that site and design usually accounts for approximately 10 percent of the total cost of a project.

I use the figure once again that totals this year $36 million which is 10 percent of what we think it will be.

Mr. President, if that is true—these buildings alone will take $360 million out of the Federal buildings fund in future years. This kind of impact will

further delay the much needed safety issues which must be addressed.

Mr. President, the other body has not included funding for two of these projects—Chicago and Miami—but have opted to provide funding through a 30-year lease purchase agreement.

Mr. President, this makes the package a bit more palatable, but I do not believe it addresses the fundamental problem that the other body is funding a building in Chicago that will eventually cost nearly $300 million.

It has not been requested and it takes a considerable amount of money out of our building fund every year for the next 30 years. The GSA indicates they have not had an updated assessment of needs in Chicago for at least 5 years. The Senate Public Works Committee has not held any hearings at all on this project.

Quite frankly, Mr. President, I cannot believe that this is the way to legislate. Construction in Chicago may well be necessary, however, I cannot, in good conscience, approve of funding of this magnitude without having these and other questions answered.

Mr. President, I would, therefore, urge my colleagues to approve the substitute I am offering, which funds only those projects which have been reviewed and authorized by both the House and the Senate.

In addition, Mr. President, I also want to say this includes identical language which has been adopted in the other body last night with regard to the election of rural electric cooperatives in Alaska to seek prepayment and refinancing on loans.

Mr. President, this, to me, is a major issue that we need to decide. Are we going to do the work that the General Services does feel that needs to be done with a limited amount of dollars? As you know, these dollars do come out of the Federal building funds from the charges that we assess against them. That is all that we use to repair, to maintain, and operate our buildings—the heat, the light—that we have to do. Particularly, I think the time has come it is felt in the judgment at least of our committee and I think of GSA and most others that we should do the necessary things first.

They do have a priority list. And the buildings that I speak of that have not been authorized by the Senate Public Works Committee are extremely low and at the very bottom of the priority list.

So I do hope that the Senate will find it possible to go along with our recommendation and adopt this amendment.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I would like to put a question to the managers of the bill with regard to the REA, Rural Electrification Administration. I do not know whether the REA provision is tied in with or has anything whatsoever to do with the amendment which has just been offered by the Senator from South Dakota. But I understand that there were a whole series of negotiations going on, and I simply want to ask this question.

As to the motion that was made by the chairman of the Appropriations Committee to recede to the House provision with regard to REA, do I understand that to correctly mean that if we recede to the House's position on REA, specifically that language that I understand was offered by JAMIE WHITTEN, with regard to REA, would that be the position that REA would find itself in should we recede to the House as the chairman of the Appropriations Committee has moved?

Mr. ABDNOR. Yes, it is. This provision stands regardless of what we do here. If we totally concur in the House amendment or accept my amendment to that amendment, it would contain the REA provision.

Mr. EXON. May I ask this question then—I will be glad to address my remarks to the Senator from South Dakota—could he clarify for this Senator if there is any connection whatsoever between the possible partial or otherwise privatizing REA? Is there any connection with that and the amendment being offered by the Senator from South Dakota?

□ 1550

Mr. ABDNOR. Yes, only in Alaska.

Mr. EXON. Would you restate that?

Mr. ABDNOR. I said yes, it is, and it is only in Alaska that this language applies.

Mr. EXON. In other words, if I understand it, the way the continuing resolution would provide is that there would be one REA project in Alaska that would be allowed to be privatized if that were acceptable to the REA in Alaska; is that correct?

Mr. ABDNOR. That is correct.

Mr. EXON. And that it would not in any way, shape, or form be used as an instrument or an excuse, nor would it authorize any other privatizing of REA in any other place in Alaska or in the Continental United States; is that correct?

Mr. ABDNOR. That is correct.

Mr. EXON. I appreciate my friend's direct answer. And that basically was my question.

The amendment being offered by the Senator from South Dakota, as I understand it, has to do with the construction of a building someplace, that it is an amendment that you are offering to the Whitten language with REA that would allow the privatizing of one REA project in Alaska, is that correct?

Mr. ABDNOR. You heard the original amendment. This was brought back in disagreement because of the building differences that we have between the two bodies. But we had no difference of opinion with the REA language.

I am substituting my language. I guess it was necessary because of that to put the REA provision back into my amendment so it stays in its original form.

Mr. EXON. I have not heard the debate on the proposition that the Senator is offering with regard to the building of a building, but just so there is a clear understanding, whether the amendment of the Senator from South Dakota is adopted by the Senate or whether it fails, it would have no adverse effect on the understanding between the House and the Senate with regard to the REA matter, is that correct?

Mr. ABDNOR. That is absolutely correct.

Mr. EXON. I thank my friend from South Dakota.

Mr. ABDNOR. Again, I would point out for those who have not heard the discussion, this simply would permit the carrying through of the appropriations for those projects that have been authorized by both the House and the Senate. Of course, it would mean doing away with the four projects that the Senate Public Works Committee had not given authorization to.

I would ask for your support. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. The Senator has requested the yeas and nays. Is there a sufficient second?

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. GOLDWATER. I objected.

The PRESIDING OFFICER. So far as the Chair is aware, there is no way one can object to the request for the yeas and nays.

There is not a sufficient second.

Mr. ABDNOR. Mr. President, I am sorry there was not.

I ask unanimous consent that Mr. DECONCINI be listed as a cosponsor of my amendment.

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

Mr. DECONCINI. Mr. President, I rise in strong support of Senator ABDNOR's proposal for dealing with the House amendment on the Federal building fund within GSA, and I urge the support of my colleagues.

Mr. President, Senator ABDNOR's proposal is fair and equitable. It treats everybody fairly without being partisan or parochial. He is recommending that only those projects—both construction and repair and alterations—that have been approved by both Houses be funded in fiscal year 1987. Nothing more, nothing less. Let me quickly add that the Senator from Arizona loses a $762,000 project under the Abdnor

plan, as does the chairman of our full Appropriations Committee, Senator HATFIELD. But I am willing to give up an important repair project in my State for the principle that my subcommittee chairman is establishing on the floor with his amendment.

Mr. President, let me briefly outline what the House-passed proposal does. First, it knocks out eight repair and alteration projects that have been tabbed by GSA as projects that could either slip into fiscal year 1988 or be reduced in fiscal year 1987. Those projects are:

REPAIR AND ALTERATION PROJECTS ONLY

Los Angeles Federal Building: $7.8 million.
Miami, Federal Building: $11.5 million.
Boston, Kennedy Federal Building: $13.5 million.
Trenton, Federal Building: $2.1 million.
New York City Customs House, $8 million.
Asheville, NC, Federal Building: $7.8 million.
San Antonio Post Office, Courthouse: $6.1 million.
Cut $5 million from a D.C. Steam Distribution System project, leaving $8.8 million.

Second, the House would fund all new construction projects funded in both the House and Senate Treasury, Postal Service bills. They are:

Jasper, Federal Building: $3.4 million (Alabama).
Paterson, NJ, Federal Building site and design: $1.5 million.
Columbus, NM, Border Station: $2.7 million.
Wilkes-Barre, PA, Federal Building (Social Security): $20.7 million.
Columbia Federal Building, SC (and Courthouse): $1.1 million.
New York, Wellesley Island, Border Station: $1.9 million.

The House would also fund all of the repair and alteration projects in both bills, with the exception of those I have outlined above. And finally, the House would fund a new Chicago, IL, Federal Building and a new Miami Federal Building through a lease/purchase plan, with size limitations placed on both buildings.

Mr. President, frankly, this House plan is somewhat better than what they were insisting on during our conference on the continuing resolution, but it still is unacceptable to this Senator. Let me try to explain why.

First, the House plan funds a number of Federal building projects that are so bad that they are not even in the top 50 percent of the General Services Administration list of priority capital improvements. And not making GSA's priority list means that your project must be a real stinker. Probably the worst project in this barrel of bad apples is the proposed Federal Building in Chicago, IL. The House is recommending $32 million just for site and design work on this monumental project. By the most conservative estimates, this building, if approved will cost $240 million and probably much closer to GSA's estimate of $343.5 million. I am informed that the site and design funding for the Chicago Federal Building is larger than the design work planned for refurbishing the Pentagon. I am also informed that the only requirement for additional Federal office space in Chicago is for the courts—a requirement that could be totally fixed with $25 million for the whole project.

Furthermore, GSA tells us that the only posible future requirement that could surface in Chicago for Federal employees, other than the courts, is for approximately 300,000 square feet of space once current leases expire in existing space around the city, We do not need a $300 million building to house 300,000 square feet of space. That would translate into $1,000 a square foot—rather exhorbitant even by Washington, DC, or Chicago standards:

Mr. President, let me briefly outline where some of the new construction and repair and alteration projects stack up in the GSA priority list:

(NC=NEW CONSTRUCTION—R&A=REPAIR AND ALTERATION)

Jasper, AL, NC, 44th out of 50 projects.
Miami, FL, NC, 45th.
Chicago, IL, NC, 46th.
Paterson, NJ, NC, 43rd.
Phoenix, AZ, R&A, 37th.
Honolulu, HA, R&A, 34th.
Casper, WY, R&A, 33rd.

In other words, none of the projects that the House insisted must stay in the package were of high priority. On the other hand, all of the projects contained in the Abdnor proposal are in the top 50 percent of the GSA priority list, with the one exception of Wilkes-Barre, PA, Social Security building project.

Senator ABDNOR's plan is fair and sets a good standard for both this continuing resolution and future deliberations with the House on these controversial public buildings. Every year the Appropriations Committee is whipsawed by the authorizing committees for moving ahead with Federal buildings projects that have not been authorized. On the other hand, the authorizers seem to be first in line at the Appropriations Committee table to take care of their little projects that somehow have not made it through the process. And I am not just talking about the authorizers on Public Works Committee: I am referring to authorizers on all committees who exercise their "turf" prerogatives until those "principles" conflict with their own personal piece of pork or legislation. Senator ABDNOR's proposal would set the standard that no one would misunderstand: "If it ain't authorized, it ain't built."

Now, Mr. President, I have been as guilty as the next guy around here in trying to tack on legislation or project that, for whatever reason, has not made it through the normal legislative approval process. And if this Federal buildings procedure is not adopted by the Senate today, I very well may try again in the future to take care of projects that are important to my constituents. But I am also willing to join with Senator ABDNOR now to set those ground rules with regard to Federal buildings projects and send that message back to the House.

Mr. President, we need to set this important precedent and take the burden off of the Appropriations Committee and put it back where it belongs: on the Public Works Committee. That committee has not done its job and should not expect our committee to bail them out. I urge the adoption of the Abdnor proposal.

I ask unanimous consent that a 1987 capital project priority list be printed in the RECORD.

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

FISCAL YEAR CAPITAL PROJECT PRIORITY LIST OCT. 7, 1986)

[In thousands of dollars]

	Project	Type	Remarks	Construction award	Fiscal year 1987			
					Construction cost	D&C cost	Total cost	Cumulative cost
1	Columbia SC Claim	NC	Required to pay claim		1,057	0	1,057	1,057
2	Small Construction Projects	NC	US/Canada agreement		1,000	350	1,250	2,307
3	St Louis, MO 4300 Goodfellow	R&A	Remove PCB health hazard	10/30/86E	2,176	163	2,339	4,646
4	Kansas City, MO 601 E 12th	R&A	Remove PCB health hazard	01/13/87	997	75	1,072	5,718
5	Kansas City, MO 1500 E Bann	R&A	Remove PCB health hazard	02/12/87	2,560	192	2,752	8,470
6	Wash, DC FOB #6	R&A	Remove PCB health hazard	05/15/87	1,213	91	1,304	9,774
7	Wash, DC FOB #10A	R&A	Remove PCB health hazard	8/15/87E	1,121	84	1,205	10,979
8	Wash, DC Justice	R&A	Remove PCB health hazard	08/15/87E	599	47	646	11,625
9	Wash, DC GAO	R&A	Remove PCB health hazard	08/15/87E	3,552	266	3,818	15,443
10	Wash, DC FOB #8	R&A	Remove PCB health hazard	09/15/87E	1,886	141	2,027	17,470
11	Wash, DC FOB #9	R&A	Remove PCB health hazard	09/15/87E	1,713	128	1,841	19,311
12	Wash, DC State	R&A	Remove PCB health hazard	09/15/87E	2,765	207	2,972	22,283

FISCAL YEAR CAPITAL PROJECT PRIORITY LIST OCT. 7, 1986)—Continued

[In thousands of dollars]

	Project	Type	Remarks	Construction award	Fiscal year 1987			
					Construction cost	D&C cost	Total cost	Cumulative cost
13	Arlington, VA Pentagon	R&A	Remove PCB health hazard	09/15/87E	7,000	420	7,420	29,703
14	Building Purchase Program	BP	Replace leased space		93,338	0	93,338	123,041
15	Dallas, TX Term Annex	R&A	Recapture vacant space	11/15/86E	4,600	0	4,600	127,641
16	St Louis, MO Mart (Ph I)	R&A	Recapture vacant space	07/28/87E	20,000	1,200	21,200	148,841
17	Portland, OR FB	R&A	Recapture vacant space	09/07/87E	12,069	1,750	13,819	162,660
18	Wash, DC Steam Distrib System	R&A	Critical repairs/safety items	06/15/87E	13,796	1,307	15,103	177,763
19	Wash, DC New Post Office	R&A	Elevator safety repairs	11/15/86E	1,700	128	1,828	179,591
20	San Francisco, CA 450GG (Ph I)	R&A	Asbestos removal	09/30/87E	20,000	1,876	21,876	201,467
21	Miami, FL FB	R&A	Asbestos removal	09/15/87E	11,481	989	12,470	213,937
22	Columbus, NM Border Station	NC	Replace deteriorated Border St		2,680	488	3,168	217,105
23	Arlington, VA FB #2	R&A	Emergency repairs	08/15/87E	4,400	264	4,664	221,769
24	San Diego, CA Old FB	R&A	Recapture vacant space	01/15/87E	1,576	292	1,868	223,637
25	Trenton, NJ PO/CT	R&A	Recapture vacant space	09/10/87E	2,070	215	2,285	225,922
26	Wellesley Is, NY Border Sta	BP	Recapture vacant space		1,925	0	1,925	227,847
27	Kansas City, MO 2306 E Bann	R&A	Repairs	09/03/87E	4,408	331	4,739	232,586
28	Milwaukee, WI fB/CT	R&A	Repairs	08/15/87E	2,799	210	3,009	235,595
29	Dallas, TX 1114 Commerce	R&A	Repairs	12/19/86E	1,600	120	1,720	237,315
30	Chicago, IL RRB	R&A	Repairs	06/01/87E	5,200	312	5,512	242,827
31	San Diego, CA FB/CT Courts	R&A	Omnibus Courts	04/10/87E	1,178	88	1,266	244,093
32	Salt Lake City, UT PO/CT	R&A	Omnibus Courts	04.10/87E	675	125	800	244,893
33	Casper, WY Po/CT	R&A	Omnibus Courts	04/01/87E	1,923	356	2,279	247,172
34	Honolulu, HI FB/CT	R&A	Omnibus Courts	06/15/87E	1,850	342	2,192	249,364
35	Los Vegas, NV FB/ CT	R&A	Omnibus Courts	06/03/87E	2,197	388	2,585	251,949
36	Denver, CO FB/CU	R&A	Courts expansion	12/05/86E	8,540	0	8,540	260,489
37	Phoenix, AZ PO-CT	R&A	Courts expansion	04/115/87E	762	57	819	262,308
38	East St Louis, IL FB/CT	R&A	Courts expansion	09/01/87E	3,762	282	4,044	265,352
39	San Francisco, CA Ct of App	R&A	Omnibus Courts-chambers only	06/15/87E	1,683	311	1,994	267,346
40	Boston, MA JFK FB (Ph I)	R&A	Repairs and firesafety	09/30/87E	13,544	1,001	14,545	281,891
41	Louisville, KY PO/VT	R&A	Courts expan-added by House		1,500	0	1,500	283,391
42	Wilkes-Barre, PA	NC	Added by House/Senate		20,672	0	20,672	304,063
43	Paterson NJ (Site & Design)	NC	Added by House		1,500	0	1,500	305,563
44	Jasper, AL	NC	Added by House		3,376	0	3,376	308,939
45	Miami, FL	NC	Added by House—critical need to be met by leased space		2,461	0	2,461	311,400
46	Chicago, IL (Site & Design)	NC	Added by House		32,087	0	32,087	343,487
47	Asheville, NC FB	R&A	Award delayed until FY 1988	10/30/87E	7,583	493	8,076	351,563
48	San Antonio, TX PO/CT	R&A	Award delayed until FY 1988	10/30/87E	8,154	196	8,350	359,913
49	Los Angeles, CA 300 N LA	R&A	Award delayed until FY 1988	10/30/87E	2,817	217	3,034	362,947
50	NYC, NY Customshouse	R&A	Property sched. for disposal		8,000	1,160	9,160	372,107

Mr. DIXON. Mr. President, will my friend from South Dakota yield for a question?

Mr. ABDNOR. Yes.

Mr. DIXON. I must apologize to my colleague, since I was not on the floor and my staff has just apprised me of what I think is taking place here.

Am I correct in inquiring of my distinguished friend from South Dakota that he is suggesting the elimination of a county building in the city of Chicago from this continuing resolution?

Mr. ABDNOR. Yes, that is correct, along with several others.

Mr. DIXON. Mr. President, that is going to cause a great deal of difficulty around here, I am afraid. I wonder if my colleague would explain to me his reasons for entering into this kind of a dialogue at this particular juncture since there has been no suggestion beforehand that this was going to take place.

Mr. ABDNOR. I do not understand the question, but I will say this: If I did not offer my amendment to the suggestion of the chairman of the Appropriations Committee that we concur in the House amendment, then this building will be fully authorized and allowed to go ahead with the construction. I pointed out that none of the buildings I am objecting to have ever been approved by the Senate Public Works Committee. As a matter of fact, we have no idea what the buildings are going to be like. I did mention that they usually tell us in GSA that site and planning usually amount to about 10 percent of the total cost of a building. In this case, we are allowing, I think it is, $32 million for site and preparation, $32.087 million.

Well, they finally agreed to go along. In fairness, I will say this: They do not know how they are going to do it. They do not have any plans for a building. They have not found the site. But they are going to go ahead in the House now under a lease provision.

I guess the city of Chicago would build a building to the specifications of the GSA, would limit it to 600,000 square feet.

But the point remains, whether it is a leased building or whether it is constructed by the Federal Government, it takes dollars out of the building fund. And GSA has implicitly told us constantly that they want these dollars to carry on some very much needed projects for repair and alterations; I am not sure, maybe even in your city. They have been neglected over the years. They are serious things like fire hazards, asbestos hazards, PCB's. They want to do that.

If you are going to put this money into buildings, then they have got that much less to go ahead and do the repair that is necessary. There is so many dollars in that Federal building fund and that comes from the rent that all these agencies pay into the building fund account.

Mr. DIXON. 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.

□ 1600

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

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

AMENDMENT NO. 3477

(Purpose: To prohibit funds for the T-46 trainer aircraft)

Mr. GOLDWATER. Mr. President, I have determined from the Parliamentarian that an amendment that I propose to offer can only be attached to the amendment being offered by the distinguished Senator from South Dakota. So I want to proceed, and I have to get the amendment on his amendment. Otherwise, I cannot submit my amendment.

I send the amendment to the desk, ask that it become a part of the amendment from the Senator from South Dakota, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. GOLDWATER] proposes an amendment numbered 3477 to amendment No. 3476.

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

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

The amendment is as follows:

At the end of the amendment add the following:

Notwithstanding any other provision in this or any other Act, none of the funds appropriated by this or any other act shall be available for the procurement of T-46 trainer aircraft. No funds appropriated to or for the use of the Department of Defense for fiscal year 1986 may be obligated or expended for the procurement of T-46 trainer aircraft until the Secretary of the Air Force has complied with all requirements relating to the T-46 aircraft contained in section 202(e) of the Department of Defense Authorization Act 1987.

Mr. GOLDWATER. Mr. President, I rise to offer an amendment to the continuing resolution that would prohibit the appropriation of funds in fiscal year 1987 for the procurement of T-46 trainer aircraft. Furthermore, my amendment would prohibit the expenditure of funds appropriated in fiscal year 1986 for the procurement of T-46 aircraft until after the Air Force has complied with all requirements of the fiscal year 1987 Defense Authorization Act relating to the T-46 aircraft.

Mr. President, I am fully aware of the unusual nature of this amendment. And I am fully aware, that by offering this amendment, the ultimate passage of the continuing resolution may be delayed. However, this is a very unusual issue and I am not going to sit quietly and allow billions of dollars to be committed to a program which the administration and the Pentagon say they do not want and which the Senate has voted overwhelmingly not to support.

Mr. President, let me explain briefly the action taken in the defense authorization conference regarding the T-46. In the Senate, we were firmly opposed to any funding for the T-46. The House, on the other hand, largely for political reasons, added $151 million for the procurement of the T-46. The House/Senate conferees reached a compromise on language that will do the following:

Prohibit the expenditure of fiscal year 1986 funds for the procurement of T-46 aircraft until after the completion of a fly-off competition among all the suitable candidate aircraft (the existing T-37, an upgraded T-37, and Navy's T-34C, T-45, and others).

Furthermore, the conferees agreed that no funds shall be authorized to be appropriated in fiscal year 1987 for the procurement of T-46 aircraft.

Mr. President, I think that our conference resolution on this issue was a good one. It recognized the fact the administration had not requested any money for the procurement of the T-46—but instead of terminating the program outright, we allowed for a competition that would keep the future of the T-46 viable. I think that was a pretty substantial compromise on the part of the Senate conferees, particularly when you consider that the Air Force has said repeatedly: They don't want the aircraft, they don't want the aircraft, they don't want the aircraft.

The appropriations conferees however, decided to go much further. What they have done in this continuing resolution, is the following:

They have made $170 million in fiscal year 1986 appropriations available only for the procurement of the T-46.

They have made $150 million in fiscal years 1987 available only for the procurement of the T-46.

They have prohibited the expenditure of any funds for the lot II production contract which effectively cancels a competitively negotiated contract favorable to the Government.

And they have directed in the statement of managers language that the Air Force proceed with the T-46 program, and that existing contracts be renegotiated thereby releasing the manufacturer from his current contract obligations.

Mr. President, I am outraged at this blatant attempt to commit billions of the taxpayers dollars to suit the selfish, parochial interests of a small group of politicians. It's wrong, it's wrong, it's wrong.

I say again, the administration requested no funds for this program and the Congress has authorized no funds for the program. I remind my colleagues, that as stewards of the taxpayer's dollars, our constitutional responsibility is to provide for the requirements of our national defense. We are not empowered to spend those precious dollars just to suit the interests of one State or one congressional district.

Mr. President, I am not going to debate the merits of the aircraft. I have flown it. I am not going to debate the test results or some of the minor faults that the aircraft had at the outset; only to say as a pilot that all new aircraft have little things wrong with them.

I only am going to debate the fact that the Air Force does not want the airplane, in fact the last Chief of Staff told me if we bought them, he would put them in the boneyard out in Tucson, AZ.

I ask unanimous consent, Mr. President, that a letter of September 24 from the current Commanding General of the Air Force, General Welch, be printed at this point in the RECORD.

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

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, DC, September 24, 1986.

Hon. BARRY M. GOLDWATER,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: You have asked for our position on the T-46 issue as you enter the final phases of the FY 87 Authorization process.

As you are well aware, the T-46 was not included in the FY 87 President's Budget because of program schedule delays, manufacturing problems, and lack of affordability. The rationale behind this budget decision was discussed in testimony before both Armed Services Committees and both Defense Appropriation Subcommittees. Throughout the intervening months we have continued to review the program but nothing has changed to alter our decision.

In summary, we have carefully reviewed the programmatic and fiscal status of the T-46 program and we remain steadfast in our recommendation not to continue with the program.

We hope this information is useful. If we can provide any further information please let us know.

Sincerely,

TIDAL W. MCCOY,
Acting Secretary of the Air Force.
LARRY D. WELCH,
General, USAF, Chief of Staff.

Mr. GOLDWATER. Mr. President, what my amendment will do is bring the continuing resolution into compliance with the authorization legislation regarding the T-46. I believe it is the responsible thing to do, and I urge my colleagues to join me in this effort.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

□ 1610

Mr. D'AMATO. I have heard some of the most irresponsible charges made in regard to the T-46 going back many months ago. I heard some charges that this plane was dangerous, that it would not fly. I heard certain people say they would never fly in it. Yet the same people flew in it.

I have heard more concocted stories supposedly coming from the Air Force denigrating this plane, and yet when you actually go to the people who fly the plane, who are in charge of the command, they say the plane is good. They say we need the plane.

Do you want to talk about political pressure? Do you want to talk about partisan politics?

Well, let us understand where it is coming from. This plane won fair and square in a competition. There were some people who said the plane does not meet up to the standards, it does not meet up to the specifications.

"Let us get a GAO study. Let us see whether it does."

They sent for the GAO study.

"All this is going to finish the T-46, this will finish it."

But when they get the report of the GAO, what does it say? It says that

the plane meets the specifications and even exceeds.

I am going to suggest to my colleagues that we will read this report word by word, line by line. I am prepared to do it.

Let me read to you a letter that I have from General Osway. He is one of the pilots. He is not manipulated by the Defense Department. He is not told what to say and how to say it because of who is behind this and who wants this.

He says:

Dear Senator D'AMATO.

I never met the general. We sent a letter to him asking about the T-46.

Requirement for the replacement trainer for the T-37 is as valid today as it was when the mission needs statement was forwarded to the Air Force mission staff in 1979.

They requested a new trainer in 1979. We are talking about a trainer that is 30 years old. When people begin to say that for parochial, political interests we ask for the T-46, that is hokum. That is nonsense. That is irresponsible.

Maybe when certain generals do not get their way, or when former generals are not employed by certain companies, then something that looks pretty good all of a sudden does not look so good. Let us get to the bottom of it.

If we want to talk about partisanship, about patriotism, ask for the record.

When you ask for the General Accounting Office study, it says the T-46 meets the needs. This is not partisan. This is not politics. This does not come out of a committee because we want to make a chairman of a committee happy or someone else, or because the plane will be built someplace else.

I am sorry to have these statements made that it is a parochial interest. If you want to start engaging in that, this Senator is prepared to do that as well.

General Osway's letter says:

I have flown the T-46, as have many of my staff. Without exception all have said that it is a good training platform. The decision to cancel the T-46 was precipitated by manufacturer problems and budgetary restrictions. Many of Fairchild's problems have been corrected. The airplane is meeting our expectations in the test program.

They are meeting the expectations and that is exactly what the General Accounting Office says.

Let us talk about high-pressure politics. Where is it coming from? It is not coming from this Senator. But I will be darned if you think I have been sent to come down here and to be rolled because I am not going to be, not when the facts are as the General Accounting Office said, not when the need is still there, not when you have a 30-year-old plane that has to be rewinged or retooled and will cost the taxpayers billions of dollars.

Let me see what else he says:

Many of Fairchild's problems were corrected.

They were corrected. But you would not know that. They were corrected months ago when I had to endure a tirade on this floor and I did not say a word, a tirade in which I was told I was parochial, that this plane was not needed, that it was a waste of the taxpayers' money.

What are we going to do about a 30-year-old aged trainer that does not meet the needs of today? I would like to know.

Well, the problems have been corrected.

Due to the budgetary constraints, the Air Force is unable to afford the program, but the requirement still exists. I say this for a number of reasons. One, the T-46 is a good airplane which meets our needs: two, the T-37 is running out of time, and has many operational deficiencies.

What do we do when we have our first structural failure and it takes 6 to 7 years to get a plane into production?

Three, modification of the T-37 is not a long-term solution. It does not solve the operational problems and a replacement will be more expensive 5 to 10 years from now.

Talk about saving taxpayers money. Under the Defense Department, and under the Air Force, and, OK, we will find that there will be some who can say, "We can rewing, we can retool this, we can save money."

It is a stopgap measure and will not meet the needs of the Air Force and it is going to wind up costing the taxpayers billions of dollars.

Four, to date we have spent a half billion dollars on this program, if the 1986 funds are included.

What he is saying is we are going to lose a half billion dollars. Five hundred million dollars that was spent will be lost.

What about the taxpayers? Are we really talking about the taxpayers or are we talking about political considerations? Are we talking about friends and doing their business and their bidding? Or are we really talking about the interest of this country?

Mr. President, I am going to read the U.S. General Accounting Office report, because this Senator is going to put all that should be in the record into the RECORD, even if it takes the time of my colleagues in this body.

This report was requested. U.S. General Accounting Office, May 20, 1986.

Honorable ROBERT DOLE, U.S. Senate.

Mr. DOMENICI. May we have order, Mr. President?

□ 1620

The PRESIDING OFFICER. The Senate will be in order. Will those conversing in the back of the Chamber, please cease their conversations?

Mr. D'AMATO. I thank the Chair.

DEAR SENATOR DOLE: This report is in respcnse to your February 6, 1986, request to review certain aspects of the Air Force T-46A aircraft program. Specifically, you requested that we provide (1) a history of the contract difficulties associated with the T-46A program, (2) information on the current status of production, (3) data about the quality of aircraft from a performance and production standpoint, and (4) information on the extent that fiscal year 1986 funds are being expended.

In July 1982, the Air Force awarded the Fairchild Republic Company a fixed price incentive contract with a target price of $104 million to develop the airframe of the next generation trainer aircraft—the T-46A. The contract included priced production options for up to 65 aircraft. At the same time, the Air Force awarded the Garrett Turbine Engine Company a fixed price incentive contract with a target price of $121.2 million for development and initial production of the F-109 engine for the trainer. The T-46A was to replace the Cessna T-37B as the Air Force's primary trainer aircraft. As many as 650 new trainers with a total acquisition cost of over $3 billion were expected to be acquired over the life of the program.

In November 1984, the Air Force exercised the first production option for 10 aircraft, including support equipment and a data package at a price of $58.1 million. One development aircraft has been completed and is being flight tested. A second development aircraft is nearing completion. Ten production option aircraft are being produced.

Fairchild has experienced cost and schedule difficulties since shortly after the award of the T-46A development contract. An Air Foce Contract Management Division review of contractor operations at Fairchild in June 1985 identified major problems and numerous deficiencies. Fairchild has taken or is in the process of taking corrective actions. The Secretary of the Air Force, citing these problems and budget constraints, has decided not to continue the T-46A acquisition program. The Air Force withheld fiscal year 1986 funding for lot 2 production of 33 aircraft. The President did not request any T-46A production funding in the fiscal year 1987 budget. The Air Force states that sufficient funding has been provided to fulfill its financial obligations in completing T-46A development and production of the first 10 aircraft.

The Air Force states that it intends to extend the life of the T-37B approximately 5 years beyond its original life expectancy. Air Force Air Training Command officials state that there is a shortage of T-37B's in the inventory. During the next several months, the Air Force will explore options to meet its future trainer aircraft needs. Among its options are to resume or recompete the T-46A production.

The results of our review are summarized below and discussed in more detail in the appendixes.

CONTRACT DIFFICULTIES

Within several months of the 1982 award, Fairchild's actual costs were more than budgeted and its work was behind schedule. Although some milestones were met, several key milestones were completed later than originally scheduled. For example, first flight was completed 6 months later than originally scheduled. Air Force concerns about schedule delays led to a mutually agreed upon contract modification in late 1985 that extended milestone and delivery dates.

Air Force reviews during 1985 found many areas of Fairchild's operations to be unsatisfactory. Following an extensive contractor

operations review that reported 279 findings, the Air Force, in August 1985, began withholding 50 percent of Fairchild's progress payments. Air Force officials stated that the findings were not graded as to significance, and that the number of deficiencies found were not unusual for such reviews. However, they also stated that Fairchild was the first contractor to be rated unsatisfactory in all eight management areas reviewed.

On April 21, 1986, the Air Force, citing Fairchild's substantial progress in correcting these deficiencies, restored half of the withheld progress payments. Fairchild officials stated that corrections to all the prior deficiencies would be essentially completed by September 1986. See appendix II for discussion of contractor operations review findings and corrective actions taken.

The Air Force cost estimate as of December 31, 1985, for Fairchild to complete T-46A airframe development and the first production lot of 10 aircraft was about $122 million more than the Air Force is obligated to pay Fairchild under the terms of the contract. Fairchild will absorb those costs if the development and first production lot programs are completed.

STATUS OF T-46A PRODUCTION

The first T-46A test aircraft is undergoing flight testing. The second test aircraft is undergoing preliminary ground testing before beginning flight tests in July 1986. The first 10 production aircraft are being manufactured with delivery of the first aircraft scheduled for November 1986. However, Air Force program office officials believe the delivery of the first production aircraft will not be accomplished until early 1987. On March 28, 1986, the Secretary of the Air Force announced his intention not to exercise the option for the second production lot of T-46A's.

PRODUCTION QUALITY

The Air Force has made six assessments of Fairchild production capability since 1982. These reviews identified numerous deficiencies relating to or impacting production quality that needed corrective action. However, the reviews generally concluded that Fairchild was capable of manufacturing the T-46A. The three reviews conducted by the Air Force T-46A program office recommended that the production program be continued. In late 1985 the Air Force noted that Fairchild's manufacturing operations had improved.

So, Mr. President, I think that it is important to point out that after the Air Force made its most critical reviews, the General Accounting Office points out that the Air Force, by its own reviews, conducted in regard to the manufacturing and performance schedules of the T-46A, recommended that production be continued.

QUALITY OF AIRCRAFT PERFORMANCE

As of March 31, 1986, the first T-46A developmental aircraft had been flown about 110 hours during 74 of 221 planned test flights. Air Force and Fairchild officials said flight tests results have been very successful to date. The T-46A is expected to meet or exceed most of the Air Force Air Training Command's original performance requirements. However, it is not expected to meet some of the more stringent contract performance requirements.

Again, Mr. President, I point out that this is not an observation or conclusion reached by this Senator or by those who look to come out with a particular conclusion that would please them. I think the language is worthwhile going over.

It says:

As of March 31, 1986, the first T-46A developmental aircraft had been flown. * * * The T-46A is expected to meet or exceed most of the Air Force Air Training Command's original performance requirements."

That is not a statement that I solicited. I did not go and ask someone to make this finding. But I suggest that there have been lots of statements that have come forth indicating, well, we do not know if we need it; we can put it off as a result of the inquiries coming in a certain particular manner from certain department officials, with a predesigned concept for what they wanted to be answered.

If you ask the Air Force, what is your first requirement; we are going to give you fast, speedy fighter jets or a trainer, they are always going to come down on the side of fighter jets.

That is not the issue here. If you tell them, well, if you take this money, we are going to take it from someplace else, do you want the money? You preprogram your conclusion of what the answer is going to be. That is what is taking place. But if you look to see the performance of the plane, the need for the plane, it has never been controverted that we need this plane.

□ 1630

Flight testing has identified problems in aircraft drag, lack of adequate stall warning, primary flight controls, and speed break buffeting. Air Force officials said these types of problems are not unusual. * * *

So when we identify the problems, the Air Force says to the General Accounting Office people that these are not unusual problems, as we were led to believe when people came and said, "My gosh, this plane is dangerous." They said:

* * * at this stage of development and that they can be solved without major aircraft modifications and within the scope of the development contract. An Air Force training command official said that based on actual flights by their personnel, the T-46A's performance was exellent, * * *

They say it was excellent.

* * * met the command's needs for a modern trainer and—

something worth noting—

* * * would save millions of dollars in yearly maintenance cost.

So, unlike that which has been suggested, that this would be a costly boondoggle to the taxpayers of the country, here we find in a General Accounting Office report, "Air Force command says we need this modern trainer and that it would save millions of dollars in the yearly maintenance costs."

Mr. WARNER. Will the Senator yield for a question at an appropriate time?

Mr. D'AMATO. Yes, I will yield at the appropriate time for a question.

USE OF FISCAL YEAR 1986 FUNDS

As of April 30, 1986, about 51 percent of the $49.9 million appropriated for fiscal year 1986 research, development and testing funds for the T-46A had been committed to be obligated. The $169.9 million appropriated for T-46A production lot 2 in fiscal year 1986 has not been released to the program. The Air Force does not plan to request additional production funding for the T-46A program at this time.

After all, we heard that there were problems, so it is fair to say what actions were undertaken to correct these problems.

Fairchild has developed and is implementing actions to correct the deficiencies identified in the Air Force's contractor operations review. Corrective action has been completed and submitted to the Air Force for approval on 83 percent of the deficiencies. The Air Force has approved 61 percent of those actions as of March 31, 1986.

In conducting our work, we reviewed cost data, contract files, flight test data, correspondence files, and production readiness reports. We also interviewed officials from the Office of the Secretary of Defense and Air Force headquarters in Washington, DC; the T-46A System Program Office, Wright-Patterson Air Force Base, Ohio; Air Force Plant Representative Office at Fairchild Republic Company, Farmingdale, New York; Air Force Contract Management Division, Kirtland Air Force Base, New Mexico; Air Force Operational Test and Evaluation Center, Kirtland Air Force Base, New Mexico; Air Force Flight Test Center, Edwards Air Force Base, California; and Air Training Command, Randolph Air Force Base, Texas. We also obtained data from and interviewed officials of the T-46A airframe development contractor—Fairchild Republic Company, Farmingdale, New York.

It would seem that the GAO was rather thorough in taking a rather exhaustive review not only of documents but of those people in the production area, those people in the flight area, those people in the testing area, those people in the operational area. They did a pretty good job. Now, their findings again may not have come out as certain people maybe thought or as, given the benefit of the doubt, certain indications from Air Force may have led one to believe with respect to deficiencies, but their findings, nevertheless, were based upon exhaustive study, exhaustive, time-consuming study, the king of time-consuming introspection that we are going to do, my colleagues, with respect to this issue, because we are going to look at it very, very, very, very closely and we will take as much time as necessary, regardless of the fact that there are many who have pressing engagements in their home States. I have a pressing engagement in my home State, but I feel strongly about this matter, and I may not be able to see the Mets play

the Boston Red Sox there Saturday evening, notwithstanding my desire to do so. It may take us that long to examine all of the ramifications of this matter, and I may miss the Sunday evening game and the games to follow in the following days. So I would like to say that here we have an example of that kind of exhaustive review. Maybe people are not satisfied with this document from the General Accounting Office, but I think before we consider voting on the matter that is so important all of our Members should have the opportunity to review it and those who are busy doing other things, well, they will have their squawk boxes on and they can listen as we continue.

As agreed with your office—

This is the General Accounting Office people now setting up the parameters of their review, and this letter is in response to a legitimate inquiry from one of our Senators. It says:

As agreed with your office, we did not review the Garrett Turbine Engine Company's development, testing, and production of the F-109 engine used in the T-46A aircraft, or the development of the operational flight trainer by the Reflectone Company. Nor did we evaluate possible alternatives to fulfill Air Force trainer needs.

Mr. DOMENICI. Will the Senator yield for a question without losing his right to the floor?

Mr. D'AMATO. Certainly.

Mr. DOMENICI. If the Senator is going to stay here and talk until Saturday night, would he give me his ticket to the Mets game? He can stay here and I will go.

Mr. D'AMATO. If the Senator will go with my two sons, that will be the condition, yes.

Mr. DOMENICI. We have a deal.

Mr. D'AMATO. The Senator will have three tickets.

Mr. DOMENICI. The Senator can stay here and talk and I will go. All right.

Mr. WARNER. Mr. President, is it timely for me to ask a question of my good friend?

Mr. D'AMATO. Yes. I yield for purposes of a question.

Mr. WARNER. Mr. President, we all admire the courage with which our distinguished colleague from New York speaks and we cannot help but be envious that in fact, indeed, the plane in large part would be built in New York State and therefore we understand the Senator's interest. But my question is, Does the Senator happen to know where the corporate headquarters of the company that will build the plane is located?

Mr. D'AMATO. I believe that the corporate headquarters is in Maryland.

Mr. WARNER. No, the corporate headquarters is in Virginia.

Mr. D'AMATO. Virginia?

Mr. WARNER. Yes.

Mr. D'AMATO. That is a wonderful thing.

Mr. WARNER. That would lead the Senator——

Mr. D'AMATO. A great State.

Mr. WARNER. That would lead the good Senator to believe that I would be up here joining him.

Mr. D'AMATO. Oh, no. I know better.

Mr. WARNER. Then if I said I supported the amendment of the Senator from Arizona, I could not be doing it for political purposes, could I? Because I am committing suicide.

Mr. D'AMATO. Let me suggest that the great and distinguished Senator from Virginia undertakes his either support of an amendment or his opposition of an amendment based upon those matters which he feels are important, both those matters intrinsic to the development of the particular plane and those that go beyond.

Mr. WARNER. Mr. President, the next question I would have, having I think established credentials to speak on this in a nonpartisan way, would be, of course, the Senator is aware of the fact that for many years, 5, I was head of one of the military departments and familiar with the manner in which decisions are made to buy military aircraft, and I ask the Senator how many Secretaries of the Air Force approved the purchase of this plane?

As a matter of fact, I will answer the question. Three consecutive Secretaries of the Air Force—and, mind you, in the Pentagon these decisions are under civilian control, not military control—three successive Secretaries declined to put this aircraft into major production. In 1986 there was a limited buy of 10. But the current Secretary is opposed to it. And as the distinguished Senator from Arizona pointed out, the current Chief of Staff—he happens to be the second of two Chiefs of Staff—stated that he did not want to buy the plane.

□ 1640

Mr. D'AMATO. If the Senator is asking a question as to whether or not the Secretary of the Air Force, presently, or his predecessor, was in favor of continuing production, I am well aware of that, as the Senator is. That does not obviate the necessity or eliminate the necessity for a new trainer. It does not answer the question with regard to the outmoded trainer we have.

It does not answer the fact that initially the charges were made that this plane would not fulfill the mission, when that has never been true. We have been propagandized—this body and others—the most incredible propaganda about the deficiencies, when we have had, after careful examination, the fact that that has been refuted, and not by those of us on the floor but by a study requested, an impartial study, that I could not control nor anyone else could control. If the Defense Department had its way, there is no doubt that this study would not have come about with these results.

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

Mr. WARNER. And are we not asking the Senate to overrule the decision of three service Secretaries and two Chiefs of Staff?

Mr. D'AMATO. Since when has that become something this body is governed by?

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

Mr. D'AMATO. I yield for a question.

Mr. STEVENS. I would not want the Senator from Virginia to leave the wrong impression.

From 1981 to 1985—and the Senator from New York was on the Appropriations Committee—every representative from the Air Force who came before our committee supported the T-46, including the then Chief, Kelly Burke.

Mr. D'AMATO. If I may respond, that happens to be the case. Not only is the Senator from Alaska correct in that, not only have we had it testified to, as to the quality of the T-46, but also, I have a book that says that the T-37 was very old. That was the testimony of Secretary of the Air Force, Vernon Orr, to the Senate Appropriations Committee, February 28, 1984.

The planes did not get any younger. The planes did not get any better.

The T-46 met the mission and met the requirements. Ask the General Accounting Office.

I suggest that some people, maybe for their own reasons, have seen a different way to come about this problem.

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

Mr. D'AMATO. I yield for a question.

Mr. GOLDWATER. Is it not true, as I told the Senator, that I do not debate the merits of this airplane? It is a pretty good airplane. But the Air Force does not want it. Now answer that.

Mr. D'AMATO. I will be glad to answer it.

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

Mr. D'AMATO. I think that is an important observation Senator GOLDWATER made. He said it is a pretty good plane, and the Senator has told me privately, as he said here, that if the Air Force were to sign off—the Air Force has a different agenda, and it has been told why it does or does not like this plane.

The fact is that when you have a Secretary of the Air Force who says we need this plane in 1984 and now we do not need it—we had moneys that were appropriated, and never before

have we taken moneys that were appropriated and rescinded them from a program.

I suggest to you that we have seen some pretty heavy-handed maneuvering by the Defense Department as it relates to this plane.

My colleague from New York had a question, and I yield to him for a question.

Mr. MOYNIHAN. Mr. President, in that respect, I think the Senate would want to know—I am sure the Senator from New York would agree—that that is quite so, that the headquarters of the company involved here is located in Virginia.

While the plane is to be assembled in New York, is it not the case that the aircraft engine, which is the GA-100 turbofan, is to be manufactured in Arizona, and the original contract from the Air Force, the contract for the development to Fairchild in 1982, was $104 million? The contract for $121 million was for the larger component.

Is it not the case, I ask my friend, that under the regime of Gramm-Rudman, as was predicted on this side of the aisle with great explicitness, when the time came, the funds available to the Armed Forces, the Department of Defense, have been going down? In 1985, fiscal 1985, pre-Gramm-Rudman, the budget authority of the Department of Defense was $286.8 billion.

Mr. D'AMATO. I think my colleague would be correct——

Mr. MOYNIHAN. May I finish my question?

The PRESIDING OFFICER. The Senator from New York has the floor. Does he yield for a question?

Mr. MOYNIHAN. He had yielded for a question. I have another sentence.

Mr. D'AMATO. I yield for a question.

Mr. MOYNIHAN. In 1985, the budget authority of the Department of Defense was $286.8 billion. In 1986, it was $278 billion. That was the first decline since 1970–1971. The current provision is somewhat higher than last year but still not as high as 1985.

What we are seeing here, would he agree, is a decision driven by budget matters, not by Air Force matters, in that respect, a judgment which we could very well disagree with?

Mr. D'AMATO. I say to my learned and distinguished senior Senator from New York that it is as a result of the funding not increasing, as anticipated, that both the Air Force and other services are faced with choices of making appropriate adjustment.

Having said that, the kinds of things we have been faced with is that this plane was being built and being supported because it comes from a particular State or region, and I suggest that that is not why those of us who are here on the floor saying let us look at the record are here doing it. Yes, it happens to be in my hometown. But the fact of the matter is that the record amply demonstrates the need nationally.

I point out that Senator CHILES does not represent New York, where a good part of the plane is being manufactured, or the corporate headquarters.

So what we see is a political type of dimension being added, which is unfortunate. That is why I say let us look at the record. If we look at the record, we will see that this plane was supported by the Air Force, was supported by Vernon Orr, is supported by the men in the field.

We have tried to work out compromises, but we have had some people say that we are going to defeat this plane and we will either go out for a new plane or rebid this or retool it and rebuild an existing plane, notwithstanding the Air Force itself says it is going to cost a lot more money and I will try to get an Air Force official to say it now after the Pentagon has taken a particular position.

□ 1650

It gets pretty tough to get some general to say we want this as opposed to the F-15 or F-16 or to make another recommendation, particularly when a Secretary of Defense and others have taken a strong position in opposition.

But in any event, I would like to continue with this.

As agreed with your office, we did not review the Garrett Turbine Engine Company's development, testing, and production of the F-109 engine used in the T-46A aircraft, or the development of the operational flight trainer by the Reflectone Company. Nor did we evaluate possible alternatives to fulfill Air Force trainer needs. Also, as agreed with your office, we did not request official agency comments on this report. However, the views of Air Force and contractor officials were obtained and incorporated where appropriate.

So here we have in this report, which I say it is kind of like the Bible. You would have to take my statements with a grain of salt. There would be some who would say, after all, you have a parochial interest. This is manufactured in New York; therefore, that is a parochial interest.

I would suggest to the body that if I was convinced that this plane was not necessary, I would not take this position, I would not seek the time, the energy, of my colleagues in deciding this issue.

As a matter of fact, if Fairchild had not corrected the deficiencies as they did, I would not be here.

But I also suggest that that might not be plausible or believable for a number of my colleagues.

So do not take my word but let us look at some things or someone, not someone who may be attempting to bring about a different result for whatever reason but someone who was asked, an impartial group, the U.S. General Accounting Office, the GAO who was solicited. I did not solicit them. I did not set the conditions for their study. I did not tell them what to examine. The General Accounting Office after talking to everyone, interviewing them, the production people, the line people, the pilots who tested the plane, the command, they made their report and that is why we have to listen to it. We may not like it, but I am going to present it here in every graphic detail.

Fairchild officials advised us that the report is an accurate and balanced presentation. They observed, however, that because of the essentially historical nature of the questions, the report does not emphasize the motivation and professional character with which the company is operating today.

We conducted our work from February 1986 through April 1986 in accordance with generally accepted government auditing standards. We plan no further distribution of this report until 5 days after its issue date unless you publicly announce its contents earlier.

That is a general standard practice when one requests a report.

At that time, we will send copies to the House and Senate Committees on Appropriations and on Armed Services; House Committee on Government Operations; Senate Committee on Governmental Affairs; the Secretaries of Defense and Air Force; the Director, Office of Management and Budget; and other interested parties.

By the way I would note that the T-46-A has been approved by two of those committees. As a matter of fact, three of those committees—the House Committee on Appropriations, the Senate Committee on Defense Appropriations—and unfortunately we are mired in this situation—and the Senate Committee on Governmental Affairs, the Secretary of Defense has seen this, the Secretary of Air Force, the Director of Office of Management and Budget, and other interested parties.

Signed by Frank C. Conahan, Director.

I will skip the table of contents at this time and go to page 7, appendix A. Requested information——

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

Mr. D'AMATO. Yes, certainly.

Mr. GOLDWATER. Has the Air Force approved this aircraft?

Mr. D'AMATO. Have they approved it?

Mr. GOLDWATER. Yes.

Mr. D'AMATO. To the extent I have indicated——

Mr. GOLDWATER. I am talking about the headquarters over the Potomac River.

Mr. D'AMATO. You mean did the Air Force say they want it?

Mr. GOLDWATER. The Commander of the Air Force.

Mr. D'AMATO. Well, when I spoke to them they have indicated recently

that for budgetary reasons they would not ask for the airplane. However, I would note that there have been more than one occasion——

Mr. GOLDWATER. Will the Senator yield for another question?

Mr. D'AMATO. Certainly.

Mr. GOLDWATER. Do you think that it is proper for a legislative body to tell any part of our armed services what weapons we are going to buy them?

Mr. D'AMATO. Oh, certainly. We do it regularly.

Mr. GOLDWATER. We do?

Mr. D'AMATO. Yes.

Mr. GOLDWATER. No, we do not do it regularly.

Mr. D'AMATO. Well, Senator——

Mr. GOLDWATER. No, we do not.

Mr. D'AMATO. With great respect and admiration, I have seen it in both the committee you chair, I have seen the number, the quality, the volumes, and disciplines, and I have seen it on the Defense Appropriations Committee and to suggest this time we do not——

Mr. GOLDWATER. You do not. Your subcommittee does a lot of foolish stuff.

Mr. D'AMATO. I see the Senator from Virginia laughing. I do not know if it is a result of my remark or absurdity of the proposition that we do not suggest to the military what they should buy at various times.

Mr. GOLDWATER. We might suggest it but we do not buy it.

Mr. D'AMATO. You know a suggestion from the Senator from Arizona carries a great deal of weight and might be interpreted as more than just a suggestion, almost an order.

Mr. GOLDWATER. Well, I disagree with the Senator.

Mr. D'AMATO. I think you are being too modest.

Mr. GOLDWATER. I still want the Senator to make the point. It is not the aircraft. I do not argue with him on the aircraft.

Mr. D'AMATO. You mean the suggestion it meets its needs.

Mr. GOLDWATER. They have not completed all the deficiencies. That is not important. The important thing is the Air Force does not want it.

Mr. D'AMATO. I think again my distinguished colleague from Arizona, someone for whom I have deep respect, makes a point again that this plane is not the older plane that it was made out to be. When I was here on this floor, when I heard my colleagues come up to me and say, "ALFONSE, how could we support this plane, when it is so dangerous, when it is so deficient," that is not the case. People were given a bill of goods. They were told and we had memoranda coming out of the Air Force that was suggesting that this plane could not fly and it should not fly.

That is from the same people who we are now supposed to rely on them, I told them that.

I think we have to worry about their reliability.

But I do believe this General Accounting Office report. I say to my colleagues if you are going to put stock in it, do not take my word for it, but certainly not those of the generals who have been programmed to come down to say we do not want it at this time. What kind of credibility do they have, when for 7 years they lobbied, for 7 years they come forth and testified before our committee we need it, we need it, put it out, bid it, we need this plane desperately. And then they come before this body and say, oh, no, we don't need it.

Then they go to the extent and say the plane is dangerous and it does not fly.

When you check into those reports you find out from the guys there doing it they say they send the letters—it meets our needs; we do need it. If we do not have it, it is going to be a terrible deficiency.

You want to talk about what happens to the American public. You wonder why they begin to say they lose credibility in which direction we are going to go. We need it one day. The next day we do not need it, we do not want it.

That is an oversimplification.

REQUESTED INFORMATION ON T-46A PROGRAM

In July 1982 the Fairchild Republic Company was awarded a fixed price incentive contract for the design, development, testing, and delivery of two T-46A trainer aircraft with support equipment and a data package.

I think that is interesting. In July 1982, after exhaustive studies, after exhaustive competition and bid the Air Force said go ahead. So we needed it then. The Secretary of the Air Force signed off then. The Secretary of Defense signed off then. We needed a new trainer not because it was being built in Long Island but because of the need that we had a 30-year-old trainer. So let us get that through once and for all because again I resent those implications that because someone is going to stand up and say let us look at the record, you are doing it to protect the parochial interest. The fact of the matter is if the same situation were taking place in any other place I would expect my colleagues who had particular knowledge to stand up and do the same thing I am doing here now.

We need it in 1982. So we put it out.

The contract included two fixed priced options for the production of up to 65 aircraft.

We said at that time we had a need for at least 65 planes.

Fairchild was selected for the contract award following the evaluation of competitive proposals from five companies.

So this was not a situation where the Senator from New York said give it to Fairchild or anyone else. You have an exhaustive competition from five companies.

□ 1700

The proposal evalution criteria, in order of importance, were (1) operational utility, (2) readiness and support, (3) life-cycle cost, (4) design approach, and (5) manufacturing/program management. The Secretary of the Air Force, in making the selection, stated that Fairchild's proposal offered significant advantages over the other proposals.

I did not say it. My colleague from New York did not say it. The Secretary of the Air Force said, after looking at these components, these five components—operation utility, readiness and support, life-cycle cost, design approach, and manufacturing/program management—I should have read this General Accounting report with more thoroughness before. He said:

Fairchild, you offer significant advantages over the other proposals.

And he specifically stated Fairchild's proposal "provided the best aircraft in terms of training effectiveness, operational safety, reliability, maintainability, and availability."

Now, that is a pretty strong endorsement. I would suggest that that endorsement came down in July 1982 absent those factors that would suggest that somehow the planes that should have been replaced in 1982 that we saw the need for, somehow that situation has changed and it would be valid today.

Now we are here in 1986, 4 years-plus later. Are we going to suggest to the American people that the trainer that 4 years ago was considered obsolete, aging, that should be taken out of service, that should be replaced for the training of our men and women, our pilots, that somehow that aged plane has gotten better in 4 years, that there is less of a need today after, by the way, we spent a half of a billion dollars? Incredible; absolutely.

"Its design met or exceeded all Air Force requirements." Here is the Secretary. He says:

Its design met or exceeded all Air Force requirements and (3) its manufacturing approach made it the leader in this area.

Contract difficulties.

Were there problems? Of course. But we were made to believe that these problems were somehow unique to Fairchild, to the trainer, that we do not see these problems in any new start-up program.

Within several months of the 1982 award, Fairchild began experiencing cost, schedule, and other difficulties. These problems and other events led to a 1985 restructuring of the contract delivery schedule, reduced progress payments, and a major contractor effort to correct identified problems in 1985.

COST DIFFICULTIES

At the time the development fixed priced incentive contract was awarded, both Fairchild and the Air Force recognized that Fairchild's cost proposal was optimistic; that is, lower than expected actual costs. Fairchild officials said their cost proposal had been influenced by the Request for Proposal which specified funding limitations.

The contract had an original target price of $104 million and a ceiling price of $125.3 million. Any costs beyond the ceiling price must be fully absorbed by the contractor. Contract modifications can result in increases to the target price and ceiling.

In October 1982, several months after the contract award, an Air Force independent cost estimate showed that the T-46A development and production estimates prepared by the Air Force program office were reasonable and considerably higher than the contractor estimate.

Beginning in September 1982, Fairchild started reporting cost variances in its monthly cost performance reports. Fairchild recognized in its September 1983 cost performance report that the estimated completion cost would exceed budgeted costs. Between September 1983 and July 1984, Fairchild increased its estimated completion costs several times from $116 million to $139.1 million, which at that time exceeded the July 1984 contract ceiling price of $127.1 million. Since that time, the contract ceiling price has increased due to contract modifications.

With cost estimates continuing to increase, Fairchild officials said they realized that the scope of work was greater than expected and that managing the program within the amounts in the original contract would not be possible.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. HATFIELD. I appreciate the Senator from New York yielding for a question. I would like to inquire of the subcommittee chairman of the Appropriations Committee, who has worked very hard on this continuing resolution, brought it thus far, if he could give us some indication as to when we might reach a point of disposing one way or the other of the Goldwater amendment that is an amendment to the Abdnor amendment that is hanging on amendment 59 in disagreement with the House.

Why I pose the question is, as the Senator from New York knows, we have run out of money for the Federal Government's operation. And this continuing resolution is going to have to go back to the House because we have already made one change in that, amendment 19. Therefore, it will have to go back to the House for their consideration and possibly it would have to come back here yet again. The White House, I know, is very anxious to give some signals to the Federal employees whether they should come to work tomorrow. And all of these things are sort of hanging in a very delicate balance.

And as the subcommittee chairman and I know, speaking as the chairman of the full committee, there are times when we have to get the institution moving to comply with our constitutional duties that are before us to keep this Government going.

Now all I am asking, basically, is to establish upon my question to set it in the context of the anxiety I am beginning to feel in the pit of my gut as to when we are going to get this bill moving back to the House. Would the Senator accommodate my request?

Mr. D'AMATO. Mr. President, speaking not as the subcommittee chairman, but as a member of that subcommittee——

Mr. HATFIELD. And a very excellent member who has upheld his duty in a very, very admirable fashion.

Mr. D'AMATO. I appreciate the Senator's comments.

I would suggest that the manner by which we could proceed expeditiously, immediately, would be if the Senator from Arizona would withdraw his amendment. Notwithstanding that, this Senator, and I know that at least four others, at least four others, will be making their points for an extended period of time. In consideration to the distinguished chairman and my dear friend, I would suggest that there would probably be no vote for quite a period of time.

So rather than the onus being placed on those of us who say this is not the appropriate vehicle or the time to undertake this action, I would suggest and hope that we could debate it and discuss it at another time on another vehicle.

But if those who propose this amendment continue to push for its consideration, then at least this Senator, and I do not mean to speak for others, but again I know of at least four others who will continue to deliberate before there is any action taken.

□ 1710

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

Mr. GOLDWATER. Would the Senator yield so I might comment?

Mr. D'AMATO. I yield to the Senator from Oregon for a question.

Mr. HATFIELD. I thank the Senator for responding to my question. It is not the answer that I would like to have heard to be very frank about it. It still does not remove us from the exigencies of this moment and the dire consequences of having to deal with an issue that transcends either New York State or Oregon or any other single State. It transcends even the institution of the Senate and the House of Representatives because it moves to the very heart of all our Government. That is why I am putting the question to the Senator in such a way that I am sure the Senator realizes that it is a fundamentally important issue to the State of New York. But I think there are times when I have found fundamentally important issues to the State of Oregon that I have had to have my day in court and move on.

Mr. D'AMATO. Mr. President, if I might suggest, I have not propounded this amendment. So if we come to the question of impeding the business of the institution, or that which faces the Nation, I would have to respectfully suggest that there are a number of ways to deal with that. One, and I am not suggesting but of course there are alternatives that the Senator is aware of what should be done to eliminate that. This Senator would then sit down.

Second, there is a question, if we wish to continue on the other parts of the bill, to lay this aside, and I would not object to that so we could continue on the other parts of the bill. Then if we could come back, that might provide a method, and I know tactically it may yield some advantage but we do not seek to unduly impede this body.

However, I think in all due regard to everyone's feelings that it would have been naive to think that this Senator or the senior Senator from New York or other Senators would not have taken this position that I am taking now.

So those who propose it who did not think that this would take place, obviously or if they wanted to make a point, I understand that. Sometimes we offer amendments to make points to indicate our displeasure.

Mr. HATFIELD. Would the Senator yield for one other question?

Mr. D'AMATO. Certainly.

Mr. HATFIELD. Would the Senator consider then, since he has this opportunity with the floor being in his possession and all, if the Senator from New York would try to bring this to some kind of conclusion by making a tabling motion on the Goldwater amendment, and at least getting a consensus or at least getting a decision made on that on the pending amendment, at least bring it to a point where we can make a judgment?

Mr. D'AMATO. I would suggest, given the facts as they presently exist in the overwhelming body, regardless of my attempting to rectify, they would still believe they would be voting if they did not vote to table or if they voted in opposition to tabling for some kind of a flying wreck that would endanger the lives of the young men and women that it is supposed to train—that somehow this flew in the face of the Defense Department's legitimate needs, and I do not believe that suggests that a matter which is so important to this project, this is life or death. There is no recall. There is no looking at this program next year. There is no reevaluating. There is no saying, all right, we will continue with part of a line, and then we will refurbish part or we will do something. This is a killer amendment that closes

that manufacturing facility down that recaptures those dollars, that for all time ends this institution, this industrial complex, and I suggest that flies in the face of the facts as presented by the General Accounting Office. That is why——

Mr. HATFIELD. Would the Senator yield for a third question?

Mr. D'AMATO. Yes, certainly.

Mr. HATFIELD. Would the Senator yield to the possibility—with the size of this bill that we have, and therefore he could have a good look into it. It is not going to escape him—that if we could get unanimous consent to temporarily lay aside this committee amendment and move on with the other amendments, the Senator has not lost any advantage that he now has because this bill is still going to have to be acted upon. Would the Senator consider yielding to a unanimous consent? I do not mean that he is the only person that I have to ask this question to. But I would like to propound that question, move on with the other committee amendments in disagreement, and then, obviously we have to come back where we are now.

Mr. D'AMATO. I am wondering at this point if we might not have an opportunity to consider this with those others who are involved in this matter. There are a number of my colleagues, and I would like to consult with them as I indicated.

I would yield with this proviso, that if this matter were to come back that I would have unanimous consent that I would be entitled to the floor on our return to it and that I still have to be entitled to two speeches, that I have not waived one of those two speeches, and that I would be recognized first on our return to it.

Mr. GOLDWATER. Reserving the right to object, Mr. President, the Senator from New York has not debated this subject. I said at the outset I am not going to debate the aircraft. I am the only one in this body that has ever flown it. I admit it is a pretty nice airplane. I am not going to go into the trouble we had at the outset with it. I am not going into the financial trouble of the corporation. I just asked the question, the Air Force does not want it.

Mr. D'AMATO. I might——

Mr. GOLDWATER. Wait a minute. Let me finish. I am talking right now.

If the Senator can give me a good reason why we should buy that airplane in spite of the fact that the Chief of Staff of the Air Force has said we do not want it, and one Chief told me if you buy it I am going to put them out in the dogpile out——

Mr. D'AMATO. He should be out in the dogpile for making a statement like that, Senator. Let me tell you why.

Mr. GOLDWATER. Wait a minute. You have not debated this thing. You want to talk about the airplane. It is very interesting. I read that book. I have read all the books.

Mr. D'AMATO. Senator, I have heard you on the floor before take this plane apart, hook by hook, piece by piece, and convince this body that the plane could not even fly.

Mr. GOLDWATER. You are out of your head.

Mr. D'AMATO. And you said it. I will read the record.

Mr. GOLDWATER. Read it. I never said that airplane would not fly.

Mr. D'AMATO. You said you would not fly it yourself.

Mr. GOLDWATER. I flew it.

Mr. D'AMATO. You said you would not, though, before you did.

Mr. GOLDWATER. I flew it.

Mr. D'AMATO. All right. Let me say this.

The PRESIDING OFFICER. The Senators are reminded not to refer to each other in the third person in the debate.

Mr. D'AMATO. Mr. President, I would like to make a point. That is in the meetings I have had with the Air Force Chief of Staff, I met with them, General Gabriel, and I was assured by him that if the Congress provided the funds, he would not ask for them, but the Air Force would support the T-46.

What we are seeing is a catch-22. Members of the Congress here said, "Oh, the Air Force doesn't ask." The Air Force says, "If the Congress gives us the funds, we will support it."

Mr. GOLDWATER. They do not have the funds.

Mr. D'AMATO. That is what we do.

Mr. GOLDWATER. Where do you get it?

Mr. D'AMATO. We provide the funds.

Mr. GOLDWATER. Where are you going to find all that money?

Mr. D'AMATO. Again, responding to the distinguished chairman, I do not think at 2 o'clock in the morning or 3 o'clock in the morning or 4 o'clock in the morning if we were going to return to this issue it is going to be any better. But what I do see is that there are going to be more cantankerous spirits, the Senate is going to be viewed as a greater obstructionist to the progress of this body now, and if we want to make progress on this bill, there is a manner in which to do it. That is to pull down this amendment.

Mr. HATFIELD. Would the Senator yield for a question?

Mr. D'AMATO. Yes. I will.

Mr. HATFIELD. I would like the Senator to yield to a proposal of a unanimous consent that I would like to propound that we have a brief quorum call after which the Senator would not have lost his right to the floor, just for a very brief time that I might consult with the Senator.

Mr. President, I do propound that unanimous-consent request, that we have a brief quorum call, that the Senator from New York not lose his right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1720

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

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

Under the previous order, the Senator from New York has the floor.

Mr. D'AMATO. Mr. President——

Mr. HATFIELD. Mr. President, I am about to propound a unanimous-consent request that we temporarily lay aside the pending amendment and move on to dispose of the other committee amendments which will then bring this amendment back to the situation we basically are in now.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. I object. Reserving the right to object, and I will, I do not like to hold this bill up, but I did not offer this amendment at the Appropriations Committee. My good friend from Alaska did it after I begged him not to do it because we have been all through this thing in the authorization hearings. We have settled it. And here it comes again. I am going to have to object to that. I do not want to sit around here all night any more than anybody else. But this is not of my making. The Senator from New York has been reading out of a book, reading a lot of statistics that I agree with. But somebody has to call the Chief of the Air Force and tell him to pick up the phone and call GOLDWATER. Then I will go for it.

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. D'AMATO. Mr. President, I think perhaps I will call him. I have spoken to him.

Mr. GOLDWATER. Go ahead.

Mr. D'AMATO. They keep saying that the money put in there for this program they will use. We have a question of, as some say, of testing the wills. I do not call it that. I do not see why you have a good, valid, bona fide contract, where everyone says it is necessary, the Air Force, the generals, the personnel up and down the line in 1982, in 1983, and 1984, "We need the plane because we have an aged trainer," and now somehow we do not need it. This need has dissipated.

I will tell you something. I am not going to sit by and allow that company to be closed because there is more at work than whether or not we need a new trainer. We need it. Senator

GOLDWATER himself has said the plane is a good plane. He says the Air Force said they do not want it. What are they going to do?

Are we going to rework the old plane? How long does that take? If we begin to rework it, how much more is that going to cost the taxpayers? Hundreds of millions. How many billions more 5 years from now when we start with a new trainer will it cost the American taxpayer? Whose interest have we met?

I am not arguing strictly from the point of view that this is a company in my State.

Were I not to do it, I would be remiss. Something would be wrong. The people there would say, "Why is it, Senator, that you are so quiet?" When it came to getting rid of a toxic dump, I stood up and said we have to appropriate some moneys and see to it that an agreement that a prior administration entered into in terms of West Valley in New York was completed.

It is nothing new for this Senator to go to the floor when he feels strongly. I will say let the record speak for itself, that there have been very few occasions, less than on one hand for this Senator, when this Senator has taken this kind of position in my 6 years here. I have not unduly taken the time of my colleagues. I have not thwarted the will of the majority. I have not used those important prerogatives that should be used very carefully in terms of taking the floor and using that which is a very important right for the minority but should not be unduly abused.

When I do, I do it out of a feeling of conviction. The record speaks for itself.

Why should we not look at the merits of the plane? What this amendment does is it kills the plane. It says that the plane is not necessary. It says that the plane is deficient or defective or we have a better way to deal with an obvious deficiency in our military arsenal now.

What is that better way? I think the people of the United States have a right to know. How are you going to meet the deficiencies of seeing to it, where you have a 30-year-old trainer, that you are going to give our young men and women a better deal?

Mr. GOLDWATER. Will the Senator yield?

Mr. D'AMATO. For a question, yes.

Mr. GOLDWATER. Does the Senator know that the T-38, which is our hottest jet fighter trainer, is going to go to the year 2010 and is already planned for that? Aircraft do not wear out because of age. They are not like us.

Mr. D'AMATO. I am wondering, if that is the case, why was it in 1979, 1980, and 1981 when the Air Force, the Defense Department, and all those who are involved in the procurement of new weapons systems and aircraft in particular, did not say, "Let us rework this plane" at that time.

Are we saying today, given life cycle costs that this report addresses, in terms of saving money, are we saying that the T-46 trainer is not necessary today because we found a better way to handle the T-37 that is very old and was old then, that Secretary Orr testified many of the generals said we need?

I wonder.

The question was asked of those who testified before the Appropriations Committee: "Is the T-37 extension viable?"

This, by the way, was before the House Armed Services Committee in March 1986. The answer was: "The number of available T-37B aircraft will not be sufficient to meet the projected pilot production rates beyond 1987."

What about additional moneys?

This was the general commander of the Air Training Command, General Osway.

□ 1730

He said, "Pouring any money into the T-37 is like pouring money into a rat hole."

I suggest the only thing that has changed is that the rat hole has gotten deeper and bigger and older. It has not improved.

I wonder why it is that the general's remarks then are something that we disregard now.

Mr. GRAMM. Would the distinguished Senator yield? I know he has been talking a long time.

Mr. D'AMATO. No; I will not yield.

Mr. GRAMM. If he would let me respond, perhaps I could answer his question.

Mr. D'AMATO. No; I will not yield. I have yielded a couple of times already. I think I am going to make some points that are appropriate and necessary because we have had about 1 year of a constant barrage and bombardment from the Defense Department, from the Air Force, and from others that would make one believe that obviously, this plane must have been designed by the politicians from New York; that somehow, we discovered a need for this; that we said you need a plane, a T-37; that we put the contract together; that we said it is the best and most efficient and it meets all these needs.

This was the Air Force doing it. I wonder why they changed their minds? It would be interesting to get the good general over and say, "General, you really don't need a new trainer? You can still keep flying this old, 30-year-old plane? How much is it going to cost to rewing it, to put new engines in, to bring it up to specifications? Are you really going to put a pressurized cabin in?

"Why, when we asked the question back in the early eighties and the seventies, didn't you say you could rewing that plane, and how is it you have changed your mind, and who has talked to you, and who has talked to the Defense Department? And why did the Defense Department come to those conclusions?"

Those are the questions, and when you look at the report, no one wants to discuss the merits of the report. You know why? Because the report said very simply that the T-46 is a good plane that exceeds the contract standards and we should really be doing the business of the people and continuing this instead of attempting to assert that one is scrapped or one is right for bona fide reasons.

Now, beginning on page 8:

APPENDIX I

Beginning in September 1982, Fairchild started reporting cost variances in its monthly cost performance reports. Fairchild recognized in its September 1983 cost performance report that the estimated completion cost would exceed budgeted costs. Between September 1983 and July 1984, Fairchild increased its estimated completion costs several times from $116 million to $139.1 million, which at that time exceeded the July 1984 contract ceiling price of $127.1 million. Since that time, the contract ceiling price has increased due to contract modifications.

With cost estimates continuing to increase, Fairchild officials said they realized that the scope of work was greater than expected and that managing the program within the amounts in the original contract would not be possible. Air Force officials said that the T-46A engineering, test, and manufacturing effort was underestimated and that Fairchild was not applying the required resources (personnel and funds) to complete development on schedule. Fairchild has been providing additional resources since January 1985.

I call to my colleagues' attention that this is a very well balanced report. The Senator from New York does not disagree. It points out the deficiencies. It points out the problems that Fairchild encountered. It also demonstrates where the company moved to correct those deficiencies.

Projected cost overruns resulted in the Air Force Plant Representative Office (AFPRO) reducing Fairchild's progress payments on the development portion of the contract in August 1984 and on the first production lot in January 1985. These reductions were made in accordance with procurement regulations to more closely match the progress payments with work progress.

As shown in table I.1, Fairchild's cost performance reports and Air Force cost performance data as of December 31, 1985, show that the estimated final cost for both T-46A development and first production lot will be substantially greater than the contract ceiling price.

TABLE I.1—T-46A COST ESTIMATES, DEC. 31, 1985

[In thousands of dollars]

Program phase	Contract		Estimate at completion	
	Target price	Ceiling price	Fairchild	Air Force
Development	111,832	134,354	220,308	220,308
Lot I production	58,053	64,241	91,521	100,441
Total	169,885	198,595	311,829	320,749

So that we can see even there the differentiations were not ones of extraordinarily large amounts but well within that which is experienced in other times.

Under the terms of the contract, the Air Force is obligated to pay up to the ceiling price or $198.6 million. Based on the Air Force estimate, Fairchild would absorb $122.2 million in excess of the ceiling.

SCHEDULE DIFFICULTIES

In addition to cost difficulties, the T-46A contractor experienced a number of missed schedule milestone dates. The T-46A development contract with Fairchild contained 10 demonstration milestones ranging from completion of preliminary design review on February 1, 1983, to first flight on April 15, 1985. As shown in table I.2, Fairchild did not meet the original scheduled date for 5 milestones, including first flight. The first flight milestone, originally scheduled for April 15, 1985, was made 6 months later, on October 15, 1985. Two milestone dates to begin structural testing were extended by contract modifications.

Table I.2: T-46A Contract Demonstration Milestones.

There are 10 milestones. I shall go over them.

Air vehicle preliminary design review (PDR) complete. The original contract date was February 1, 1983; the accomplished date was February 1, 1983.

So it was on time.

The air vehicle critical design review complete. Its original contract date was August 1, 1983. This is the review of the air vehicle preliminary design. It was modified in September 1983 and it was actually completed September 13, 1983, so it was 1 month behind its original contract date. Not too bad.

Organizational and Intermediate Support Equipment [PDR] Complete. Original contract date December 1, 1983. Actual date completed December 15, 1984. Not too good, 12 months behind.

First Test Aircraft Major Assembly Started. The original contract date was March 1, 1984. The date of completion, actual, was March 1, 1984; months behind, none.

□ 1740

Escape System Qualification Started: Original contract date, July 15, 1984; actual accomplished date, July 15, 1984. Months behind, it was on time.

Depot Support Equipment PDR Complete: Original contract date, December 1, 1984; accomplished date, December 1, 1984. Months behind, zero.

Start of Full-Scale Static Testing: December 1, 1984; modified, October 31, 1985. Actual date completed, October 31, 1985. Not too bad. That is 11 months behind.

First Test Aircraft Empennage (Tail) and Wing Assembly Delivered: Contract date, January 1, 1985. Accomplishment date, December 31, 1984. So it was right on time.

Start of Full-Scale Durability Testing: Here they ran into a little problem. The original date was January 1, 1985. It was modified to July 31, 1986. And they were 19 months behind. Estimated completion time, July 31, 1986.

First Flight: Estimated April 15, 1985. They moved that to October 15. It was actually accomplished October 15, 1985, so that is was 6 months behind.

Mr. President, I am wondering if I could not ask for order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. EXON addressed the Chair.

Mr. D'AMATO. Mr. President, the Air Force concern—let me give a recapitulation of that table: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10—10 contract items. We are talking about milestones. These are important, critical elements in weighing this. Out of those, No. 1 was on time. No. 2 was virtually on time; it was 1 month behind. No. 3 ran into a problem; it was 1 year behind. No. 4, first test, was OK. No. 5 was OK. No. 6, on time. We have actually 1, 2, 3, 4 out of the 10 ran into some time problems, some as little as 1 month, some as much as 5 months. One a little longer, the start of full-scale durability testing and for a number of reasons but that was 19 months. Not unusual. Not unusual. And yet we were led to believe from the Air Force that this was a situation that at certain times they felt would possibly never be rectified.

Now we talk about the Air Force concerns resulted in contract modification.

The Air Force concerns about the overall progress of the T-46A program and the missed first test flight milestone led to a modification of the Fairchild contract on October 1985.

In a January 29, 1985, letter to Fairchild, the Air Force T-46A Systems Program Office (SPO) stated that it was becoming increasingly concerned about Fairchild's progress in several areas of manufacturing and testing. The SPO stated that schedule delays appeared to be endangering the first flight milestone of April 15, 1985, and requested Fairchild to review the situation and provide a realistic revised schedule. On February 19, 1985, Fairchild responded and stated that its review indicated a revised first flight date of April 30, 1985.

On February 11, 1985, the first test aircraft was rolled-out. Air Force officials said that required parts were missing from the aircraft and some of the installed parts were not flight worthy. The roll-out was not a contractual requirement.

In an April 17, 1985——

By the way, Mr. President, I might add I was there at that time and that was not a very happy occasion for Fairchild. And I must say that the Air Force was absolutely correct in being annoyed—in being more than annoyed, being angered in terms of Fairchild's not meeting its responsibility and, more than that, attempting to conceal from the Air Force some of the problems that it encountered.

That was wrong. I told Fairchild that. I told them I was not going to support them in those kinds of efforts, that you do not try to deceive those, particularly the Government, that you have entered into contractual relations with, and I think they learned from that. That was a sorry time. I felt taken advantage of, and I must admit, to come to a rollout and find out later that some of the items of manufacture were indeed not as they should be, was, I think, a low point in the relationship.

Nonetheless, you do not take a mistake that someone makes and hold it against them forever. You see whether or not they are capable of curing that deficiency, and if they have the kind of people who are going to do the job.

In an April 17, 1985, letter to Fairchild, the SPO identified several schedule delinquencies, including the missed first flight milestone, which would severely affect the remainder of the development and production program. The SPO requested Fairchild to revise its schedule for accomplishing contract milestone requirements. During the next several months, the SPO and Fairchild discussed several schedules. These discussions culminated in an October 7, 1985, bilateral modification to the contract.

The contract modification listed seven contract requirements that Fairchild had not complied with, including not meeting several demonstration milestones established in the original contract, and not delivering the two development aircraft on schedule. The contract restructuring did not affect the target price but it did make the following changes.

So here they are attempting to deal with the deficiencies.

Established new demonstration milestone dates for conducting the first flight and starting full scale static and durability testing.

Established four new management milestones for measuring Fairchild's progress during the remaining development program.

Extended the planned date for exercising the second production option from December 1, 1985, to March 1, 1986. The Air Force also reserved the right to extend the exercise date for that option for a period equivalent to the longest period of delay experienced by Fairchild in meeting any of the demonstration milestones established in the original contract.

Extended the delivery date for the first development aircraft from March 1985 to August 1985 and the second aircraft from June 1985 to April 1986.

On February 28, 1986, the Air Force unilaterally extended the planned date for exercising the second production option from March 1, 1986, to May 3, 1986. However, the Air Force on March 28, 1986, announced its intention not to exercise that option.

There were contract or management difficulties, and we will go into those, and this report goes into those.

I hope that staff is getting me the additional appendices, so that when I conclude these, we have those to put into the RECORD.

If you have not sent for them, I hope you will send for them.

Air Force reviews in May and June 1985 found that a number of Fairchild's management systems and procedures were unsatisfactory.

In May 1985 the SPO conducted a Cost Schedule Control System Criteria Subsequent Application Review to determine if Fairchild's Management Control Information System was being properly applied to the T-46A production program. The review rated Fairchild's procedures unsatisfactory.

Again, I think this is interesting. Here is a report—and I say to my colleagues, take a look at it. It is fair; it is balanced. It does not come with a prejudice but, rather, a requirement to report truthfully and directly its findings, and it found management problems.

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

Mr. D'AMATO. I yield.

Mr. HATFIELD. I wonder if the Senator would permit me to propound a unanimous-consent request that would permit us to have a brief quorum call and the Senator would not lose his right to the floor.

Mr. D'AMATO. Provided this would still be a continuation of my first speech.

Mr. HATFIELD. I would incorporate that in my request.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Mr. President, reserving the right to object, will the Senator state his request?

Mr. HATFIELD. My request would be to have a very brief quorum call so that I might confer with the Senator from New York, and that when the quorum call is ended, the Senator would not have lost his right to the floor, and his speech would not constitute a second speech.

Mr. EXON. At the end of that quorum call, the Senator will have the right to the floor?

Mr. HATFIELD. The Senator would.

Mr. EXON. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from New York.

Mr. D'AMATO. The Air Force review that I referred to definitely came after that with various procedures that were found to be unsatisfactory.

For example, the report noted that estimated completion costs appeared unrealistic and material performance measurements were questionable. The SPO requested, and Fairchild agreed to implement, corrective operating procedures by May 30, 1986. Corrective procedures have since been agreed upon and implemented or are in the process of being implemented by Fairchild.

So it points out that there were deficiencies and indicates steps being taken to correct those deficiencies, and it then goes into those processes implemented by Fairchild.

In June 1985 the Air Force Contract Management Division conducted a detailed contractor operations review (COR) at Fairchild. This review, which focused on eight management areas, reported a total of 279 findings in the areas of manufacturing, industrial material management, contract management, industrial safety and fire protection, subcontract management, engineering, quality assurance, and product integrity.

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

Mr. D'AMATO. I yield.

Mr. HATFIELD. I would like to now propound my unanimous-consent request once more, that the Senator from New York not be denied his second speech and that he would have the right to the floor following a very brief quorum call.

The PRESIDING OFFICER. Is there objection?

Mr. PRYOR. Mr. President, reserving the right to object, I ask the distinguished Senator from Oregon if it would serve the Senator's purpose that he is attempting to accomplish if, during that period of a quorum call—say, not to exceed 7 minutes—I may be allowed to speak, without the Senator from New York losing his right to the floor at its conclusion. I do not want to complicate matters.

Mr. HATFIELD. I have no objection. I am trying to get to the point where I can have a private discussion with the Senator from New York.

Mr. PRYOR. I was trying to give the Senator from Oregon that opportunity.

Mr. HATFIELD. Mr. President, I withdraw my unanimous-consent request, and I ask unanimous consent that the Senator from Arkansas might be recognized for 6 minutes——

Mr. PRYOR. Let us say 8 minutes, and maybe I can yield back a couple of minutes.

Mr. HATFIELD. Eight minutes. And then the floor be returned to the Senator from New York, without a quorum call.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PRYOR. Mr. President, I rise today to make a few remarks within the category of "observations" or "food for thought."

The Senate is a very great institution, composed of dedicated people, and to have served here for these few years is a great honor for me that few people have been accorded.

I am one Member of this body, and I believe there are many more, who sincerely believes that the Senate can be a better place. I do not speak of "a better place" in terms of what some have characterized as an absence of "quality of life," but I speak of "a better place" in terms of an institution which can better serve the American people.

My observations today do not reflect on any individual or well-meant procedures we have adopted. I speak only of a system, Mr. President, which, for one reason or another, has strayed from its original purpose and intent.

Mr. President, the budget process has broken down. In its original inception in 1974, the new process was intended to bring about order, discipline, and efficiency into the budgetary system.

□ 1800

The Budget Act was intended not to substitute or to supplant the historic authorizing and appropriations process envisioned by our constitutional framers but rather to strengthen it.

Mr. President, let us admit it. The process has failed. It is not working and today I ask in public what many of us have been asking in private. Should we repeal the Budget Act of 1974? Should we change it or should we modify it?

Mr. President, I respectfully submit that the four massive steps in our budget process has brought us to a point of institutional overload. To have each calendar year a budget resolution, authorization, appropriations, reconciliation, and add to it Gramm-Rudman is at best an invitation to a legislative nightmare.

Yes, I know what some who favor the present budget process may argue, that what would be the deficit. The deficit cost today would be larger if we did not have a resolution and reconciliation procedure. Who would establish the ceiling of expenditures?

The fact is, Mr. President, for some 30 years prior to the Budget Act of 1974, the Senate Appropriations Committee, with one exception, funded fewer dollars than the President's request called for.

In fact, as a matter of history, our budget deficit in 1974, the very year that our budget system was adopted, our budget deficit was somewhere in the neighborhood of 6 billion. Today it is $200 billion.

The system was preposterously complicated. It is redundant to the point of absurdity. The process of authorization and appropriation has merged today into almost an identical twin.

Mr. President, could we have order in the Chamber, please?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Arkansas.

Mr. PRYOR. In the past 9 years we have failed time and time again to meet the budget resolution guidelines. In 1978 and 1979, we missed the May 15 deadline imposed by law by only 2 days. However, in 1985 we were 105 days late. In 1986, 68 days late. This year we held our respective noses and voted for a reconciliation bill that many felt figures had been cooked to avoid the deep canyon of Gramm-Rudman. To add a debt ceiling bill each few months, that has not become a legislative vacuum cleaner sucking up all the leftovers from the Senate floor, has created yet another budget albatross around our necks.

Here we are, Mr. President, on October 16 and on the respective desks is yet another 18-pound white monument to our own failure and a system encumbered with institutional overload. I speak of a continuing resolution weighing 18 pounds containing most of the appropriations of our federal system. This year not one appropriation bill has passed and has been signed by the President to this date. The continuing resolution is instant government. It is a strained stew, not cooked on a stove but hastily put into a microwave. Many items contained here were never debated. Many were never the subject of committee hearings or discussion, and we are just hearing a debate today on an airplane that we understand the Air Force does not even want.

Mr. President, this continuing resolution represents the worst of our legislative process. I have no problem and certainly only respect for the distinguished chairman of the Appropriations Committee, Mr. HATFIELD, and the Appropriations Committee. But our system has made them a captive to the process.

In 1970, before the Budget Act was implemented, that Senate that year had 170 rollcall votes on budget related items. By 1975, 246 budget related votes in the Senate were cast. In 1981, 344 budget related votes were cast. In 1985, 67 percent, 67 percent of all of the rollcalls in the Senate were on budget related items.

Mr. President, the Senate has become a giant committee on the budget, overcome and overwhelmed by procedures that originally had a noble intent but ultimately has almost made a mockery of the authorization and appropriation process.

This year, Mr. President, the Senate has spent 43 hours on a continuing resolution. It has cast 27 votes on a continuing resolution. One hundred eleven motions and amendments were decided up or down. On the 1987 budget resolution, we have spent 11 days, 71 hours to be exact, with 42 votes, 44 motions and amendments.

The Senate this year has spent on the debt ceiling alone, Mr. President, 8 days, 41 hours of debate and quorums, 11 votes and 37 motions and amendments.

Once again, Mr. President, institutional overload.

As to this creature called a continuing resolution, since the 1974 Budget Act let us look at how we have treated appropriations.

Considering the 13 major appropriations bills in 1986, we have passed none. In 1985 we have passed five; in 1984, four; in 1983, one; in 1982, zero; in 1981, one; in 1980, three. Every year since the budget system that we now employ has been adopted fewer and fewer appropriation bills and more and more opting out for one more continuing resolution to keep the Government afloat.

Each year we say it is going to be better, Mr. President, and each year it gets worse.

Yes, Mr. President, we have stumbled through another year. We are not at the end. Next year I hope that we will resolve to do better. Maybe we should repeal the Budget Act. Maybe we should modify it. Maybe we should start over.

Whatever the course of action we choose, Mr. President, I hope that we will admit that this institution has a very severe problem and I hope that we will face that problem.

I respectfully submit that the worst thing we can do is to do nothing.

Our system is broken down and now we must fix it.

The PRESIDING OFFICER (Mr. BOSCHWITZ). The Senator's time has expired under the previous order.

Mr. PRYOR. If I could have 30 more seconds, Mr. President, I ask unanimous consent to proceed for 30 more seconds.

The PRESIDING OFFICER. Is there objection?

Mr. D'AMATO. Do I yield time?

Mr. PRYOR. I am asking for 30 more additional seconds.

Mr. D'AMATO. Without objection, that I have the continued arrangement that I keep the floor.

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

The Senator from Arkansas.

Mr. PRYOR. Thank you, Mr. President.

Procedures are one thing, but the absence of will is another. Hopefully, Mr. President, 1987 will reinforce that will.

Mr. CHILES. I yield the Senator those 30 seconds. I like that. I like his closing statement.

The PRESIDING OFFICER. Under the previous order, the Senator from New York is recognized.

Mr. D'AMATO. Mr. President, as I left off in my talk and review of the General Accounting Office report and finding, aircraft procurement development and production issues concerning the T-46A aircraft, we had reached appendix I, page 10. I listed five areas and then the contractor management difficulties that had been developed and the fact that Fairchild had indeed undertaken procedures to deal with these deficiencies.

In June 1985 the Air Force Contract Management Division conducted a detailed contractor operations review (COR) at Fairchild. This review, which focused on eight management areas, reported a total of 279 findings in the areas of manufacturing, industrial material management, contract management, industrial safety and fire protection, subcontract management, engineering, quality assurance, and product integrity.

As I indicated, they reported 279 findings in the area of manufacturing, industrial material management, contract management, industrial safety, fire protection, subcontract management, engineering, quality assurance, and product integrity. Quite an exhaustive study.

The major COR concerns in the contract management area were inadequacies in (1) contract administration procedures to assure compliance with the terms of the T-46A contract, (2) cost schedule control systems, criteria and procedures to provide accurate cost and schedule information, and (3) the estimating system to produce current, accurate, and complete data. The COR also identified a number of concerns in the subcontract management area.

As a result of the COR, the Air Force Administrative Contracting Officer advised Fairchild on August 29, 1985, that a 50-percent withholding in progress payments would be instituted and would remain in effect until satisfactory correction of the identified deficiencies. Fairchild has taken a number of actions to correct these problems, many of which have been accepted by the Air Force. On April 21, 1986, the Air Force plant representative at Fairchild, citing progress in correcting deficiencies restored half of the withheld progress payments.

□ 1810

So, as I have indicated before, there were problems, some serious, some distressful even to this Senator. But the fact of the matter is that the Air Force representatives themselves indicated that these deficiencies were being dealt with and to restore those payments.

The corrective actions taken by Fairchild in response to the COR, their current status, and Air Force views on these actions are discussed in appendix II.

PRODUCTION STATUS

Development aircraft

Two development test aircraft will be acquired for the T-46A flight test program. The flight test program will determine how well the aircraft meets performance, maintenance, and reliability requirements.

The first T-46A was delivered in August 1985 and has been undergoing flight testing at Edwards Air Force Base, California, since October 1985. This development test aircraft will be used to test air worthiness,

flying qualities, and other performance requirements.

The second development aircraft is being built. As of mid-March 1986, it was undergoing flight load calibration at Fairchild and was about a week ahead of the July 1, 1986, first flight schedule. The aircraft is scheduled to be flown to Edwards Air Force Base, California, in July 1986 for flight testing scheduled to begin on August 4, 1986. This development test aircraft will be used for air loads and climatic testing.

I hope I have the results of those tests because I think they would be interesting. We could put them into the RECORD so that we would again dispel the fact that this plane does not meet standards and is not a plane that should indeed be in the arsenal of America.

PRODUCTION AIRCRAFT

The first T-46A production lot is in various stages of manufacture and assembly. Fairchild noted that tooling for production is in place. The contractor's production schedule for the first production aircraft shows that the aircraft is basically on schedule to meet the contractually required delivery date of November 30, 1986. The remaining nine aircraft are to be delivered between December 1986 and July 1987. Although Fairchild representatives said that they would meet the delivery dates for the first production lot, Air Force officials believe the first aircraft delivery may not be accomplished until early 1987.

Under the terms of the contract, the second production lot option gives the Air Force the right to acquire between 22 to 44 aircraft at specified prices. The contract also gives the Air Force the right to extend the option exercise date in the event Fairchild failed to meet certain original contractual demonstration milestones. The Air Force had extended the second lot option exercise date to March 1, 1986, because, among other reasons, Fairchild had not started the full-scale durability testing and had not made the first flight by April 15, 1985, as required. Effective February 28, 1986, the Air Force unilaterally extended the option date by an additional 3 months, to May 31, 1986. Fairchild representatives told us that if the Air Force did not order the second production lot by the end of March, Fairchild would experience a break in production. The contractor also explained that if the third production lot was not included in the Air Force budget for fiscal year 1987, it would seriously impact the production program.

Mr. FORD. Mr. President, would the distinguished Senator from New York allow me 5 minutes without losing his right to the floor?

Mr. D'AMATO. Mr. President, if that were propounded as a unanimous-consent request and I would not lose my right to the floor and this would be considered my first speech, I would have no objection.

Mr. FORD. I ask unanimous consent that that be granted, Mr. President.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? If not, it is so ordered.

The Senator from Kentucky.

Mr. FORD. Mr. President, I thank the distinguished Senator from New York for allowing me this time. The reason I ask for it is the fact that my distinguished friend from Arkansas, Mr. PRYOR, made a statement relating to the continuing resolution and to our budget process.

HERE WE GO AGAIN

Mr. President, President Reagan is noted for a now famous phrase used in his debates with former President Carter—"There you go again!"

At the end of several sessions of Congress now, I have made a special point of calling attention to our failed annual appropriation system and the need for a change to a 2-year budget and appropriation system. On these occasions, and again now, I have said, "Here we go again!"

Primarily because of lack of time, we are now into a new fiscal year without any of our regular appropriation bills enacted. Again, we will struggle to produce an acceptable continuing resolution—now the largest money bill in the history of the Congress—to provide the funds needed for the Government to continue to operate.

Again, we will expose ourselves to the dangerous and costly process of legislating on the continuing resolution appropriation bill. If we are lucky, and members act with restraint, we will avoid serious harm. But only if we are lucky.

Certainly we cannot thank our annual appropriation process. It has long since failed to serve our needs. The time to move to a 2-year budget and appropriation cycle has passed, and I hope my colleagues now share this realization.

If the good people of Kentucky in November do me the honor of renewing my membership in this great institution, I shall again, at the beginning of the 100th Congress, re-introduce my bill to establish a 2-year budget and appropriation process. I hope this time most of my colleagues will join me in this effort.

The first time I introduced the bill, I had four or five that went along with me. This last time we had 20-some Senators that signed on and several tried to pick a bill and go forward as if it was theirs. I have no pride of authorship. I would just like to see this Senate move forward in a way where we can do our business in the best interests of our country.

As I have said before, repeatedly, a 2-year budget cycle will not alone solve or even lessen many of our most severe budget and fiscal problems. It will, however, relieve us from several serious dangers, and it will provide us with additional time—and that is what we need, additional time—to devote to those most severe obstacles that now drive us deeper and deeper into debt.

The 2-year budget process is not a gimmick or panacea. It is a simple means of providing Congress with the time it needs to do a reasonable and responsible job of planning, authorizing, budgeting, and appropriating.

Without it, in my opinion, we will continue to fail and continue to depend on unreliable last minute continuing resolutions. With it, we will at least give ourselves a fighting chance to climb out of this great dark hole of public debt in which we find ourselves, and which continues to grow deeper and darker.

□ 1820

Mr. President, several of our colleagues have been talking about the 2-year budget. Last year appropriations were not enacted until December 19. And the budget reconciliation bill for fiscal year 1986 was not passed until about half the fiscal year was over, by which point the fiscal year 1987 debate was well underway. Many of the States, 22 I believe, at last count, use biennial budgeting. The White House Chief of Staff, Donald Regan, told reporters in August that reform of the budget process——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. FORD. I ask unanimous consent for 2 more minutes under the same procedure.

Mr. STEVENS. Five. We would like to have a little colloquy.

Mr. FORD. Five minutes, Mr. President.

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

Mr. FORD. White House Chief of Staff Donald Regan told reporters in August that reform of the budget process, which he called "a crazy hodgepodge," will be a priority for the Administration, and mentioned a 2-year budget process as a possibility. Perhaps more significantly, Senate Budget Committee chairman PETE V. DOMENICI, recently gave the idea a strong endorsement.

It would seem to me if we want to really send some signals to our Members and to our people that we are organized in a way which is calculated to get the business done, we ought to have one budget resolution that is good for two years and that can be modified simply about every six months, and we ought to do away with annual appropriations and have them once every two years, and we ought to let Members of Congress spend a year doing other business and a year doing the business of the fiscal policy of the nation.

That was a statement of the distinguished chairman of our Budget Committee. And he also said, "I see no reason why we couldn't do it all on a 2-year cycle."

Defense Secretary Caspar W. Weinberger has said that biennial defense budgeting would save "a tremendous amount of time and resources," and Congress, bowing in that direction, has now required the Pentagon to submit 2-year budgets.

Our distinguished colleague from Arizona has been one of those that has pushed it.

Alice M. Rivlin, a former director of the Congressional Budget Office who is now with the Brookings Institution, is a leading advocate of biennial budgeting as part of a broad simplification of congressional fiscal procedures.

The idea behind 2-year budgeting is to clear out time every other year to get something besides the budget done. Agencies would plan 2 years at a time.

We would give our communities and our counties an opportunity to plan. Those States that receive Federal funds would have an opportunity to plan and know what was coming down the pike. They in turn could do a better job of getting more cents from a dollar.

Such planning goes on anyway; a spokesman for the Office of Management and Budget said that the second-year numbers in the President's budget are as precisely worked out as for the fiscal year at hand and serve as the ceilings for the next year's budget request.

So we are almost in that cycle.

Mr. President, I ask unanimous consent that a copy of the National Journal column "Washington Update" be included in the RECORD.

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

[From National Journal, Sept. 27, 1986]

WASHINGTON UPDATE—BIENNIAL BUDGETING TAKING ROOT

(By Jonathan Rauch)

As most people have probably figured out by now, the fiscal year lasts 12 months. Funny thing, though, about Washington's yearly budget cycle—it takes more like 14 months, counting the time the President needs to put his fiscal proposal together. Sometimes the cycle takes longer, and rarely does Congress manage to finish its budgeting until the fiscal year at issue is well under way.

"You don't have time to catch your breath," Garland E. Ferrell, Indiana's deputy budget director, observed. "You're just going from one budget cycle to another."

It's all too true. Congress begins fighting over the budget in February, when the President sends his fiscal plan up to Capitol Hill, and the battling continues until well into the fall, when the last full-year appropriations measure is finally signed. Not long after Congress returns from the Christmas holidays, the whole process begins again. Last year appropriations weren't enacted until Dec. 19. And the budget reconciliation bill for fiscal 1986 was not passed until about half the year was over, by which point the fiscal 1987 debate was well under way.

Many of the states—22, at last count—use biennial budgeting as an alternative to seemingly unremitting budget wrangling, and recently Congress has shown a few signs, although only in the most preliminary way, of giving thought to a similar approach.

White House chief of staff Donald T. Regan told reporters in August that reform of the budget process, which he called "a crazy hodgepodge," will be a priority for the Administration, and mentioned a two-year budget process as a possibility. Perhaps more significantly, Senate Budget Committee chairman Pete V. Domenici, R-N.M., recently gave the idea a strong endorsement.

"The people of this country can't possibly know what we're doing," he said in July remarks before a Senate committee. "I mean, continuing resolutions confused with budget resolutions confused with appropriations bills, ad nauseum.

"It would seem to me if we want to really send some signals to our Members and to our people that we are organized in a way which is calculated to get the business done, we ought to have one budget resolution that is good for two years and that can be modified simply about every six months, and we ought to do away with annual appropriations and have them once every two years, and we ought to let Members of Congress spend a year doing other business and a year doing the business of the fiscal policy of the nation."

About 90 percent of the annual appropriations process, which controls about half of government spending, is a repetition of the previous year's work, Domenici said. "I see no reason why we couldn't do it all on a two-year cycle," he said.

Defense Secretary Caspar W. Weinberger has said that biennial defense budgeting would save "a tremendous amount of time and resources," and Congress, bowing in that direction, has now required the Pentagon to submit two-year budgets. (See this issue, p. 2302.) Weinberger and others argue that two-year budgets would allow the Defense Department to buy weapons and do other planning more efficiently.

Over the years, Members of Congress have filed a variety of bills to set up multiyear—usually biennial—budgeting, so far without getting anywhere. The idea is likely to keep appearing, given that the annual budget cycle has seemed to become almost interminable in recent years.

Currently, after the President submits his budget, Congress takes months to agree to a budget resolution, which is a fiscal plan setting targets for subsequent tax and spending legislation and, when necessary, requiring deficit cuts. It then takes months longer to approve annual appropriations bills and other budget bills that implement the resolution's goals. To call the process time-consuming or inefficient hardly does it justice.

Alice M. Rivlin, a former director of the Congressional Budget Office who is now with the Brookings Institution, is a leading advocate of biennial budgeting as part of a broad simplification of congressional fiscal procedures. "We spend enormous amounts of time going over the same decisions," she said. "In recent years, there hasn't been time for anything else."

The idea behind two-year budgeting is to clear out time every other year to get something besides the budget done. Agencies would plan two years at a time, and, Rivlin said, "They'd have to learn that if they make a mistake, they know they're going to eat it."

Such planning goes on anyway; a spokesman for the Office of Management and Budget said that the second-year numbers in the President's budget are as precisely worked out as for the fiscal year at hand and serve as the ceilings for the next year's budget request. In other words, the fiscal 1988 budget numbers in the President's fiscal 1987 budget proposal become the basis for the fiscal 1988 budget.

Biennial budgeting at the legislative level is an old idea that would take such planning a step further. And it is a familiar idea to many states. For some of them, it is a requirement of biennial legislative sessions; others use it to make budgeting less cumbersome and to force planning.

Smaller, more rural states tend to be the ones that use biennial budgeting, executive director Gerald H. Miller of the National Association of State Budget Officers said, although some big ones—Florida, Ohio, Texas and Wisconsin—also enact two-year budgets. The states take various approaches, many of them using an off-year adjustment process and reserve funds to take care of unforeseen spending.

Indiana, for example, sets aside emergency funds, and the legislature comes back for a shorter session in off years to take a second look at the budget. The whole budgeting process, Indiana's Ferrell said, takes about five months. "Having to go through the budget on an annual basis just takes forever," he said. "If it took us as much time as Congress, we'd need a full-time legislature."

Miller rejects categorically the assertion that the relative complexity of federal spending would make biennial federal budgets impractical; these days, he said, many states' budgets are every bit as complex. "If you properly measure the man-hours Congress takes on the budget this year, I believe biennial budgeting would reduce it significantly," he said. "It would be a positive step, not only for the federal government, but also for the states that have to deal with the federal government." For entities that rely on federal money, the annual last-minute scrambles to pass spending bills make planning difficult, he and many others have complained. (See NJ, 7/12/86, p. 1713.)

Others point to potential problems, though. The Appropriations Committees have never been crazy about the idea. A senior staff member of the Senate Appropriations Committee said that the appropriators' attitude has by and large been negative. "The proposed solution may not cure anything," he said.

In off years, he said, Congress might simply find most of its usual budget headaches transferred to massive tussles over supplemental spending bills, which might grow correspondingly bigger and more complex than they are now. Furthermore, he said, "If you give the executive branch two-year money, they can make more mischief." In many portions of the budget, the Appropriations Committees try to keep a tight rein on what can be spent when. Almost inevitably, he said, letting the President allocate bigger pots of money over longer periods would cost Congress some control.

Miller, of the state budget officers' group, said, "I would tend to agree that [a two-year budget] tends to give the executive more power, more influence, or whatever." But Rivlin, among others, questions whether it would really make much difference.

Another objection may be more fundamental: You can't cure political problems with procedural revisions. The Senate Appropriations staffer said, "We can tinker with the system all we want to, and it won't reform these guys."

On the other hand, it is hard to see how a biennial budget might slow things up much. You would have to work pretty hard, Miller

observed, to come up with a more convoluted and time-consuming system than the current one.

Mr. STEVENS. Would the Senator yield?

Mr. FORD. I would be delighted to yield.

Mr. STEVENS. I am delighted to have the comments of my good friend from Kentucky. I would hope he would also include in his recommendations, and he will have I am sure a similar thought to mine; that is, the feeling that we must have a reorganization of the Senate itself in order to achieve this goal. We addressed this once before before the Rules Committee. I hope next year the Senate will take the time to readjust and reform the Senate jurisdiction so it will eliminate some of the duplication.

My good friend from Arizona knows how we feel about the problems between the authorization committee and the Appropriations Committee on defense, for instance. This year for 5 years out of 6 we have presented an appropriations bill before the authorization bill was presented. That leads to just confusion all across the board. It comes also from the budget process because we have been through this in the budget process. It did not finalize the authorization process.

Mr. FORD. If the Senator will yield for just a moment, in the October 12, 1986 Washington Post, the distinguished Senator from Arizona [Mr. GOLDWATER] had an article printed, and one idea presented there says we should replace the current annual budgeting process with a more manageable 2-year budget. So he has seen this for some time and now proposes it. I think with what is happening in the Defense Department with these things, it is appropriate. I say to my distinguished friend from Alaska, I expect to be back here. I will be active on the Rules Committee. I surely will be working in the next session to get the 2-year budget in place, and to work with the Senator from Alaska to to do the restructuring necessary to make this a well-functioning Chamber.

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

Mr. FORD. Mr. President, I thank my distinguished friend from New York [Mr. D'AMATO], for allowing me to present my statement at this time.

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. D'AMATO. Thank you, Mr. President.

Mr. President, the area the report takes us to is the area of production quality.

The Air Force has conducted six assessments of Fairchild's production capability before and during development and initial production. These assessments identified a number of deficiencies relating to or impacting production quality that required corrective actions. The three assessments conducted by the Air Force T-46A program office recommended that the production program be continued. The other three assessments did not contain recommendations regarding program continuation. The results of these reviews are summarized below.

PRE-AWARD CONTRACT ASSESSMENT

In February 1982, prior to contract award, an Air Force Aeronautical Systems Division review team evaluated the Fairchild facilities in Farmingdale, New York, and Hagerstown, Maryland. The team concluded that Fairchild was qualified to produce a high quality trainer aircraft within the proposed cost and schedule. Although the team found that Fairchild met or exceeded minimum requirements in 12 of the 13 production areas reviewed, there was concern that Fairchild was not adequately considering producibility requirements during the design stage of the aircraft. A SPO official noted that extensive Fairchild producibility studies since contract award could result in cost savings.

PRODUCTION READINESS REVIEWS

In June 1983 and September 1984, T-46A SPO personnel conducted Production Readiness Reviews at Fairchild. The June 1983 review was performed at Fairchild's Farmingdale and Hagerstown facilities. SPO personnel evaluated Fairchild's manufacturing and quality assurance systems and assessed the adequacy of Fairchild's overall planning efforts to meet the T-46A production requirements. The SPO identified a number of deficiencies that required corrective action but recommended continuation of development.

So once again, we say that yes, there were problems. We acknowledge that there were problems. The Air Force knew that there were problems. And they said corrective action can deal with these problems, and development should be continued.

□ 1830

The September 1984 review was conducted only at Fairchild's Farmingdale plant to assess Fairchild's capability to begin low-rate production.

It identified a number of deficiencies that needed corrective action but concluded that they were not critical enough to delay funding approval for the first or second production lot. The review noted, among other deficiencies, that design instability was affecting manufacturing and procurement and that the development schedule was success oriented with no reserve time. It noted, however, that application of additional Fairchild resources could make it achievable. Fairchild officials stated that such additional resources were provided starting in January 1985.

INDEPENDENT MANUFACTURING ASSESSMENT REVIEW

From December 20, 1983, to January 10, 1984, the Aeronautical Systems Division assessed Fairchild's manufacturing and production quality. It did not find any manufacturing issues which would delay long lead funding for initial T-46A production.

I think that is important, very important, because, again, it was stated, implied, and otherwise, with these kinds of statements or innuendos, in some cases outright statements, that these areas of concern could not be dealt with.

However, there were concerns about the potential manufacturing cost and schedule impact of design changes that might be necessary to control system weight growth or to accommodate an engine inlet relocation. The contractor was required to and has taken corrective actions regarding these concerns.

Once again we see a concern and we see the contractor responding to that concern.

CONTRACTOR OPERATIONS REVIEW

As stated earlier, the Air Force's June 1985 COR at Fairchild identified major concerns in manufacturing, industrial material management, contract management, industrial safety and fire protection, subcontract management, engineering system, quality assurance, and product integrity. All eight functional areas reviewed were rated unsatisfactory.

Concerns in the product integrity area included failure to flow down contractual requirements to drawings and instructions; lack of accept/reject criteria for soldering; an excessive amount of nonconforming products being produced and not detected by inspection, failure to record nonconformances; and an apparent lack of consideration for the consequences of manufacturing debris and potential foreign object damage in electrical/mechanical and fuel compartments and systems.

Fairchild has since developed and begun implementing an extensive corrective action plan.

So once again we have a situation where there were acknowledged deficiencies, and what does the company do? Not by the company's own statements but by the findings of the General Accounting Office they implement an extensive correction action plan to deal with the deficiencies.

In developing this plan Fairchild identified seven underlying causes to its problems. These included reduced investment levels in plant facilities and equipment and inadequate emphasis on quality, safety, and schedule. This plan and Fairchild's progress is discussed in detail in appendix II.

I have been assured that I have appendix II and we will be able to go over that in detail and share it with you because I know you will be interested in hearing how we have dealt with these deficiencies.

MANUFACTURING ASSESSMENT REVIEW

In December 1985 SPO personnel conducted a manufacturing assessment review at Fairchild's Farmingdale plant. They evaluated Fairchild's development and initial production performance and their readiness to continue producing the T-46A. They identified high-rate production and manufacturing risks which could be expected to adversely affect schedules and costs. Program personnel evaluated a total of 20 areas in 5 categories. The team rated 10 areas satisfactory, 7 marginal, and 3 unsatisfactory. One of the three unsatisfactory ratings was rescinded, the other two areas were engine/manufacturing design interface and manufacturing engineering. The review team found that these risks and weaknesses could be reduced or negated if the contractor implemented the corrective actions recommended. They concluded, however, that Fairchild was adequately prepared to continue low-rate production and that the manufacturing effort was not at risk technologi-

cally. A SPO official said that Fairchild has made many production quality improvements since the review was conducted.

So once again, even in those areas where there is a question, where there is a deficiency, we find the Air Force review team saying, "Fairchild has made production quality improvements."

On a lot of weapon systems, we wonder about whether or not there have been the same kind of improvements when deficiencies have been pointed out in respect to their operation and their production and their cost overrun and their delay. Here we have a company that just attempted to get its product off the line and runs into these kinds of problems generally attendant with a new program, and even those who criticized have to admit they have taken corrective action to deal with those impediments and they have made quality improvements since the review.

What about the quality of the aircraft performance? That seems to me to be something that is rather important. We are going to get into the turkey. Do you know what the turkey is? The turkey is not the T-46A. The turkey is the T-37. We should be ashamed of it.

We have some reports over here: Hearings by the House Subcommittee on Defense Appropriations. We will talk about the T-37. All of a sudden we hear people saying it should be able to be permitted to fly until the year 2010.

It is interesting how we can come up with these performances and these figures. It is rather interesting.

□ 1840

What about the quality of aircraft performance? "As shown in table 1.3 below, Fairchild's predicted performance for the T-46A exceeds seven of the eight performance requirements established by the Air Force Air Training Command."

Let me say it again so we can listen, because I heard on this floor how bad this plane was. When I asked colleagues to support it, they said, "I am sorry, we can't support it because it is a bad plane, it is a turkey, it doesn't go."

This Senator gets rather annoyed, even at this point. I have been talking about 4 hours and when I see this, in light of what we saw before—and it is one thing to look at it with rather mythical—I want to tell you, we are not going to vote.

"Fairchild's predicted performance for the T-46A exceeds seven of the eight performance requirements established by the Air Force Air Training Command."

That is not what I heard. That is not what my colleagues were subjected to. We were told by everyone, "We don't want the plane, it is a bad plane, it doesn't work, it is dangerous, people take their life in their hands."

Is the GAO report inadequate? Is it wrong? Is it a bad plane? Or does it exceed those things that were asked for? And it does exceed.

I am sorry that I might have to take the time and a lot more time of my colleagues. We are going to do it.

However, Fairchild does not expect to meet six of the more demanding contract performance requirements. The more demanding contract requirements were proposed by Fairchild when competing for the T-46A contract. The table also shows that the Air Force's predicted T-46A performance is somewhat different than Fairchild's. Both are preliminary and based on early test data.

Whether or not it is this Senator who makes these statements or someone else, I want to say that it is going to be said in any event.

The T-46A began first test flights on October 15, 1985, at the Air Force Flight Test Center, Edwards Air Force Base, California. The aircraft is being used to test flying qualities and other performance requirements. The second aircraft, expected to be delivered in July 1986, will be used for air loads and climatic testing beginning in August 1986.

Mr. President, I understand that there are colleagues of mine who would like me to finish up. I am making my statement for one of them, but if I yield the floor, there are at least six other Senators, and I think it is fair to say that until this matter, the underlying amendment, is taken down, whether it is myself or someone else, we are going to continue. So it is not to belabor the issue but it is a fact. Se we shall continue.

The Air Force SPO and Flight Test Center officials, as well as the contractor test pilot, said that the T-46A's performances tests have been successful.

We were not led to believe that. It was said this was a terrible plane, the Air Force does not want it, it is a turkey, it is a bad one; we jeopardize the lives of the people. Those are the kinds of things we are led to believe.

Mr. ANDREWS. Mr. President, may we have order in the Senate? There is not order.

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order. The staff will cease its conversations. Senators will retire to Cloakrooms.

Mr. D'AMATO. Quoting some more:

They also said that technical tests have been outstanding and reliability and maintainability significantly better than predicated. They believe the T-46A's air worthiness is excellent.

My gosh, I wonder who wrote this?

Did my staff? You did not write this? My staff did not write this. I did not write this. General Accounting Office did. Incredible.

I wonder how many of our weapons systems have exceeded the standards that the military asked them for. Exceeded them.

Mr. HATFIELD. Would the Senator yield for a question?

Mr. D'AMATO. Certainly, for a question.

Mr. HATFIELD. So I might propound a unanimous-consent request that the Senator yield for the purpose of a motion to challenge the germaneness of the amendment and the Senator can have his vote on it.

Mr. D'AMATO. Certainly, and I will continue thereafter as if——

Mr. HATFIELD. In the second speech.

Mr. D'AMATO. On the first speech.

Mr. HATFIELD. The first speech.

The PRESIDING OFFICER. Is there objection?

The Senator from Oregon is recognized.

Mr. HATFIELD. I propound that request.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Has the Chair ruled on my request?

Mr. President, let me propound my request.

The PRESIDING OFFICER. Without objection, it is so ordered that the Senator may propound his request.

Mr. HATFIELD. I have propounded such a request.

The PRESIDING OFFICER. Without objection.

Mr. METZENBAUM. Mr. President, objection.

The PRESIDING OFFICER. The Senator will suspend for a moment.

Has the Senator made his request on germaneness?

Mr. HATFIELD. I have not made that point. I have been waiting for the Chair to grant unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered that the Senator may make that request.

Mr. HATFIELD. I thank the Chair.

Now, Mr. President, I do raise the question of germaneness on the Goldwater amendment (No. 3477) now pending before the Senate.

The PRESIDING OFFICER. Under rule XVI, questions of germaneness are submitted directly to the Senate without debate.

Mr. HATFIELD. I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Is the amendment (No. 3477) of the Senator from Arizona germane? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. BROYHILL], the Senator from New Hampshire [Mr. HUMPHREY], the Sen-

ator from Nevada [Mr. LAXALT], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Idaho [Mr. SYMMS], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

On this vote, the Senator from Idaho [Mr. SYMMS] is paired with the Senator from Wyoming [Mr. WALLOP].

If present and voting, the Senator from Idaho would vote "nay" and the Senator from Wyoming would vote "yea".

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Ohio [Mr. GLENN], the Senator from Vermont [Mr. LEAHY], and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "yea".

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

The result was announced—yeas 69, nays 21, as follows:

[Rollcall Vote No. 350 Leg.]

YEAS—69

Abdnor	Exon	Mattingly
Armstrong	Ford	McConnell
Baucus	Garn	Melcher
Bentsen	Goldwater	Metzenbaum
Bingaman	Gorton	Mitchell
Boren	Gramm	Murkowski
Boschwitz	Grassley	Nickles
Bradley	Harkin	Nunn
Bumpers	Hart	Pressler
Burdick	Hatch	Proxmire
Byrd	Hecht	Pryor
Chafee	Heflin	Quayle
Cohen	Heinz	Rockefeller
Cranston	Helms	Roth
Danforth	Hollings	Rudman
Denton	Inouye	Simon
Dixon	Kassebaum	Simpson
Dodd	Kasten	Stafford
Dole	Kennedy	Thurmond
Domenici	Kerry	Trible
Durenberger	Levin	Warner
Eagleton	Long	Wilson
Evans	Lugar	Zorinsky

NAYS—21

Andrews	Hawkins	Packwood
Chiles	Johnston	Riegle
Cochran	Lautenberg	Sarbanes
D'Amato	Mathias	Sasser
DeConcini	Matsunaga	Stennis
Gore	McClure	Stevens
Hatfield	Moynihan	Weicker

NOT VOTING—10

Biden	Laxalt	Symms
Broyhill	Leahy	Wallop
Glenn	Pell	
Humphrey	Specter	

□ 1910

The PRESIDING OFFICER. The amendment is germane.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, while we have some of my colleagues here in the Chamber, let me suggest to you that not only this Senator but a number of others feel very strongly on this issue, so strongly because there have been two things created.

No. 1, the illusion that this plane is not a good plane and the Air Force does not want it.

The PRESIDING OFFICER. The Senate is not in order.

Mr. D'AMATO. I would ask my colleagues to bear with me and, of course, if they do not care to bear with me now maybe at 2 o'clock or 3 o'clock or 4 o'clock in the morning they will feel more apt to do it.

Mr. DOMENICI. Could we have order, Mr. President?

The PRESIDING OFFICER. Will the Senators please take their seats?

The Senate is not in order.

The Senator from New York.

Mr. D'AMATO. Mr. President, I am referring to a General Accounting Office report about the T-46. I am wondering how my colleagues can vote in good conscience to do away, to kill the planning that has taken place over 7 years when the Air Force said they wanted this plane, they needed this plane, it was necessary; the General Accounting Office, and I am quoting them:

The Air Force SPO and Flight Test Center officials, as well as the contractor test pilot, said that the T-46A's performance tests have been successful. They also said that technical tests have been outstanding and reliability and maintainability significantly better than predicted. They believe the T-46A's air worthiness is excellent.

That is not AL D'AMATO. That is the General Accounting Office.

I want to tell you something. I understand the nature of the pressure that has brought us to this point and the amendment that has been offered and, that is why this is the first time in 6 years that I have taken to the floor and used that right which is guaranteed to protect the minority view. It may be a minority view and there may be some who can say, "Look, I don't want to vote against the chairman," and I understand that. If I had a chairman who had the distinguished record and service of our chairman now, I would be reluctant to do so had I not become so involved in this particular issue.

So I am saying to my colleagues and my friends we are going to continue and because there may be those who say, "Senator, you are risking keeping us in an awful long time." There are those who want to do other things. There are those who want to finish the business of the people and then get back to their States.

I would like to do the same thing. I have a personal life, I have a family back at home, and there are things I would like to do, but I want to tell you right now I am not going to see this program, as far as I am concerned, killed on the altar of political expedience, and that is what it is, and when we go through the records, the records will substantiate that. The records will substantiate that, maybe not the Air Force now, but the rhetoric.

You know I think it is interesting when we say what does the Air Force want. It is interesting. The Air Force did not want reorganization, but they got it. So they do not always get what they want. That is a fact.

Now, all of a sudden for the first time we say what does the Air Force want? Why do we not recognize it for what it is? The Air Force all too often says what do those in the Defense Department want, what do they say, and they respond to this political body and other political bodies.

So all of a sudden to begin to say we will have the Air Force tell me that we want it, I had the very same Air Force Chief of Staff tell me that if we put the money in they would use it. I have the people out there on the front line and this report testifies to it that says we need the T-46 and we will examine the turkey of the T-37 that some would like us to rewire, rewing, retool, spend hundreds of millions of dollars and eventually billions of dollars more of taxpayers' money without regard to the consequences, the safety of our pilots now or what is best for the Air Force at this time.

So, Mr. President, we are going to continue this exercise if need be.

According to Air Force and contractor officials, T-46A test flights have produced some results which exceed expectations. For example, Air Force flight test personnel originally believed 20 hours of flight testing per month to be optimistic. However, because of rapid turnaround and high aircraft availability, they now believe it is possible to complete 26-29 hours of flight testing per month. Also eight maintainability and reliability parameters are expected to be exceeded, including maintenance hours per flight hour, a key measure of maintenance performance.

A Fairchild summary of an Air Force preliminary report on the T-46A testing, issued in December 1985, shows the aircraft performed well. The Air Force reported ease of flight, take-off, landing, and ground handling.

So we have a plane that is exceeding the standards, exceeding the parameters in area after area after area. Why do we want to kill it? Why? Are we going to be able to utilize the T-37? No. We are going to have to reengineer the T-37. We are going to have to spend hundreds of millions of dollars on the T-37.

Is anyone suggesting that the T-37 is not in need of substantial modifications costing hundreds of millions of dollars and then the question of how long will it be functional?

Will we get another 5 to 10 years? What about the initial reports, when the Air Force said putting additional money into the T-37 is like putting it into a rathole? Do we throw that out the window? That is not correct any more—and you expect me to fold up my tent and go away? Well, I am not,

and it is wrong and it is wrong not because I bring it up; it is wrong because it is not in keeping with what the record is and attempting to distort the record at this time to say the Air Force does not want it is to turn back and wipe out the pages of history where the Air Force lobbied for it, worked for it, built a case to substantiate its need, its necessity, and where the contractor has come forward and has exceeded, exceeded the expectations called for, when the Fairchild summary and the Air Force preliminary program demonstrates that quite clearly.

□ 1920

An Air Force Training Command official stated

and this is again, in the General Accounting Office report—

stated that the T-46 meets its needs for a modern trainer.

So, when we talk about need, when we talk about whether or not this plane is meeting the standards, again, turn to page 18, appendix I of a General Accounting Office report, Air Procurement, Development and Production Issues Concerning the T-46A Aircraft.

My staff did not reprint this. Maybe we reprinted it, but we did not print it. This is the GAO. It says:

An Air Force Training Command Official stated that

I wonder if they got in any trouble for stating what they stated—

the T-46 meets its needs for a modern trainer.

Maybe they should be censured. We should get ahold of them and find out who those Air Force officials are who dare utter the truth, who said in 1986 that it is a good plane and it meets its needs.

But I want to tell you something. I will not forget the night and the day we were here on this floor and I looked at some of my colleagues and they did not vote in support of this plane. They voted to trash this plane. And it was not in the last minute, it was months ago when they did not want to stand up and say, "No, it is wrong to turn our backs on this now," and they voted the other way.

An Air Force Training Command official stated that the T-46A meets it needs for a modern trainer. He also stated that based on logistic readiness and maintenance experience to date, the T-46A would save millions of dollars in yearly maintenance cost.

Page 18, the General Accounting Office report. How about it? It meets the needs and it saves money.

Well, let us throw it away. Let us bury it. Let us bury that industrial base, let us throw 7,000 people, both directly and indirectly, who are in the production of this out on the streets.

And what about our young men and women? Are we doing what is best for them?

So there are those who say, "I don't want to discuss the merits of this now if the Air Force does not want it."

There are lots of things the Air Force did not want that this body and the Congress did because they felt it was necessary.

Although test results have been good, several problems have emerged. An Air Force official said the number and type of deficiencies were not unusual in testing a new development aircraft. Furthermore, both Air Force and Fairchild officials believe that these problems can be readily solved without major aircraft changes or modifications and within the scope of the contract. The deficiencies are discussed below.

The most significant problem is the aircraft's drag which is higher than the Air Force desires and could impact aircraft performance and fuel consumption. Fairchild is developing changes which could be incorporated into the production line to reduce this problem. Air Force officials believe this condition can be reduced and are closely monitoring Fairchild's corrective action.

The T-46A does not give an adequate warning to the pilot when the air speed reduces to a point where the aircraft may stall. Many aircraft shake or vibrate when they are close to a stall situation. This serves as a warning to the pilot to take necessary action to prevent the stall. Although required by the specifications, the T-46A does not give timely warning to the pilot.

T-46A flight testing is continuing with its mild stall warning because experienced pilots are flying the aircraft. A more adequate stall warning is needed for use in student flight training. Fairchild plans to solve this deficiency by installing a warning device on the aircraft. The T-37B, the Air Force's current primary trainer, has such a device on it.

The Air Force is concerned with the primary flight controls, such as roll trim which involves the flight stability of the aircraft. Fairchild is studying trim devices which could be added to the aircraft to correct the residual trim problems.

The Air Force is concerned about the aircraft's speed brakes because when extended to slow the aircraft they create unacceptable buffet levels that shake the aircraft. Although this problem has not been totally solved, Air Force officials believe there are possible solutions which should be effective. Fairchild has proposed a solution which it plans to start testing in April 1986.

The expected weight of the first production T-46A is expected to be about 900 pounds more than Fairchild originally estimated. Air Force officials said this is not unusual for a new aircraft. Fairchild has a weight reduction program to reduce the weight of production aircraft. SPO officials said there is no specification weight for the T-46A but it is important to keep weight at a minimum because of the impact on other performance requirements.

USE OF FISCAL YEAR 1986 FUNDS

For fiscal year 1986, the Congress appropriated $169.9 million for the second production lot of T-46A airframes and engines as well as for advance purchases for the third lot of airframes and engines. Since the Air Force decided not to request additional T-46A procurement funding for fiscal year 1987, the production funds appropriated for fiscal year 1986 have been withheld from the program. According to an official of the Office of the Secretary of Defense, those funds have been placed in an account entitled "Resources Available for Reprogramming."

I wonder where they would be reprogrammed to. I wonder how many other meritorious programs will seek those dollars, if any.

Air Force program office information as of April 31, 1986, showed that for fiscal year 1986, $48.7 million of the $49.9 million research, development and testing appropriation for the T-46A airframe and engine had been released to the program office. These amounts reflect reductions mandated by the Balance Budget and Emergency Deficit Control Act of 1985. About $25.4 million of the funds released have been committed to be obligated. This left an uncommitted balance of $23.3 million. The program office plans for the uncommitted balance are shown in table I.4.

TABLE I.4.—*Planned Use of Uncommitted T-46A Research and Development Funds for 1986*

[Dollars in millions]

Use	*Amount*
Airframe contract—Fairchild	$3.9
Engine contract—Garrett	14.6
Mission support	1.9
Government furnished equipment	0.6
Test centers	2.3
Total	23.3

Air Force program office information as of January 31, 1986, shows the following status for the T-46A airframe and engine production funds.

TABLE I.5—STATUS OF T-46A PRODUCTION FUNDS

[In millions of dollars]

Fiscal year	Funds released to program office	Obligated funds	Committed to be obligated	Uncommitted balance
1984	$6.1	$6.1		(1)
1985	126.0	97.2	$8.6	$20.2

[1] Less than $100,000.

AIR FORCE CONTRACTOR OPERATIONS REVIEW OF FAIRCHILD MANAGEMENT

From June 3 to 14, 1985, the Air Force Contract Management Division, Kirtland Air Force Base, New Mexico, conducted a detailed contractor operations review (COR) at Fairchild's Farmingdale, New York, plant. This review was made to evaluate the overall effectiveness of Fairchild's management systems and the capability of these systems to meet contractual requirements.

As stated earlier the review identified 279 findings in the eight functional areas reviewed. Fairchild did not agree with 60, or about 22 percent, of the findings. However, in response to the COR results, Fairchild has developed and is implementing actions to correct all items reported.

In developing corrective action plans, Fairchild identified 218 specific causes and 7 underlying causes. An analysis of the 218 specific causes showed that about one-third represented inadequate procedures and two-thirds represented noncompliance with existing procedures.

The seven underlying causes included:

High turnover rate of senior management and organizational changes.

Reduced reinvestment levels in recent years in plant facilities, equipment, and centralized capabilities.

Deteriorated employee morale and dedication in recent years.

Mr. President, who would not have deteriorated employee morale if as it went along it saw its very future being threatened on almost a regular basis between the various actions by the Air Force in delaying the funding, and in the attempt to reprogram the dollars that had been provided for it by the Congress? So why should we not expect that there would be a lack of morale or a morale problem at the facility? Why would we not expect to see a high turnover of senior management when the course of action that has been undertaken would directly contribute to those problems?

Inadequate emphasis on quality, safety, and schedule in some products and systems.

Failure at most levels in the work force to meet productivity targets.

Optimism in forecasting, particularly in new program proposals, has caused overruns and schedule delays from the onset.

Failure to follow management development and succession plans.

STATUS OF CORRECTIVE ACTIONS

The contractor has established a continuous process to plan, implement, and resolve all COR related findings under the direction of a vice president who reports directly to the company president and interfaces with the AFPRO commander.

According to Fairchild the following corrective actions have been taken:

Appointed a new company president experienced in running an aerospace company.

Promoted capable employees from within.

Sold $200 million of corporate assets to provide funds.

Invested an additional $46 million in the T-46A program.

Devoted additional personnel to the program.

Ordered some new major equipment items.

Improved communication from top management to middle management.

Increased skills and supervisory training.

Increased emphasis on quality, safety, and schedule rather than on cost only.

Strengthened the quality function.

Corrective action plans have been submitted by Fairchild to AFPRO. The status of corrective actions as of March 31, 1986, are shown in the following table.

Fairchild corrective actions completed and submitted No. 231. That is 83 percent corrective actions in process, 48 and 17 percent. So that out of all of the problem areas corrective action completed and submitted, 83 percent, and the other 17 percent they were in the process of dealing with. That is 100 percent.

Correction actions approved and completed, AFPRO corrective actions, again approved and completed 61 percent, corrective actions in process, another 39 percent, again 100 percent.

So we are talking about a company that has had problems and has undertaken the proper steps necessary to deal with those problems and to eliminate them.

The report goes on to say that:

We noted that AFPRO approvals were about 60 to 90 days behind Fairchild submissions. An AFPRO official said that this represented the time needed to schedule and perform its review and an allowance of time after implementation to be sure Fairchild's correction was still in effect.

Fairchild representatives said that correction programs have been instituted and significant progress made in correcting all deficiencies. They said resolution of 97 percent of all deficiencies should be completed by September 30, 1986.

Mr. President, I would suggest that if one were to carefully, impartially review this report, and have no stake or interest or was not aware of the name Fairchild, had no interest in it, they would have to come up with the conclusion that the product they are turning out is a good one, that it is a necessary one, that it meets the standards and exceeds the standards in many different cases including costs, including maintenance, including overall cost cycle, and that it will save the American people millions of dollars annually, and that it is a much better product, and a much better plane than that which is probably being used by our young fliers.

So for all the reasons, Mr. President, it would seem apparent to me that there is something gone amiss. There is something gone amiss when the Air Force now says, well, we do not need this. We do not want this. I wonder how and why this has come about.

According to certain Air Force sources, the decision to terminate the T-46 was an emotional one made by Secretary Orr. Since then Assistant Secretary Cooper had said that canceling the T-46 was a mistake.

Now I do not think he would say it now. In An official Air Force document prepared by the Secretary for the Air Force shows that to extend the life of the T-37 and not bring on a new trainer until fiscal year 1999 will cost $1.96 billion more than it cost to build at T-46.

If that is correct, if we are talking about extending the life to the year 2000 and beyond, at a cost of $1.96 billion more than the cost of building the T-46, I wonder how that is that we could come to that point.

Mr. President, let me turn to some hearings, hearings before the subcommittee on appropriations, House of Representatives, 99th Congress, 2d Session.

Mr. President, I could turn to the question of the safety of the T-37. In the hearing before the House Appropriations Defense Subcommittee in March of this year, the safety record of the T-37 is brought to light.

□ 1940

Let us take a look at that safety record.

First we will start at page 65 of the report entitled "T-46 Program."

Mr. Chappell said:

The Secretary of the Air Force report states that the current Air Force primary trainer, the T-37, has recognized operational deficiencies and safety concerns. It also states that you proposed to cancel the T-46 which is to replace the obsolete T-37 due to fiscal constraints.

Dr. Cooper, why is the Air Force apparently willing to continue using a trainer, the T-37, which has operational deficiences and safety concerns?

That is the question.

Dr. Cooper. We are going to use the T-37 for some period of time regardless of whether or not we buy the T-46. We will continue to train safely. Aside from the T-46, if we went forward with the T-46, we are going to continue to use the T-37 for some period of time because there is a lag time between your budget for funds for the T-46 and bringing it into operational inventory. I believe the statement made by the Air Force in the past relative to the T-37 still stands today.

Dr. Cooper continues.

I need to point out to the committee that we did not recommend canceling the T-46 because of our view that the T-37 has suddenly changed.

So it changed. He goes on to say:

We recommended it not be funded in '87 and beyond because of budgetary pressures and also when we looked at the program made last year it was experiencing some technical difficulties. I think you are aware of the contractor operations review that was conducted at the facility.

Mr. CHAPPELL. I understand those have been corrected. I understand they have changed management. Fairchild has acted positively to bring back the program. They have cleaned up the shop and modernized the plant to do these things. I looked at the plant not too long ago myself and the impression I received from your Air Force officer who was on the spot was to the effect that while everything had not been completely straightened out that they were certain most of the things had been repaired.

Dr. Cooper then responds:

They have improved over where they were in the July time frame last year. There was an awful lot of room for improvement. The trend has gone up.

Mr. CHAPPELL. I initially proposed that program.

Dr. COOPER. I remember your question on the T-37.

Mr. CHAPPELL. You guys made a case for the tremendous deficiencies of the T-37. It could not climb out fast enough, therefore cutting down on training time, and you had to get out where you could get to instrument areas, work through the patterns, and you had to get out and back, and the T-37 just wouldn't do it. It was horrible. There was a tremendous necessity for change. You had to have this trainer. Were you telling us accurately then or now?

Dr. COOPER. I was not here. The Air Force will stand by those statements, Mr. Chairman, about the T-37. The T-37 is not the optimum trainer in the future for the Air Force. We would prefer to have a new trainer.

Mr. President, I think that statement puts it about as forthrightly and fairly as anyone could without going into whether or not the Air Force wants it or does not want it. They campaigned for it. It wanted it. It stated before the Armed Services Com-

mittee and the Defense Appropriations Committees of both Houses that it needed it. Now we get into some budgetary constraints.

Now we say it is the money. Yes, there are programs that have to be curtailed, cuts that have to be made, but when you make a cut in an area that will immediately necessitate a reprogram, an expenditure of hundreds of millions of dollars over and above—and as the figures indicate in order to keep the T-37 flying a cost effectiveness of $1.9 billion over what it would cost for a new plane—something is wrong, it smells, it is not right.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Will the Senator yield?

Mr. D'AMATO. No.

Mr. CHAFEE. I wonder if the Senator will yield without losing his right to the floor?

Mr. D'AMATO. Without it being a second speech.

Mr. CHAFEE. It not being a second speech. For 5 minutes.

The PRESIDING OFFICER. Without objection, the Senator from Rhode Island.

The remarks of Mr. CHAFEE appear elsewhere in the RECORD under Statements Introduced Bills and Joint Resolutions.

□ 1950

Mr. D'AMATO. Mr. President, an aspect of Dr. Cooper's testimony is rather important. Again, in talking to Mr. Chappell, he said, "Mr. Chairman, the T-37 is not the optimum trainer in the future for the Air Force. We would prefer to have a new trainer."

Then Representative DICKS says, "This has very serious safety problems."

Dr. Cooper says, "No, sir, Mr. DICKS. We will have to spend money on the T-37, though."

That is exactly the point I have been attempting to make. There will be some who would have us think that we are going to come out ahead of this process by killing the T-46 trainer. I say to my colleagues, that is not the case. We are not going to come out ahead. You are not voting for America. You are not voting to save money; you are not voting against a bad system. You are voting against a superior system that is going to save money. You are voting to maintain a bad system. That is the record, not the rhetoric.

I would like to see the record show me otherwise.

Oh, I get the Air Force that says, "We don't need it now for budgetary reasons," after they needed it, wanted it, campaigned for it and said we needed it for six or seven years.

Now, "Oh, no, we don't need it."

They don't need it because Cap called up and said, "Cut it." That's why you are going to cut it.

Are you going to save money? No. You are going to have to start spending hundreds of billions of dollars to take the plane that the general called the rat hole.

I did not call it the rat hole.

Where is O'Keefe? Where is that rat hole statement? I have it here someplace. We shall dig it out. I guess he had to take a little break. We are going a little long here. I do not know where he is. But we will dig out that statement where the general said to take the T-37 and to put more money in in 1984 is like pouring money down a rat hole.

But that is what you are going to have to do. And you all voted for it. Hooray, horray; we voted to put the money down a rat hole. That is great.

You did not vote against a bad system, you did not vote against a system we do not need. You voted against a superior plane, a superior training plane in terms of performance, in terms of cost, in terms of maintenance, in terms of safety for an old, beat-up plane that we are going to have to spend hundreds of millions of dollars on.

I want that general's statement where he talks about the rat hole. I want to hold it up here. I want to submit it as part of the RECORD because I do not think it should go in just on the altar of my record.

General Osway, who made the statement to the committee in 1984—which committee? The Appropriations Committee on Defense. He said, "Pouring any money into the T-37 is like pouring money into a rat hole." That was the general, commander of the Air Training Command. He made that statement. When did he make that statement? March of 1986? I do not believe that is correct. In any event, we will get a date and substantiate it and put it into the RECORD.

Let us continue. We have Mr. Dicks. He says, "This is a safety problem."

Dr. Cooper says, "No, sir, we will have to spend money on a T-37."

Mr. Chappell continues. He says, "General Randolph."

Oh, I know General Randolph. He does not want this plane.

"General Randolph, we have some correspondence you sent to the Chief of Staff of the Air Force, who was 'shocked' to learn that only 86 percent of the 100 ejections from the T-37 aircraft have been successful, unsuccessful means fatalities."

Gentlemen, are you hearing that? When you talk about a trainer, you have a trainer in operation today where 87 percent of the ejections are safe and the balance are not.

□ 2000

(Mr. MATTINGLY assumed the chair.)

Mr. D'AMATO. I do not know what kind of plane you want the boys to be flying in, but they are going to rewing this and retool this. General Randolph says, "I don't remember those numbers." Not much. I talked to Randolph. He is marching to a different drummer. He says, "But you are right the ejection seats"—here is General Randolph talking about the T-37. You want to keep it. You want to rewing it. You want to spend $2 billion more. Well, let us do it. Let us win one for the gipper. "But you are right, the ejection seats do have problems, and by the way, Dr. Cooper would agree with me, we are not saying there are not safety problems." They are saying, "Oh, there are safety problems."

"But we believe that it is not an unsafe airplane to fly. That is two different things." Mr. Chappell says "The T-37 crew is out of the ejection envelope 20 to 70 percent of the time, depending on the mission." Do we know that? They are out 20 to 70 percent of the time. "Is that true or not? Dr. Cooper." He is the great expert. He says, "I don't know, Mr. Chairman."

I do not know. I hope when you all have another chance to vote on this thing you will think about it. Maybe there will be some young man training over there. It will be one of those 20 times, 20 percent of the time that he has to use that ejection and it just does not go off because it only operates 86 percent of the time. Think about it.

General Randolph, here is what he says. Any by the ways, this is this year, 1986, before the committee. Here is what Randolph says. He will say whatever the powers want him to say. I have talked to him. He says, "I will have to check those numbers. It flies out of the envelope but I don't recall the specific numbers."

Would it not be good if we could call him up on the telephone. You are going to be here. You have some time. I would ask one of your staff to see if they can get him, find out if I am making this up. Find out, on the ejection, whether or not it is safe. Find out what they have to do to fix it, what they are going to have to do with it, how long will it take.

General RANDOLPH. I will have to check those numbers. It flies out of the envelope but I don't recall the specific numbers, but I can recheck that for the record and provide it, Mr. Chairman.

[The information follows by way of letter obviously]. And I will give you the information. This reminds me of my school days. I had not cracked a book. I would be undertaking a course, taking an exam the next day and I would start getting into it and I would say, "My gosh, this is interesting; why didn't I look at this before." This is absolutely fascinating. I am finding this more and more fascinating. And I find that I have a little more vigor. Do you

know why? Because the case for doing away with the T-46 is more outrageous as you begin to get the facts, absolutely more outrageous.

The general says:

Your information is correct. Since its introduction, the T-37 has had 110 ejections; 95 of those were successful. This number equates to the 86 percent rate you referred to.

In regard to your question on the amount of time the T-37 is out of the ejection envelope, 20 to 70 percent is also correct. This percentage is dependent on the mission being flown (pattern only where the percentage is high vs high altitude aerobatics where it is lower) and the climate conditions experienced at that time (hot days degrade aircraft performance which directly affects the ejection envelope).

Dr. COOPER. Mr. Chairman, if the issue is, would the Air Force rather have a T-46, if it was bought and paid for, in our inventory as opposed to a T-37? There is no question if that aircraft performs as advertised we would rather have a T-46.

Notice how carefully he has to answer the question because he will be on the carpet if it performs as advertised. He knows it performs. He understands. He rejects Osway's statements that it performs better than contract. He does not want to even acknowledge that. He has seen a copy of the General Accounting Office reports. So he has got to be very careful because this way when the big boys say to him, "What did you answer that way for? Why did you say that? You know we don't want that plane," he says, "Well, I qualified it. I said if it performs as advertised. Obviously it hasn't met the specifications." But the facts, not the rhetoric, indicate that it has met its specifications.

So when we vote here again—and I guess we will have a chance to vote here again because at the very least there will be a tabling motion—I wonder if we are going to have the same kind of vote. Maybe we will have a vote even worse. Maybe we will get less than 21, but I will tell you something. I would not vote for this no matter what. And the more I find out about it the more certain I am that this is a quick shuffle, a quick shuffle.

What does Mr. CHAPPELL say? He says, "Let me ask you about the test program. How is it going forward? How many airplanes have been delivered?"

He is now talking about the T-46.

Dr. COOPER. One.

Mr. CHAPPELL. How many hours have you flown the aircraft?

Dr. COOPER. I will supply that for the record.

The information comes as follows and it is:

As of March 12, 1986, the T-46 has completed 46 flight test sorties and amassed over 98 hours of productive flight test.

Dr. COOPER. We think we are probably about a year behind on the test program. We believe that the T-46 is fundamentally sound. Like all test programs, there have been some minor problems.

That is a far different statement than we have heard in the past. We were led to believe that there were significant problems. We were told that there were problems that really went to the core and the essence of whether or not the plane was flyable. Here is Dr. Cooper saying, no, it is fundamentally sound. And he says:

We see no show stoppers, and we think that the T-46 will perform as advertised. It is behind schedule, over cost, in terms of the full-scale development program, and there is a limit to Government liability on that chart, it has a ceiling on it, so to the extent it goes beyond that ceiling, Fairchild has to pay that bill. And it is substantial. I believe we estimated——

And then here is where General Randolph jumps in:

almost $200 million.

Dr. COOPER. About $65 million is out of their pocket. Our concern, though, is last year when our budget was cut, and it goes back to the point Mr. DICKS made where we see the budget going—we are going to have to live with some less than optimum solutions in the Air Force on some programs.

What we said about the T-46 in the past is still true. We would rather have it. It is just a budget program.

And so for those who have suggested that the Air Force does not want the plane, that is a vast oversimplification. That is not the case.

For those who suggest that I am impeding the progress of this body, let me suggest that I did not introduce this amendment. Let me suggest also that I did not introduce the underlying amendment. Let me also suggest that they would have to be somewhat naive to think that the very Senators in the States who are very much concerned about the underlying amendment are not going to do at least what I have done, and I understand the nature of their political training. And I would ask people to wake up and to see that even if we were to dispose of this amendment, that is, the second-degree amendment, which I am not inclined to do, the fact is I do not see any guarantee—and I see a long, protracted area of discourse and development on the underlying amendment.

Now, the reason I am mentioning this, Mr. President, is because I do not want to have for those who say, "You are delaying the orderly process of this body," that onus placed upon me without saying it did not introduce the underlying amendment. I certainly did not introduce the second-degree amendment and it would have been naive on the part of my colleagues to think they would not have done exactly what I am doing now.

□ 2010

I served fair notice. I did not do this by way of around the bush at the last minute. I did not indicate that I would do anything less than totally oppose and use all the means given to those of us in this body to protect the position that I am advocating. That is the retention of the T-46. I say so respectfully.

I hope that you understand that. Sometimes we cannot all agree. I have attempted to come together, and I have been more often than not on issue of importance, on issues concerning the well-being of this body, and issues in which I have subjected my own position to the legitimate concern of others, maybe things I did not necessarily agree with. That is one of the problems we face here.

I would like to suggest that if people would like some comity, there is a way to arrange it. I they want to proceed, we will proceed.

The more I look into this, the more convinced I am of the rightness of my position. I am not suggesting to you that you have to advocate every cause you feel is right, at the expense of others in the body. But I think that works two ways, and that is what we are suggesting here.

Although I feel badly about it—I do; I do not feel good about it—I am going to continue to press, and I will take the burden and I will take the responsibility and I will take the admonitions of those I admire and respect.

I hope there could be a way to work out of this, not only for this year but for the future of the program. I am not suggesting that a compromise cannot be reached. To cut down and turn out that program and that plant, I think, would be the wrong thing, and to do it in the manner which has come about.

Dr. Cooper says:

Dr. COOPER. About $65 million is out of their pocket. Our concern, though, is last year, when our budget was cut, and it goes back to the point Mr. Dicks made, where we see the budget going, we are going to have to live with some less than optimum solutions in the Air Force on some programs.

What we said about the T-46 in the past is still true. We would rather have it. It is just a budget problem.

Mr. CHAPPELL. General, have you flown this aircraft?

General RANDOLPH. No, sir, I have not flown the airplane. I was out at Andrews, sat in the cockpit. General Skantze, the Commander of Air Force Systems Command, flew the airplane and his report back to me was that it flies quite well.

He was quite satisfied with it. By the way, you asked how is the test program going. It is, of course, behind, but the test program itself is going quite well, quite smoothly.

Mr. CHAPPELL. That is what I understand, going very well, with no major bugs.

General RANDOLPH. There is one problem, and that is the drag count is much higher than it is supposed to be, and Fairchild is working that quite vigorously right now, but that is the only serious problem that I know about in the test program.

Mr. CHAPPELL. How much money have we spent on this program so far?

General RANDOLPH. As of the end of this year, with the monies that we have in the R&D program, but assuming that we do not

press forward with block two, which is still an open issue, $470 million.

My friends, we have spent almost a half a billion dollars and I doubt if we are going to retrieve very much of that R&D if we abandon this program now. But they would have us do it and then say that we are saving the American taxpayers money. Hokum. Nonsense. Maybe saving some people some pride, but we are not saving the American people money.

Mr. Chappell continues:

Mr. CHAPPELL. That you spent so far?

General RANDOLPH. Yes, sir.

Mr. CHAPPELL. What is the total program intended to be?

General RANDOLPH. It is about $5 billion when you buy all the airplanes, and the support equipment, et cetera.

T-37 PERFORMANCE DEFICIENCIES

Mr. CHAPPELL. I have a paper that comments on the T-46, dated June 26 of 1979, six years ago. I read you a pertinent part under paragraph five, page 6 of that report on constraints.

A, affordability and relative priority. The sophistication and capabilities of Air Force weapons systems beyond fiscal year 1987 dictate the need for a fully supportive undergraduate pilot training program. The modification and replacement of the T-37, a key element of that program, must be considered a priority, no less than equal to producing the prime weapons systems. Modernization to the primary undergraduate system can be accomplished within 1 percent of current level—budget funding on an annual basis over the life of the program.

Here is Congressman CHAPPELL pointing out the Air Force's absolute commitment in a paper which says it is necessary to see that this be accomplished. It points out how critical this thing was in the beginning. Now we are talking about abandoning it. If you start over again, you talk about slippages and that sort of thing. It does not make sense to me. I cannot see it.

Those are Congressman CHAPPELL's words, and I think he is correct, and I wonder how we deal with that. We say we are not dealing with the merits of the plane, of the system, of the T-46. What about the deficiencies of the T-37? What about that? What about the cost attendant to keeping it? Let us keep it all going. We do not want to rock the boat.

Mr. CHAPPELL. Tell us whether that is true or not.

General RANDOLPH. We will check that, and it is not a bad airplane. The performance—there are performance deficiencies, and there are things that we would like to improve, and the T-46 does that, but the decision was made as has already been stated.

[The information follows:]

As General Randolph stated, deploying the T-46 would resolve T-37 performance deficiencies. However, primarily because of budgetary constraints, we deleted T-46 funding from the FY 87 budget. Alternatives to address current trainer aircraft deficiencies are under review. One option is the modification of the T-37 aircraft to extend its service life, increase its performance and solve related safety concerns under a wider range of temperatures and flight regimes. In the interim, we will continue to stress the safety programs which have resulted in the excellent Air Training Command accident rate of 0.4 mishaps per 100,000 flying hours for the last five years. As a comparison, the Air Force overall average for 1985 was 1.5 mishaps per 100,000 hours which was the safest year in Air Force history.

Mr. CHAPPELL. The current Air Force five-year plan is to buy 1590 new fighter aircraft, and these are high-performance sophisticated aircraft, and increase of 258 aircraft from last year's plan.

How can the Air Force afford to buy more fighters which cost at least three times as much as trainers, but no trainer aircraft for the pilots flying these sophisticated aircraft, and need to have the best training they can to give them the best capability?

I can't follow the logic.

Dr. COOPER. Your numbers are relative to the numbers a year ago on the tactical fighter roadmap. I would like to take you back to two years ago. As I mentioned earlier, it is a very high priority in the Department of Defense, and you may disagree with those, but it is a very high priority to both modernize and build to 40 tactical fighter wings in the tactical fighter force.

That is why those numbers increased. Again——

Mr. CHAPPELL. I am not fussing about it. I am making some comparisons. How many dollars are we talking about if we go forward with this year's program, rather than cutting it off.

How many dollars would be necessary to sustain this program as you had planned during this fical year?

Dr. COOPER. If you wanted to resurrect the program, how much money?

Mr. CHAPPELL. Yes, sir.

Dr. COOPER. I don't have a number off the top of my head. Last year at this time, we told you that in the 1987 budget, we were going to be asking for $569 million.

Mr. CHAPPELL. Obviously with the slippages, so forth, it can't be anything like that to get us through this year?

Dr. COOPER. You could probably use fewer dollars this year.

Mr. CHAPPELL. It you got any corrections, you gave us a lot of information on the cost of operating the T-37, the cost of maintaining that T-37 as compared to what you intended to have, and tell us where those figures were in error then, if they were, and what they realistically should have been, and compare it with this aircraft, the T-46, compare it for us, and let's see, the facts have not been matching.

Maybe the Air Force doesn't need a trainer, period?

□ 2020

Dr. Cooper says: "I don't think we have changed our facts on the T-37.

And, of course, at this point I would like to interject not much. First they say it is like pouring money into a rat hole, that it is unsafe, that we need a new plane, that it is not fair to deploy, and they build that rhetoric for 7 years and then they have you think that this plane was the optimum.

Oh, well, we could do, you know, with a new plane but it is really not necessary.

Well, maybe the Air Force does not need a new trainer, period. Dr. Cooper says, "I don't think we changed our facts on the T-37. This decision was made independent of the T-37. We can continue with the T-37 with relatively modest investments."

Very interesting the way they can change from how something is very costly on one hand and takes so much money, how you are wasting money to attempt to modernize it, and then on the other hand just simply say, "Oh, we can do it for a modestly small sum."

"In fact, we are going to continue because the T-46 wasn't going to hit the ramp for some period of years."

Of course, Cooper and company fought like the devil to stop it. They worked their tail off to stop it. They testified in front of us. I mean, this was a decision to impede the progress of the T-46 and then they say it is not going to hit the ramp for some time. That is in the vernacular some in New York call chutzpah. It really is incredible. You wonder about the morale in the plant and the high turnover in the plant, and yet you threaten to destroy the plant, the manufacturing facility, and you wonder why people do not have high morale. You wonder about the delays. When you fence off the money, you say you cannot use the money, and then you wonder why they do not have any production.

That is incredible. That takes something. And then you say, "Well, you know, we would have to keep the T-37 because they are behind and they would not hit the ramp for a period of time, probably 5 or 6 years."

More accurately, if Dr. Cooper responded, he would have said, "Probably never if we get our way."

"Beyond that, we will start to have to make relatively major investments in the T-37 to extend its operational life. That can be done."

So now he is saying, in essence, that they are not going to have to make major investments in the T-37, if they can keep it flying for 5 years without any major investments. They are not going to make any major investments and sometime 5 years from now they are going to start making investments. That is what the essence of their argument is and it is a lot of nonsense. It does not bear out with the facts and it does not bear out with their prior argument.

He said, "Beyond that, we start to have to make relatively major investments."

"Will it be done as good as the T-46?" is the question, Mr. CHAPPELL asks, and he says, "No, it will not be as good as a T-46, and at some point regardless of what you do to the T-37 you will run out of useful life, maybe 10 years from now."

We have Dr. Cooper saying that we will have to make major investments, maybe 5 years from now. He said it is not going to be as good as the T-46

and we would get a life increase of maybe up to 10 years.

Now, I suggest to my colleagues I am wondering what you are voting on. Do you really want to vote to do that? Is that really what you are saying? Do you really want to put a plane up there that is operationally deficient at the present time, continue it with all of its problems and say maybe we can get by for 5 years when the test is that we cannot get by and only have to put in modest sums and I would like to know what we call modest sums and 10 years from now we will have to have a new plane.

That really makes sense, and that is where the cost comes into $1.9 billion more for the taxpayers, and that is when we say about your throwing away half a billion dollars worth of money, and then there are those who will say to me you are being partisan, you are parochial. This company is located in New York. It just seems to me no matter where the company is located you should be concerned and you are darn right I am partisan and concerned when I see it taking place unfairly to an installation that is in my home town.

Will it be done as good? No. At some point regardless, regardless, at some point, he says we are going to have to do away with the T-37 and it runs out of a useful life maybe 10 years from now.

Well, if you want to vote for it, vote for it.

But he says, "I would like to make sure with you the environment we were in when we made the decision on the T-46"

Now he is going to tell you the rationale why he came out with the decision.

Verne Orr, Secretary of the Air Force, and I am not speaking for Russ Rourke right now, he has called for a major review very shortly, and he wants to take an independent look at it. . . .

Well, that is interesting. Verne Orr is going to take an independent look at it.

. . but at the same time the cut was made, Verne Orr and Charlie Gabriel decided rather than stretch out programs which we have been admonished to not do, they were going to make a couple of vertical cuts, to cut back on the programs.

The T-46 had its head up above the foxhole because of technical reviews, the confluence of those two things, the fact that the T-46 was on its back, and we were not happy with what we saw at that plant and the budget pressures, . . .

Of course, they were not happy because a certain general when he came there was not received with the ordinary and customary tradition and the people at the plant were pretty silly in not receiving a four-star general as they should have, but they were silly and the plant was amiss and they did have problems and he was pretty ticked off when he came and visited and he was kept waiting 40 minutes. He was darn annoyed. Nobody was there to meet him or show him.

After all he would have been proud. He advocated this contract. The whole Air Force advocated this contract.

He took that as a good swift kick you-know-where and he did not like it. I did not blame him. He went back and he decided he was going to show these people who was boss. He promptly reported that this was the worst operation he had ever seen, and this is the genesis for the beginning of this problem. The people went ahead and did some darn right silly things. They fired some people they should not have fired. They compounded the problem.

Boy, now we really got the pot boiling. Now we begin to see this is an easy program to kill. We do not have to bring this T-46 on. We have the general mad and I spoke to him and he admitted there were deficiencies. He said they got it cleared up. Once they got the ball rolling there were other forces that began to push it on.

□ 2030

And push they did, push to the point that you are going to vote to keep a turkey T-37 flying that should be replaced. We should be ashamed of ourselves. Twenty-one votes; incredible.

Well, people will do anything to get home sometimes. So we will consider it again and again.

The T-46 had its head up above the foxhole because of technical reviews, the confluence of those two things, the fact that the T-46 was on its back, and we were not happy with what we saw at that plant and the budget pressures, back in the October-November time frame, caused this to be a casualty.

I don't paint such a rosy picture for the T-46. I think it is improved, but it will be over ceiling.

Of course, if you hold up a plane production for 2 years, what do you think will happen? This is going to happen. That is nothing new. I want to know what program have we seen come under ceiling here.

. . . and we know Fairchild is going through the ceiling by about $88 million on the FSD program, and will come out of their pocket, and go through ceiling on lot one, we know that, and we suspect they will go through ceiling on lot two.

That is what the language which was carefully crafted in the Appropriatons Committee was designed to handle. It was designed to handle something because the authorizing committees did not want to do it. They wanted to kill this program and handle it in a way in which the taxpayers' dollars would be protected, in which there was a ceiling, in which there was reasonable renegotiations on lot one or on lot two, certainly on lot two.

We have contracts in hand. That means the contractor has to bear that burden. In lot three, we were open, in an open negotiated position. Our concern is that that cost will continue to go up, so it is the confluence of all those things that caused the T-46 to be a casualty.

That is why the House and Senate Defense Appropriations Committees arrived at language that would provide a ceiling upon which no one could intrude, a ceiling and call for negotiations. That is nothing new.

Mr. CHAPPELL. Why don't you put in the record your best estimate of the program, and what is wrong with it at the present time?

Dr. COOPER. Yes, sir, there will be a program review that comes in within a week, so we will report back to you on that.

[The information follows:]

The flight test program has confirmed our judgment that the T-46 will be an excellent flying training platform. It has pointed out the need for augmented stall warning, reduced speed brake buffet, and reduced drag from the current design. These are significant but manageable problems.

That almost sounds like the General Accounting Office talking.

More significant are the schedule delays and contractor cost growth we have seen recently on the program. The program is now about a year behind schedule for delivery of the second test aircraft, and similar delays are occurring in the first production lot that we ordered in December 1984. No near term schedule recovery appears achievable. Contractor cost performance has also caused us concern. Costs well above ceiling in development, but more importantly in initial production, cause us concern for our cost estimates for the total program. The contractor will have to implement aggressive cost reduction efforts in production to assuage this concern.

Why, he could not begin to do that unless he began to get the cooperation of the Air Force, instead of the steady drumbeat that we are going to put you out of business.

Mr. CHAPPELL. Mr. Miller.

Mr. MILLER. Talking about aircraft capability

Well, now we are getting into the C-17

Mr. President, I have another report on the T-46 by the Congressional Budget Office that basically found that the T-46 operating and support costs also are far below the Cessna T-37 alternative. I would like to share that with my colleagues as well.

CBO finds the T-46 O/S costs far below T-37 alternatives.

I think when we begin to say we are going to kill the T-46, we better look to see what the alternative is. Nobody here has suggested that we are not going to improve the present plane. So let us take a look at it because I know you are all concerned about the issue.

A Congressional Budget Office study has found that the Fairchild Republic T-46A trainer would have twenty-years operating and support (O/S) costs far below the Cessna T-37 alternatives.

The higher O/S costs of the T-37 alternatives in turn push the total cost of the alter-

natives' programs to comparable levels with the T-46A, while demanding major modifications or extended utilization of the aging T-37.

In 1986 dollars, discounted at four percent, the total 20-year costs of the T-46 is estimated at $6.1 billion. By making major modifications to the T-37 and adding some new aircraft, the twenty-year cost of the T-37 program is estimated at $6.2 billion.

So here we have the Congressional Budget Office making a study—not me, not my office, not Fairchild, but the CBO—and what do they come up with? They say you can keep an aging, inferior plane, a plane that has been admitted to by the Air Force, they would like to have a different plane, but they say in the lifetime cycle of retooling this plane, keeping an inferior plane, it will cost you approximately the same, $6.2 billion as compared to $6.1 billion. Now, we will concede it is approximately the same.

In an assessment of the alternatives, at a three percent discount rate, the costs, in 1986 dollars, of the T-46 for a twenty-year program is $2.4 billion in investment, $4.0 billion in operating and support, for a total of $6.4 billion. By modifying the T-37 to extend its service life through the year 2006 (the T-37 has been in the Air Force inventory since 1956).

It is a 30-year-old plane.

The costs would be $0.7 billion for investment and $5.3 billion for operating and support, for a total of $6.0 billion for a twenty-year life cycle.

If the T-37 is modified and reengined, the costs are $1.4 billion, $5.1 billion, and $6.5 billion. If modified, reengined, and upgraded, the T-37 costs are $1.7 billion, $5.1 billion, and $6.8 billion.

So we begin to get a cost factor that if we are talking about reengining, modifying, it is going to cost more money, anywhere from $700 million to $900 million more for the T-37. So if we want to talk about economies, why, the T-46 is the area of economy.

Now, CBO explains—and we will get into this because this is an interesting report. It has taken them quite a bit of time and I would not want you to just believe me and take my analysis. We have some staff workpapers here that we wish to share with you in some detail. It says:

CBO explains: "If funds are stringent over the next few years, Air Force needs could be met at least partially through less extensive modifications of the T-37, such as modifications necessary to extend the life of the aircraft or those plus new engines. While these alternatives would be 35 to 69 percent cheaper in terms of total investment than continuing with the T-46 or making major modifications of the T-37, they would be only three percent to twelve percent cheaper in terms of two-year costs as lower investment costs are offset by higher operating costs. Moreover, in the long run, past the 20 years of this analysis, the advantages of lower investment costs would be outweighed by higher operating costs for these alternatives. Also these more limited modifications would not provide the improvements in safety and utilization that the Air Force believes are important." Also these more limited modifications would not provide the improvements in safety and utilization that the Air Force believes are important."

MANNED HYPERSONIC ESCAPE SYSTEM SOUGHT

Exploratory development and evaluation of concepts for crew escape systems for vehicles capable of hypersonic flight in the upper atmosphere as well as in space is called for in an RFP to be issued March 28 by the Air Force Aeronautical Systems Division. The concepts developed are to provide emergency escape and recovery for man throughout the vehicles' total mission from launch to landing.

□ 2040

We have heard from the Congressional Budget Office, March 10 memo, from Bob Hale; subject: analysis of Air Force trainer alternatives.

Unless otherwise noted, all years referred to in this paper are fiscal years.

Details in the text, tables, and figures of this report may not add to the total because of rounding.

All costs expressed in current dollars use the Administration's February 1986 economic assumptions.

Should the Congress add funding for the Air Force's new primary trainer, the T-46? Or would modifications to the current trainer, the T-37, suffice? How would such a decision affect the cost and capabilities of the trainer fleet? These will be important questions as the Congress continues debate over the Department of Defense budget for 1987. This analysis by the Congressional Budget Office (CBO) assesses the costs and effects of alternative procurement or modification profiles that could result from these decisions. The study was done at the request of the House Committee on Armed Services. In keeping with CBO's mandate to provide objective analysis, the study contains no recommendations.

Lane Pierrot, of CBO's National Security Division, and William P. Myers, of CBO's Budget Analysis Division, prepared the analysis under the general supervision of Robert F. Hale and John D. Mayer, Jr. Robert Kornfeld, of CBO, provided extensive assistance during the study's preparation. The authors gratefully acknowledge the contributions of Wayne Glass, Diane Griffith, Rebecca J. Kees, and Francis Pierce.

RUDOLPH G. PENNER,
Director.

Each year the U.S. Air Force trains about 2,100 new pilots. Early phases of that training currently take place in a T-37 aircraft. But the T-37 is old and lacks features the Air Force believes are important. So in 1982 the Air Force contracted with Fairchild Republic Company to produce a new trainer aircraft, the T-46. Fairchild, however, has suffered major losses due to cost overruns and management problems in developing the T-46. The Air Force has also had to hold down its planned spending. For these and possibly other reasons, the Air Force has not put any money into its 1987 budget for further purchases of the T-46 and is considering alternatives.

This paper analyzes the costs and effects of several alternative approaches that meet Air Force trainer needs, including:

Continued procurement of T-46 aircraft;

Major modification of existing T-37 aircraft coupled with purchases of some additional trainer aircraft other than the T-46;

Minor modifications of the T-37 coupled with purchases of other aircraft.

THE T-46 APPROACH

The T-46 would meet Air Force needs for a new trainer with a new, more capable aircraft. It would have a better engine than the existing T-37, a pressurized cockpit allowing flight at higher altitudes less congested with civilian aircraft, better bad-weather capability, improved ejection seats for safety, and other advantages like improvements in reliability and maintainability. These improvements, the Air Force argues, would allow the T-46 to provide better training for more hours per month than the existing T-37 but at less operating cost per hour.

Costs to design and buy 650 T-46s would total about $2.6 billion, more than the costs to modify the T-37s. Costs to operate the T-46 would, however, be lower than the T-37. Thus 20-year costs for the T-46 would total about $6.1 billion (see the Summary Table and Alternative I in the text). These costs include investment and costs to operate the fleet for 20 years (1987-2006), discounted at an annual real rate of 4 percent. (Alternative discount rates of 3 and 5 percent do not alter the relative rankings of the options considered in most cases.)

I think that is important.

There is considerable risk of growth in T-46 investment costs, however. These investments costs reflect the funding that was included in the 1986 budget submission. Fairchild's cost difficulties in lot 1 of production suggest that actual investment costs could be higher than those assumed here, though it is difficult to assess the amount of the increase.

MAJOR MODIFICATION OF THE T-37

An alternative approach would buy no more T-46s and instead make major modifications of the T-37 to give it many of the same capabilities as the T-46. These would include altering it to extend its service life into the next century, providing a new engine, pressurizing its cockpit, and improving its ejection seat and up-grading its avionics. In addition, this approach entails buying 100 of a new trainer to offset the limited size of the T-37 fleet. For specificity in costing, the new trainer is assumed to be additional purchases of the TTB trainer aircraft that the Air Force already plans to buy for other missions.

This option would eventually meet all Air Force requirements for training capacity with a modified T-37 designed to be nearly as capable as the T-46. It is not, however, identical in capability to the T-46 approach. Most importantly, this approach would not meet all needs until the mid or late 1990s because of the time needed to design and implement modifications and to buy the new TTB aircraft. The T-46—if it stays on the schedule assumed in last year's budget—would avoid most near-term shortfalls.

Given Air Force assumptions about the "utilization" hours that modified T-37s would be flown each month, total costs of this approach would be similar to those for the T-46, though investment costs would be less. This approach would cost much less in investment over the next five years that continuing to buy the T-46 because it would take more time to accomplish the modifications and buy TTB aircraft than to buy new T-46s that are already designed and under construction. Total investment costs for this option would also be less than for the T-46 by 23 percent. Twenty-year costs, however, would be 2 percent higher because invest-

ment savings are offset by higher operating costs.

□ 2050

So, Mr. President, we come down to the point once again, you can keep an older plane flying and the cost over the 20-year life cycle will be more for keeping the older plane flying.

I did not come up with this budget report. This is the Congressional Budget Office. We can continue to move ahead on this, to examine it. I will conclude on this:

On the other hand, if the Air Force obtained improvements in utilization similar to those it expects for the T-46, this option would be substantially cheaper in terms of total investment (46 percent) and in terms of 20-year costs (16 percent). Currently, the Air Force believes that the T-46 can be operated 60 hours per month, but tht the T-37—even though extensively improved—could not get above its current level of 45 hours per month.

Once again we find it makes no sense to continue to make these improvements.

What about the minor modifications in the T-37?

If funds are stringent over the next few years, Air Force needs could be met at least partially through less extensive modifications of the T-37, such as modifications necessary to extend the life of the aircraft or those plus new engines. While these alternatives would be 35 to 69 percent cheaper in terms of total investment than continuing with the T-46 or making major modifications of the T-37, they would only be 3 percent to 12 percent cheaper in terms of 20-year costs as lower investment costs are offset by higher operating costs. Moreover, in the long run, past the 20 years of this analysis, the advanatges of lower investment costs would be outweighted by higher operating costs for these alternatives. Also, these more limited modifications would not provide the improvements in safety and utilization that the Air Force believes are important.

Mr. President, I hope we have begun to make some kind of impact about my commitment to this issue. Some would characterize it as parochial. I would ask others, maybe even those who say it is taking a step backward, or maybe putting themselves in the position that I find myself in, ask what would they really do? Would they really handle it differently? I have suggested some alternatives, a compromise. I met with the Air Force. Their hands are tied. There is no doubt in my mind that they are tied. So we find ourselves at 9 o'clock on a Thursday evening with this amendment that would once and for all, I believe, commit us to a course that is not prudent, a course that would wind up in retaining an outmoded plane that would have to be modified, that would cost the taxpayers more in the long run, and would deprive the Air Force of the plane that they wanted, that they have certified meets their needs. Not only have they certified, but the Congressional Budget Office has indicated it meets its standards, and the General Accounting Office has indicated meets their standards.

While I yield the floor at this time, understand that I have just begun. I would hope that some reason would find its way into this situation.

Mr. President, I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am not going to take much time, but I thought I would outline why this issue is before the Senate. Several Members have inquired of me, as the Senate's representative on the conference committee from the majority, as to why we did put the compromise language in the continuing resolution that authorizes the funds for the production of the T-46 aircraft.

First, let me say I think it ought to be clear to everyone concerned that we had no authorization bill when we in the committee. We had repeatedly requested an authorization bill. We did everything we could to urge the authorization committee to complete its action and withheld action on our conference report until the very last minute so that we could get that authorization bill.

Our committee and the Appropriations Committee have been very slow to support the T-46. Beginning in 1981 we had a request for what was then called the next generation trainer, and the NGT was a subject of great concern to us.

The committee requested the Air Force to review all options before we committed to this new trainer. We urged that the Air Force consider using the trainer that the Navy was using at that time to try and find a common aircraft for a trainer. It was after that that the Air Force persuaded all four committees that dealt with this subject in the House and Senate that it was essential the Air Force have its own primary trainer.

The Air Force has requested funds each year from 1981 through 1986 for the T-46. To date, we have appropriated almost three-quarters of a billion dollars and spent $500 million on this aircraft. It is once again to me a question of having been involved in pursuit of a goal, and having been very skeptical about that goal. But we were finally convinced and committed the money. Now in the fall of 1985 the Air Force, under rather severe pressure, has decided to abandon its goal for this next generation trainer and it will have a concept of upgrading, refurbishing, the T-37.

In 1982 we asked the Secretary of the Air Force if this was possible. It was not possible.

I have a series of quotes beginning in 1981. In 1981, the Air Force said, "Extending the T-37 service life will not correct any of the aircraft's operational deficiencies nor will it overcome fleet insufficiency."

In 1983 we inquired again, and again the Air Force said, "We need to replace the aging T-37 as quickly as possible. The T-37 introduced in the 1950's is fast approaching the end of its service life. In addition to being old and difficult to maintain, the T-37 has several operational deficiencies."

In 1984, the Air Force told us, "The T-46 has an excellent single engine performance in comparison with the T-37. We have to restrict the T-37 today in terms of flying in certain weather conditions at high altitude air fields or on hot days."

In 1984, when we suggested we ought to make certain what was going on, the Air Force said, "The operational impact of delaying even by 1 year extends beyond the obvious delay in the initial operational capacity, the IOC, and would require an undesirable extension of the phaseout of the cost inefficient and operationally deficient T-37's."

We have pursued through this whole period of time a concept of why we needed a T-46. It was the authorization committee in both the House and the Senate that insisted that we go ahead, that we pursue the T-46.

In 1982 we had the GAO review this and the GAO reviewed the contract and said the source evaluation and selection was done according to the Department of Defense and Air Force instructions.

□ 2100

In 1983, again, we had the GAO review the Air Force plans to buy the T-46. They concluded the program schedule called for a considerable overlap between production and development. They predicted delays and problems would increase costs and they were right.

The Air Force said to us again in 1984, the T-37 is not pressurized, the T-46 can operate at higher altitudes. The T-46 is more fuel efficient. The T-46 had safety features that the T-37 did not have.

The T-46 is a new design versus 1950 technology of the T-37. And most importantly to our committee, the T-46 would meet EPA and FAA noise standards that the T-37 does not meet. This is an operational aircraft for training jet pilots at home, in our country. We were seeking to have the Air Force comply with EPA and noise standard restrictions.

The T-46 they told us would be less expensive to operate and maintain. Again in 1985, all four committees—the authorization committee of the House, the authorization committee of the Senate, the two Appropriations Committees, one in the House and one in the Senate—approved the first lot production of the 10 aircraft, T-46.

The fiscal year we are in right now, all committees approved the continuation of this production. But in April, the Air Force canceled the contract. They cited schedule delays. We have had the GAO report read to us tonight by the Senator from New York and they concluded that there was still a requirement for the new trainer.

This T-46 contract has been on hold since April 1986. Our problem in our conference was to determine whether it could go forward under the circumstances and stay within the original bid requirement. So let me emphasize the language that is before us in the bill, that the Senator from Arizona seeks to delete.

That language provides that none of the funds provided in this or any prior act may be used for the T-46 airframe production contract which existed on October 1, 1986, for other than the lot one production.

In other words, there must be a competition. There must be at least a new contract, which assures that the maximum production unit cost for each aircraft will be what it was estimated to be in 1986 dollars and that the total cost of the aircraft program will be the limit originally set.

That total cost, Mr. President, includes the moneys already made available for expenditure.

Now, Mr. President, I think this is fiscally sound. We know we are going to have to have a new trainer. What is being suggested now is that we abandon this program which has been underway since 1981, that we just flush three-quarters of a billion dollars down the drain again. It is the same story we have heard on so many systems: After it has gone along for a while, someone questions it and on the basis of political pressures from somewhere else in the country, the system is put down and a new aircraft will come along.

We have an absolute demand for a new aircraft. We cannot maintain our proficiency in jet aircraft without a new trainer. Everyone knows that. If we abandon this one, what is it going to be? Is it going to be the Hawk that the Navy uses that is built in Great Britain? Is it going to be the de Saulte trainer that I flew when I was in France 2 years ago? It is a very good trainer, and it is available to us.

Where is the next generation trainer that is built in the United States, if it is not the T-46? Because the T-37 certainly is not a next-generation trainer. If we put this kind of money that people are suggesting into the T-37 to upgrade it and try continuous utilization, we will have at most a plane that will last for 2 or 3 years. This plane will last for 15 or more years. If we go ahead with it, we will not have lost the three-quarters of a billion dollars we have made available already.

I am sad to see us in this dispute once again. It is unfair, however, for those involved in the authorization process to come here in October and tell us, is this not sad, the Appropriations Committee once more is seizing the direction of the Air Force or the Department of Defense and they are trying to tell us what to do.

All we needed was an authorization bill. Had we had an authorization bill and these funds not been in there, we had agreed and we absolutely agreed we would live up to the authorization limitations this year. We pleaded with them to get us a bill.

Now, here we are. That authorization bill has not become law. This is not something that is subject to limitations. As a matter of fact, I am told now the authorization bill is not even going to be submitted to the President until this bill is signed by the President. So, as a matter of fact, there will be no authorization for any single unit in this bill when it passes.

Let me repeat that, Mr. President: There is no problem here about authorization because this bill will be the authorization bill at the time it passes until that other one is submitted to the President.

There have been problems with this trainer, there has been no question about it. But we have been the ones in the appropriations process who, all along, have urged that this be totally examined and once we were convinced, we made the moneys available. After we become convinced and made the moneys available, the authorizing committee started to shut off the supply and questioned this trainer.

No one in this body, as I have said before, has greater love or admiration for our good friend from Arizona. He knows that. This is not something personal between us. We are both pilots. He has flown it. He had flown the T-46 and I remember the day he came back and told me it is a good airplane.

It is not a question of whether it is a good airplane. It is a question of whether or not the Air Force wants it. I say to the Senate now that the Air Force, before our Appropriations Committee, has never, never denied the desire to have the T-46. Even this year, Dr. Cooper said, if you buy it and you pay for it, we want it; certainly, we want it more than the T-37 upgrade.

When you look at this today, I tell you, Mr. President, we cannot have the best-trained pilots in the world unless we are willing to provide them with the best fighter trainer that is available. This is the best one, the best one that is available.

The question now is not whether it should be made available, because we have already put up money for 10 of them. We already put up $500 million for R&D. Now, we are asked to abandon that and go off and start a new competition, a competition which will include at least a plane from Brazil, another one from Israel, another one from France and Germany, another one from England, and I say we should keep to the commitment we made at the time we made the original commitment for production. GAO has examined into this. And even with the mistakes and the problem it has, the contractor can go ahead with this plane. I think any further delay in making the funds available to assure its construction will, in fact, cause severe difficulties for the contractor. I do not know any defense contractor who is not in that position after having been strung out as this one has been.

Our compromise language before the Senate ensures that program costs for the T-46A will not increase. If they do increase, the Air Force must in fact do what the authorizers seek now. They must recompute the contract.

I think we cannot expect our pilots to be able to defend this country unless they have the best training available. We cannot afford to turn loose new pilots, trainees, in F-16's and F-17's and F-18's. The difference in cost is very great. They need this trainer, in my opinion. I urge the Senate, despite what it has repeatedly done here, to reconsider.

Let me say this in closing, Mr. President. Some people have said why is it that this was the last item agreed to in conference, the last item agreed to in the conference with the House on this continuing resolution in the defense portion of the bill. The reason is obvious. This is a provision the House wanted most. I think anyone who was there knows that. Although there was not one member of that conference from the State of New York, the House Appropriations Committee has been committed to the T-46. They told us in the beginning of the conference they had to have the T-46. That was their desire.

In order to make sure that we gained the Senate's position on some things—and I challenge anyone to look at this bill from the point of view of the Senate's position. We substantially prevailed in terms of the Senate position, in terms of the systems and the funds we thought were necessary for defense for the fiscal year 1987.

My good friend from Mississippi found a saving in the Navy shipbuilding account and, by virtue of the changes that he made, instead of building a new destroyer, we are building a new cruiser and taking advantage of those funds. That was a Senate change in the whole process. Everyone now has admitted that that was a very, very good suggestion.

□ 2110

We have had a series of other compromises that were made, primarily to

carry out the Senate position. The T-46 was an item the House insisted had to be in this bill. It was put in there, if you look at the debate on the floor over in the other body last night, with the full approval of the appropriations and authorization committees. And now at the last minute we are told, "No, do not do this, do not put up the money for the T-46. Go ahead, waste three-quarters of a billion dollars. Do not proceed."

Mr. GOLDWATER. Will the Senator yield?

Mr. STEVENS. I do yield. Again I say it is with great respect and extreme reluctance that I oppose the amendment of the Senator from Arizona, because I know no one in the Senate who wants a strong Air Force and a strong defense more than I unless it be the Senator from Arizona.

Mr. GOLDWATER. I thank my friend. I would like to remind my good friend from Alaska that when we started this—I do not know how many hours ago it was—I said to the Senator from New York that I did not want to debate the merits of the airplane; I wanted to talk about the fact that the Air Force does not want this airplane.

Now, if somebody will get the commanding general of the Air Force to call me and say, "I want it," I can make more noise in favor of it than anybody here. But the Air Force does not want it.

I have never run into a situation like this. I do not know what we do when we run into a commander of a unit of our military who says he does not want this particular weapon. I do not think the Congress should ever, ever get in the position of buying weapons for our military that the military does not want.

This is a good airplane. I wanted the Senator from New York to yield when he had a little question about the stall characteristics. It had admirable stall characteristics, but the GAO is not a particularly well-noted group of test pilots, so they do not understand those little things.

I just wanted to tell my friend from Alaska that that is still the problem. Nobody is arguing about the merits of the airplane. We are arguing about the fact that the Air Force said no. And I do not know what to do about it. It would be like the Navy calling over and saying, "We are not going to take that submarine if you build it," or the Army saying, "We are not going to take that tank if you build it."

Well, here we have an airplane that all of us, including myself, thought the Air Force was going to take, but that is the word. And until you fellows can change the mind of the Air Force, I do not know what we can do. We can let my friend from New York stand here and talk until 10 o'clock tomorrow morning. He can deny pay for every civil employee in this country and every man in uniform, but that is up to him. We are not solving the problem. If my friend from Alaska wants to call the general and ask him to come over here and sit in the room and talk, maybe we can bend his arm. I do not know if you can. But I just wanted my friend from Alaska to know we are not debating an airplane's merits or lack of merits. We are debating the fact that a military organization in this country just says, "We do not want it." It is a hard thing to overcome.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mr. ABDNOR). The Senator from New York.

Mr. MOYNIHAN. Mr. President, I would like to respond at some length if necessary to the very careful, very thoughtful remarks of the Senator from Arizona, a treasured friend, as he knows. We have been associated in many of these enterprises.

Might I first say, Mr. President, with respect to the situation we find ourselves in, it is a quarter past 9 o'clock on a day when the continuing resolution that keeps the Government in operation this 15 days past the outset of the fiscal year expires at midnight, and we well know that. There has been some question in the Chamber, and it is understandable, why would the Senators from New York—and there will be other Senators speaking—wish to push the body to that midnight moment of crisis over such a specific issue.

May I even so say that we gave in my view fair notice of this matter. Yesterday early evening, speaking on the Defense Authorization Act, I noted that the continuing resolution provided funds for the T-46 trainer, as the Senator from Alaska has made clear. I said, if I may quote: "Mr. President, the continuing resolution which we will be dealing with tomorrow," as I hoped we would do and as indeed we have done, and are doing, "provides funds in the amount of $151 million for the production of the trainer, the T-46, in fiscal year 1987 and specifically provides for the release of $169.9 million that had already been appropriated for fiscal 1986 but have not yet been released. That is the continuing resolution. That is a measure we will pass and it will become law," as indeed we will pass this measure and it will become law.

I then said, Mr. President, and again I quote: "I hate to say something I have not ever before said, I believe, on the floor of the U.S. Senate, which is that the continuing resolution must pass as it is now written or I cannot anticipate the time when we will be able to vote on it."

If I could say again, Mr. President, I said, as we passed the defense authorization bill, "A bill is not likely to become law which contains a prohibition on the funds for the T-46 trainer." "And as we looked forward the next day to the continuing resolution which provides funds for the present fiscal year and unfences, as the term is, the funds from the last fiscal year, I said that "It must pass as it is now written or I cannot anticipate the time when we would be able to vote on it."

That, of course, is what is happening this evening. The Senator from Alaska noted the great specific concern on the House side that the funding for the T-46 contained in this measure go through. The Senator from Alaska noted that it was the last measure agreed to in the conference committee, it was something the House wanted and which year after year in one form or another the Senate has agreed to provide funds for, in all, some six-tenths of a billion dollars in funds just in the development of this plane, which plane is clearly needed and which clearly is going to be built. The question is when and where and by which company.

Now, what is our problem? Not to understand our problem in the large is not to give us any opportunity to resolve it in the detail. Our problem, Mr. President, is that the funds for defense in the U.S. budget have now commenced to decline. They have commenced the inexorable decline which a number of us stood on this floor during a long week in October, then November, and then still later December 1985 and said would happen were the Gramm-Rudman legislation to be enacted. The steady path of increase in defense budget authority and outlays which began in the late 1970's would come to an end and we would go through a crunching experience of cutting, of doing without, of choosing between equally undesirable choices, of facing the prospect of putting out of mind $600 million for the development of a necessary military vehicle. Here are the numbers, Mr. President.

□ 2120

In fiscal year 1985, the budget authority for the Department of Defense was $286.8 billion. That was its peak—fiscal 1985, which of course began in calendar year 1984. The next year, fiscal 1986, budget authority dropped to $278.4 billion.

Mr. President, this is not an unimportant event. The decline in defense budget authority between 1985 and 1986 was the first such decline since 1970–71, at the effective end of the Vietnam war. We have had a nominal dollar increase every year since that time.

In 1970, our budget authority was 74.1. It dropped to 71.2 on 1971. We have now begun to decline again. This year, we rise a little bit from 1986 to $282 billion, but we are still not at the level of fiscal year 1985. The much

heralded return to a steady path—and I do not think I will be contradicted—which has left us in the 5-year budget projection of President Carter, in 1981, has come to an end, just as Senator HART and I and others said it would do. We asked during the initial debates on Gramm-Rudman-Hollings if that ought to be allowed, to the sometimes derisive responses that "surely nothing like that would happen," and yet that is exactly what has happened.

I am moved, Mr. President, and distressed to read the lead story on the front page of today's Los Angeles Times. I show it to the Presiding Officer, my good friend from South Dakota [Mr. ABDNOR]. It says:

> Congress okays 3 percent Pentagon spending cut. Votes $292 billion for defense. Avoids arms confrontation.

The story, by Sarah Fritz, a Times staff writer, datelined Washington, says:

> Congress stepped back from a confrontation over President Reagan's arms control policy in the wake of the Iceland summit when it passed a $292 billion defense spending bill that provides for a three percent real reduction in Pentagon spending.

Let us be clear—a 3-percent real reduction in Pentagon spending.

I skip a paragraph, and it goes on:

> The smaller Pentagon bill is the last hurrah for retiring Chairman Barry Goldwater, who noted that for the second consecutive year, Congress has failed to increase defense spending enough to account for inflation.

If I may repeat that paragraph, it ought to sink into the heads of each of us in this body:

> The smaller Pentagon bill is the last hurrah for retiring Chairman Barry Goldwater, who noted that for the second consecutive year, Congress has failed to increase defense spending even enough to account for inflation.

As I read that, I realize that when I first read the paragraph, I left out the word "even"—"even enough to account for inflation."

The Los Angeles Times quotes Senator GOLDWATER:

> We are cutting too much from defense. Now, let's not kid ourselves. Anyone who thinks we can go on cutting the defense budget to the point where we actually have declining growth rates of more than 3 percent a year without undermining our defense posture is indulging in a happy but unrealistic delusion. I have a terrible sense that we are returning to the irresponsible policies of the late 1970's.

I know that my dear friend will not mind if I say that it was the early and mid-1970's he was talking about. In the late 1970's, the present path of growth commenced and had continued until 2 years ago. I see that, with his unfailing sense of fairness and his complete grasp of these matters, he is nodding in agreement with me.

BARRY GOLDWATER, in his last statement to the Nation about defense, said this:

> We are cutting too much from defense. Now, let's not kid ourselves. Anyone who thinks we can go on cutting the defense budget to the point where we actually have declining growth rates of more than 3 percent a year without undermining our defense posture is indulging in a happy but unrealistic illusion. I have a terrible sense that we are returning to the irresponsible policies of the 1970's.

I edit it to leave out the word "late."

That is what is happening. That is what was destined to happen the moment the U.S. Senate and the House and the administration, in the early part of this decade, commenced to incur enormous deficits, commenced to spend moneys we did not have at levels never known in our history, and doubled the national debt in 5 years.

It took 39 Presidents to reach a $1 trillion debt, and in little more than one Presidential term we went to $2 trillion. Tomorrow, we will have to provide yet another increase in the debt ceiling, a debt now grown so large that it begins to immobilize the American Government.

The elemental numbers are that the Federal Government spends about 24 percent of the gross national product each year.

□ 2130

Our revenues are about 19 percent. On a long glidepath from the mid-1950's when the operating revenues of the Federal Government were at about 15.5 percent of GNP, they are now down to 12.6 percent.

The revenues of the Social Security Trust Funds have grown, and those are dedicated taxes for dedicated purposes, but what we have to run the rest of our Government with goes down and down.

The largest item in our budget today is the defense program. If you leave Social Security aside, the second largest item is debt service—interest payments on the $2 trillion debt.

It is now about $150 billion and gaining on the defense program. You could reach a point in time not 10 years out where we will be paying more in interest payments than we have in defense outlays. We will not be paying them to ourselves as we once did when the debt, no matter what its size, was owed to Americans.

It increasingly is owed abroad and increasingly will have to be paid abroad.

We have put this Nation on a course——

Mr. GRAMM. Mr. President, could we have order?

The PRESIDING OFFICER. The Senator is correct. There will be order in the Senate. Those who wish to visit will have to step into the Cloakroom.

There will be order in the Senate.

Mr. MOYNIHAN. Mr. President, the result of this fiscal policy and the extraordinary legislation we adopted in 1985—legislation which the well-known and well-regarded columnist George Will has called the most irresponsible act enacted by the Congress since the Missouri Compromise which led so inexorably to the Civil War—has been the decline of the defenses of the United States.

We have first in our outlays the defense budget, then, excluding Social Security which is funded by a dedicated tax, interest payments. As these interest payments grow, the defense budget has commenced to decline: down 3 percent in real terms this year, down for the first time in 1986 since 1971.

And that is the context in which this present crisis arises. It is in the context in which a dozen and a dozen dozen crises will arise in the years ahead of us.

Here is the particular and specific set of circumstances surrounding the present condition of the T-46 program.

The fiscal 1986 continuing resolution states that the Air Force has testified on the need to replace obsolete training aircraft operated by Training Command. Congress has responded to this need and ratified this requirement by providing over $600 million in T-46 research and development and procurement funds to date.

The conferees to the continuing resolution agreed to provide not only full funding for fiscal year 1986 T-46 procurement, except for a minor inflation adjustment, but also the $151 million needed to procure T-46 aircraft through fiscal year 1987.

The conferees expected the Air Force to budget for and procure the T-46 aircraft in fiscal year 1987 and in subsequent years to meet this critical and well-justified requirement.

Mr. President, there is not any sensible person who will doubt the need for a new trainer. The one we now train our Air Force pilots on was put in service 25 years ago. Since that time, a whole new generation of fighter craft have come on line—a whole new Air Force has developed. We are still training with a small plane developed in the 1950's. A new one has been developed. It will be in use until the 21st century and this plane, Mr. President, will be built. There is no question about what plane the Air Force wants, when it can make the choice to procure it. That is what happened after Gramm-Rudman.

Given the force reductions which we talked about on this side of the aisle hour after hour, day after day during the debate on Gramm-Rudman-Hollings, to the indifference or derision of many Members of this Chamber—and, as I recall, we got 24 votes in opposition—the next thing, less than 1 year later in August 1986, the Air Force was told to cut approximately $30 billion from the 5-year defense plan and $6

billion from the immediately present fiscal 1987 budget.

The Secretary of the Air Force indicated that the T-46 should be considered as a budget-cutting candidate. The air staff subsequently proposed that the program be eliminated.

This is budget cutting. This is not defense planning. This is Gramm-Rudman. This is not a realistic approach to what the Air Force needs and if the Air Force needs it the country needs it.

In September the 5-year defense plan carried the T-46 at zero. The program would be cut after producing just two prototypes.

The Air Training Command found that to continue with the T-37, even with modification, would yield high operating costs and pilot safety would remain in question.

Mr. President, my colleague from New York has spoken at length about the operating qualities of the existing trainer and the Senator from Arizona who has flown the new plane has said, as he has repeatedly said, "If I could only get a telephone call from the Secretary of the Air Force to build the plane, I will build it."

And anyone who suggests there is anything personal about his decision is going to have to answer to this Senator on the floor because there has never been a thing, in his unparalleled career in the U.S. Senate, that BARRY GOLDWATER has made a personal decision about national defense, not 1 minute, not one thing.

If there is one person in this Chamber who suggests as much let him stand right now and say so. I will say again if there is one person who thinks that BARRY GOLDWATER has made a personal decision about national defense let him stand. I look about me, Mr. President. I wish the cameras could look about me. There is not a person standing. There is not a person who would not be ashamed to do so. Indeed, this is a body that with pride would reject any such proposal.

But when Senator HART of Colorado said this was what was going to happen to the defense program in those long weeks at the end of 1985 he was right. It is happening now.

These are choices forced upon us by our indecision about budget matters. Indecision which has led to this incredible mass of the largest spending bill in history.

If you would drop it out of an Air Force plane, even pre-World War II, it could do great damage to most enemies just by virtue of its size. But it does most damage to us in its incomprehensibility and the need to make decisions such as this, which we know we should not be making.

Funding for the T-46 is an investment, an elemental investment in the training of pilots.

It has been on line for a good decade, and $600 million has been spent developing it. Only because of the rigidities this Congress has imposed on the Air Force are they now saying they have to have fuel and they have to have rations and they have to have maintenance and they will put this off until, they hope, a better day comes.

Is there anyone in this Chamber who would say to me that if in the aftermath of the Gramm-Rudman legislation the Air Force had not been told to cut $30 billion from its 5-year defense plan, they would not today be asking to continue the T-46 program as it was in place and indeed a decision already made, settled, done?

Is there anyone who wishes to say they would not?

Mr. GOLDWATER. Mr. President, will the Senator yield at that point?

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

Mr. GOLDWATER. What the Senator has just said is really the guts of this whole problem. The Air Force, as you know, cut the T-46 and when they started cutting the military budget the first one was $18 billion and then it was a few more billion and then it got up to $30 billion, and the Air Force at that time had to start reneging and they reneged on the T-46 for the simple reason and they stated it at that time they did not have the funds.

□ 2140

I honestly believe that is the trouble today. And, as the Senator has pointed out, we have had a minus 3-percent situation in the defense budget. And, as he correctly said, if we continue in this direction—and I do not see any reason to think it is going to stop, because we have too many people in the other body that think the military can take all the cuts. We cut $30 billion this year and in domestic programs added about $17 billion or $18 billion.

If we are going to start cutting, it has got to be across the board, not just cut the military, but cut everything. If we ever have the courage to do that, we can start balancing budgets and cutting down the deficit.

Mr. MOYNIHAN. I think once again the Senator from Arizona spoke the truth. He knows the language. He makes the point that the Congress has, of necessity, in the continuing resolution before us, cut $30 billion in defense budget authority from the requested amount from the Executive, from the President—$30 billion.

I have served in the executive branch of this Government when the entire defense budget was $50 billion and now we are getting to the time when we will have to cut it by that much. And, again, we knew this was coming. We ask: Is this a sensible decision? Is this an equitable one?

Now, I know, Mr. President, there is a question of parochialism, of State interests here. And I grant that there is. But might I make a statement here, because in the past, over the years, the Senator from Arizona has been very open and very generous-minded in this regard.

I represent New York State, as does my distinguished associate, Senator D'AMATO. For a very great many years, we have found ourselves sending a very great deal more money to Washington than we receive back. And the real source of disparity is in the defense area.

The State of New York, with some 7.5 percent, rounded, 8 percent of the population, never receives much more than 5 percent of the total defense outlays in the country. We had 5 percent in 1976 and 5.8 in 1977 and averaged 5.4 for the last second half of that decade. In the first half of this decade, it has gone down to 5.0 percent. In 1985, we dropped below the 5-percent mark, to 4.9 percent.

Our contracts are not all that bad. It is basically in salaries and wages where we lose out. In 1985, for example, the State of New York had 1.7 percent of all the defense salary and wages. We understand that in some measure. I mean, having fought three Pacific wars, over one, or if you like, two generations, we are going to have a great many naval bases in the Pacific, the climate being what it is. The Army installations tend to be in the sunnier parts of the world.

Although I can recall in 1977, not perhaps knowing whether I would be anticipating more than I knew, I remarked that if you looked at the deployment of the U.S. Army in the continental United States, the lower 48, you would think we were planning to fight the next war in Nicaragua. I said, "You know, there are parts of the world where sometimes it snows and even freezes."

I am happy to say the Army has responded by deploying the newly formed 10th Mountain Division in northern New York State.

We understand those things. But we also understand a decision being driven by budgetary considerations, all together extraneous to Air Force concerns or needs, a decision forced upon them, which would have the effect of closing an honored and valuable defense contractor on Long Island: Fairchild Republic. Its corporate headquarters, in this, the world of mergers, is now to be found in Virginia. The engine for this plane is built in Arizona.

And note in particular, Mr. President, that this engine is built in Arizona and the man doing what he feels to be his responsibility in this Chamber is from Arizona. That is another aspect of the qualities of BARRY GOLD-

WATER. I do not know another person in this body who would do it.

But we ask: Does it make sense? Are we letting our mistakes about budget and fiscal policy drive us into yet a further mistake with respect to defense policy? And we say we think we are.

I see my distinguished friend, the chairman of the Budget Committee, has risen. If he would like me to yield for a question, I would be happy to do so.

Mr. DOMENICI. I would be delighted if you would yield for a question without losing your right to the floor.

Mr. MOYNIHAN. I am happy to do so.

Mr. DOMENICI. Provided you permit a bit of liberty. My question may be slightly lengthy, maybe not more than 3 or 4 minutes. Is that all right with the Senator?

Mr. MOYNIHAN. His remarks can scarcely be more lengthy than the continuing resolution.

Mr. DOMENICI. Let me just say this. I do not want the Senator from New York to answer this question, but I doubt very much if the U.S. Senate or the U.S. House, with or without Gramm-Rudman-Hollings, would add $30 billion to the defense budget. What are we talking about? Gramm-Rudman-Hollings cut the defense budget $30 billion over the President's request. That is absolutely incredible.

Are we suggesting that, if we did not have the targets of Gramm-Rudman-Hollings, this year we would have given the President his entire budget request on defense? We have not done it since 1981. We did not do it in 1982. We did not do it in 1983. We did not do it in 1984. We did not do it in 1985.

As a matter of fact, over the course of recent years we cut about $190 billion in budget authority from the President's budget request on defense and Gramm-Rudman-Hollings was not even around. Gramm-Rudman-Hollings does not have anything to do with it.

Now let me talk about this document that we might drop from an airplane and would cause an explosion. Is it reasonable to say that there is something wrong with this bill because it is gigantic, 13 total appropriation bills. But there is nothing wrong with a tax bill that is three times as big, with 14 other things waiting around for us to read later, not driven by the Gramm-Rudman-Hollings budget processes. It is good legislation and we ought to pass it quickly and we can understand it. Why, everybody knows that is not the truth.

Let we tell you what I think about this continuing resolution. I think it is almost high time that the U.S. Congress have one appropriations bill. As a matter of fact, this is not the continuing resolution. This is an excellent experiment in one omnibus appropriations bill. And it is not bad. I tell you, it is not any worse than if you had 13 shots at it. As a matter of fact, it is better.

We got to put far less goodies on it. We did not amend it with everyone's requests, because those requests were out of order under the new budget procedures. If you offered them, you had to cut something. And we did not find one single one that succeeded, as I recall. As I recall, not one.

Now, let me tell the good Senator from New York and those others who have spoken about it is high time we cut the rest of Government, not only defense, let me tell you this: This is as fine a year in terms of fiscal responsibility—let me repeat—as fine a year in terms of fiscal responsibility across the board since when? Since 1955. Dwight David Eisenhower's balanced budget is the only time in the last 30 years that the entire budget of the United States grew less year after year than this budget.

This year, this budget will be negative 2.3 percent in terms of real growth. This means it will not even grow as much as inflation. Inflation is 2.9 percent and, in nominal terms, the budget this year will grow only about one-half of 1 percent.

Mr. MOYNIHAN. I wonder if the Senator would tell me what his question is.

Mr. DOMENICI. My question will be here soon, I say to my friend from New York.

Now let me tell you something else, and we will put this one in the record. For those who think this year we are only cutting defense, let me tell you this is a phenomenal year. In terms of the chairman of this Appropriations Committee, he deserves absolute, unequivocal congratulations.

□ 2150

Let me tell you what this budget does to the expenditures of the United States for those who think it is only defense that is getting cut. Let us just look at outlays. That is what counts. National defense will go up minus seven-tenths of 1 percent in real terms. It will not even be growing at the rate of inflation.

Entitlements, Mr. President, about which we have been complaining forever because they are growing so much. They have declined this year like defense; they are down 0.5 percent in real terms. That means that even with cost-of-living indexes built in, the reforms in these programs has caused entitlements to grow at less than inflation by a substantial margin.

What about the nondefense discretionary accounts? We hear everyone saying those appropriators ought to cut more. We hear the President of the United States saying when are they going to cut the budget? Well, let me tell you about it. These programs are declining 5.4 percent in real terms. Where is the growth? There is not any.

I repeat, the expenditures in this budget are as restrained as any budget since 1955. And is Gramm-Rudman-Hollings working? Well, it might be coincidence, but this is the first year when we had the threat of a sequestration and we achieved this restraint. What is the next best year we have had?

Mr. MOYNIHAN. Could I ask my friend once again what is his question?

Mr. DOMENICI. It will get there. Thirty seconds. My distinguished leader asks that I ought to ask you what the time is.

Mr. MOYNIHAN. It is 30 seconds from the time you are going to stop talking. [Laughter.]

Mr. DOMENICI. Now I have another question. Let me just finish this. Let us talk about the next best year in terms of growth reduction in the Federal budget. You might have said it was 1981 that the revolution began. That is not right. You might have said it was 1982. That is not right. You might have said 1985. We were really busting the bank when we should have enacted cuts. Not at all. In fiscal year 1985 Federal spending grew 7½ percent on the plus side in real terms. What year was that? The year preceding Gramm-Rudman-Hollings. You know what it grew the next year? One point seven percent and declining.

So for those who are wondering when will we reduce the expenditures enough to get a balanced budget, we will not unless you are prepared to cut defense of the United States by 10 percent. It only declined seven-tenths in real terms this year. You have to cut it to 10 percent or more. You will have to cut the real spending in the discretionary accounts not 5 percent, which we already did this year, but you will have to cut them 25 percent or more. Then you will have to take the entitlements, Social Security, Medicare, pensions, and you will have to cut real spending for these programs 15 percent. Then you will get a balanced budget.

Mr. MOYNIHAN. Five, four, three, two, one.

Mr. DOMENICI. All I had to say was I cannot believe anybody would seriously say we are in some kind of a jam over this trainer aircraft because of Gramm-Rudman-Hollings, unless they are prepared to say that we were really going to give the President everything in defense he has asked for. It was not in the cards. Whether you had Gramm-Rudman-Hollings or not, you had to begin to restrain the military.

Mr. MOYNIHAN. Mr. President, who has the floor?

Mr. DOMENICI. And they must make the choices here.

I thank the Senator for yielding.

Mr. MOYNIHAN. I thank him for his remarks. I hope, if we are going to hear talk about how we had to cut the defense budget, and we have cut this, we have cut that, and particularly the defense budget, these remarks will be remembered the next time it becomes the routine to return to the rhetoric of the last 30 years.

I listened to the Senator from New Mexico. Perhaps he would have the kindness to listen to me.

Mr. DOMENICI. Indeed.

Mr. MOYNIHAN. He is my friend, and he is my chairman. He said this. No growth in this budget. There most surely is. Interest payments continue to grow. They were $129 billion in fiscal 1985; they are about $143 billion in fiscal 1986; and the President's budget contemplated about $148 billion in 1987. I earlier rounded that to $150 billion—gaining on defense, passing everything else save Social Security. That is the result of borrowing $1 trillion from the Japanese and giving a party in the 1980's.

That is what we have done, Mr. President. The plain fact is the CBO-OMB estimate of the deficit for the coming year is about $154 billion. That includes the expectation that a reconciliation bill will still be passed by us tomorrow of perhaps another $13 odd billion, an expectation that is not necessarily to be consummated in which event we would be $25 billion over the nominal Gramm-Rudman target of $144 billion. That is scarcely discipline. But increasingly this body will find itself incapable of discipline without bankruptcy because we have borrowed so much it commences to consume us. All that talk about America, strong again, back on its feet, and here we are presiding over a real reduction in defense of 3 percent this year, following a reduction in fiscal year 1985, a very tiny increase in fiscal year 1986. We are going down that slope again which we heard so much about with such anguished concern from the other side of the aisle. But it goes on and on.

Now, what we said would happen is happening. All kinds of talk are going on about how it does not matter, or it might be a good thing. The Senator from Arizona said nothing of the sort. He did not explicitly say a statute was responsible but he said to me in my clear understanding, and I am always willing to be corrected by him, that if the Air Force had not been forced to take the $30 billion out of its programs, of course it would be asking to continue with this existing established sensible program—a program to replace a 25-year-old trainer plane with a new one. I mean, the most ordinary sensible thing, a matter in which six-tenths of a billion dollars has already been sunk.

We throw these numbers around, a billion, a trillion. there is a nice number, if you like, Mr. President. A billion minutes ago St. Peter was 17 years dead. A billion is a large number, and six-tenths of a billion is a large number as well.

We are asking, will we not, in fact, be throwing away the money? I think we will be just wasting a good portion of it.

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

Mr. MOYNIHAN. Mr. President, I am happy to yield for a question.

Mr. DECONCINI. Mr. President, I ask unanimous consent that I may ask the Senator from New York a question without this being considered my first speech on this subject matter.

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

Mr. DECONCINI. Mr. President, I ask my good friend from New York from what I hear went on, the Senator, my distinguished colleague from Arizona, says the defense budget has had to take a cut of some $30 billion.

Mr. MOYNIHAN. Yes, from the President's request.

Mr. DECONCINI. The Senator from New York has very, I think, eloquently explained that the Gramm-Rudman legislation had a lot to do with that, that this trainer and other national security needs might not be subject to the cuts we are having to witness today and go through this effort tonight in trying to restore as some of us believe we should.

My question to the Senator from New York is what would happen? Does the Senator from New York know what would happen if Gramm-Rudman caused this kind of cut next year or as I understand it might be even greater if we go into 1988 with Gramm-Rudman on the books and having to cut our national security any further?

□ 2200

Does the Senator care to comment on what he believes may happen to not only this trainer and other items that have been cut but other weapons systems as well?

Mr. MOYNIHAN. I am a little bit beyond my precise knowledge, but if we were to go down to the prescribed legal budget deficit which I understand to be $108 billion in this coming fiscal year—am I correct?

Mr. DECONCINI. I believe that is correct.

Mr. MOYNIHAN. To get to that deficit level from where I think we will be, with a deficit this year, which I estimate will come out to about $180 billion, I think we would have a simple solution to the question of the Senator from Arizona. He very accurately portrays that if we are going to follow Gramm-Rudman-Hollings next year, instead of eliminating the Air Force trainer we may simply eliminate the Air Force or some large fraction of it.

Mr. DECONCINI. If the Senator will yield, and I appreciate his answer, it seems to me if we are talking about a $70 billion cut across the board, the defense budget being $29 billion-some and likely to be at least that much requested and approved for 1988. You are talking about a heck of a chunk of money out of the defense and national security because of Gramm-Rudman.

Mr. MOYNIHAN. I see no alternative but to say that is my understanding. You know, we can talk about abolishing the Marine Corps and pick up, I am sorry to say, only about $8 billion that way. You have to start thinking, can we do without an Air Force? That may give us a hidden insight into the negotiations in Reykjavik.

Mr. President, the desperation of our public financing is on display—Mr. President, may we have order?

The PRESIDING OFFICER. Let us have order in the Senate so the Senator from New York can be heard.

Mr. MOYNIHAN. I thank my friend.

I want to say that the question we have before us, as the junior Senator from Arizona makes so clear in his question, is we have in small detail, an example of a problem we are going to have to deal with in massive proportions in the years ahead if we give ourselves a situation where we cannot raise revenues. We must pay ever increasing debt service, which is eating us alive, and the necessary and desirable functions of government—and I think they are distinguishable—will slowly commence to erode.

The senior Senator from Arizona pleaded on the front page of the Los Angeles Times this morning, "Do we realize what we are doing?"

He was not one to ask for a sufficient defense simply when he was in opposition. He has asked for a sufficient defense when he is in the majority, and he has been right. He has had to see this inexorable machine slicing away at matters no one in the defense establishment, no one in the Senate, would reasonably ask to happen had we not created this condition of necessity in our own financing. We created the crisis and we thought we could get out of it by having a machine do it. We thought, as the distinguished senior Senator from Maryland has said, we could do all these cuts by "anonymous consent," that a machine would do it, the Comptroller General would do it. When the Supreme Court said that was not constitutional, we were faced with the most bizarre proposition of all, which is that the President's Office of Management and Budget would do it. Everyone would do it but us, we who have the constitutional responsibility.

Instead, we find ourselves dealing with measures such as the one before us.

Mr. President, I do not think the Senate should behave this way.

Here we are, and our primary responsibility is the power of the purse. For 5 centuries and more, the British Parliament struggled with the King to establish the fact that only the place of representative government could levy taxes and authorize expenditures. In 5 years we want to give those powers back to the crown in the person and in the institution of the Executive on the eve of the 200th anniversary of the Constitution. We lapse into a passive attitude of letting somebody else make the decision which we are constitutionally sworn to make but institutionally seemingly incapable of doing.

Mr. DECONCINI. Will the Senator yield for another question?

Mr. MOYNIHAN. I am happy to yield.

Mr. DECONCINI. I ask unanimous consent that I may ask a question without the Senator's losing his right to the floor.

The Senator from New York is pointing out that what is going to happen, in accordance with what our discussion was in the last question I asked, if there would be as much as a $70 billion need to try to satisfy the budget reduction. But as this thing proceeds down the path that the legislation calls for, we may not make that judgment. That judgment may be made by the fact that there is certain legislation on the books now and that means that the cuts come, and in defense they will take the biggest share of the cuts because they are the biggest share of the budget, and you and I and the rest of this body will not have the chance to cut on that. Is that what the Senator is saying?

Mr. MOYNIHAN. I think it is the hope of many that we will not have to vote on it, but we can say somebody else did it. That is the day when this institution, the United States Senate, which has grown over two centuries, will have somebody else make the decision, and we will thus ignore our constitutionally sworn duty.

Mr. DECONCINI. This is the legislative balancing of the budget which we are into, which will cause, if it comes about, real damage to our national security just as I feel today the T-46 cut causing damage to our national security which the Senator said will cause us to talk about wiping out the whole Air Force or at least half of it. Where are we going to be? Somebody else will make that decision. I have to agree with the Senator from New York, that that is not what this Senator feels. I appreciate his comments.

Mr. MOYNIHAN. I appreciate the comments of the Senator from Arizona.

Mr. President, we do not believe in this decision. The Senate is capable of providing funds for operations we deem necessary, but we have put ourselves into a form of passive acceptance of rules that have no real relation to reality, and then we come up against absurdities, such as taking a clearly necessary event—the development after a quarter of a century of a new training plane for the Air Force, after having spent a half-billion dollars on it—and saying, "Stop, stop, we cannot afford it."

Of course you are going to do it. You have to do it. You cannot afford not to. The training of Air Force pilots is the beginning and the absolutely indispensable condition of having manned aircraft in the Air Force. Here we are saying we cannot do that.

How do we get to this condition? How do we get to the circumstance where, as the first time since 1970, we break all the steady momentum, the necessary progressivity of a defense budget restoration which does not have to go on forever—indeed, should not go on forever—but ought to reach a steady state somewhere in the 1990's? Exactly as we predicted, it is being broken in mid-flight, and the consequences are going to be great and they are going to be enduring, and they are going to be denied. I will repeat that. They are going to be grave, they are going to be enduring, and they are going to be denied.

I look forward to a new variety of friend here in the Chamber who having spent the first half of their political lives in trying to resolve inadequacies of the defense policies of others by not providing enough will now proclaim the superiorities of their own policies which provide even less.

That will not work. The time will come when we will ask, "what happened and who did it?"

What happened is that in this body, in this decade, probably irresponsible mistakes were made, or if mistakes were made and then recognized and not changed, a profoundly irresponsible decision was made not to rectify them.

We are all capable of mistakes. It is one thing that is necessary to do, to recognize them and acknowledge them, and not to glory in them.

□ 2210

None of us desire that, nor should we.

Mr. President, the hours pass. It is now 10 minutes after 10 p.m. I see the distinguished chairman of the Committee on Appropriations is on the floor. I wonder if there is any possibility that we shall have some resolution of this matter before we enter a situation which would be critical and which need not be if we simply take this amendment down. I would like it if, without losing my right to the floor, I could yield to the Senator from Oregon. He is engaged in colloquy with the distinguished minority leader.

Seeing the Senator from Oregon, the chairman of the Committee on Appropriations, on the floor, I ask if, without yielding my right to the floor, he had some thoughts as to how we might proceed.

Mr. HATFIELD. Mr. President, I respond to the Senator from New York by saying that we are hopeful that in the next few minutes, we shall have an alternative, an option to what we are now considering.

Mr. MOYNIHAN. Well, that is good news. I hope by "the next few minutes," he means something like an hour and 47. Otherwise we will find ourselves in the sad situation of seeing the official existence of the U.S. Government expire, which we would not want to have happen and should not have happen and we will not have happen. We should be able to work this out. I have not known of a situation in which the Senator from Oregon was involved, in which there were strongly-held views, conflicting views which he could not somehow accommodate us.

The Senator from Mississippi, the master of that great art of accommodation, is present. So while we wait for that resolution, I would like to speak just a little more about this particular airplane that we are discussing.

The U.S. Air Force, in the most normal and professional manner, in the 1970's began to anticipate the need for a trainer to succeed the one which had begun development in the mid-1950's. The next generation trainer would be deployed in the late 1980's and early 1990's and would be in service well into the next century. The concerns about the T-37 were genuine, were professional. At that time, Lt. Gen. Kelly Burke, who was Deputy Chief of Staff of the Air Force for Research, Development, and Acquisition, testified before the House, in 1981, that "it worries us because we cannot predict with great precision when an aircraft is going to wear out."

The Senator from Arizona earlier today pointed out that aircraft have a long life and they have many more replacement parts than we do as individuals. Even so, there are stress factors, metal fatigue and things of that kind which are so structural to the aircraft that you did not want to put——

Mr. STENNIS. Mr. President, will the Senator yield to me so I can make a brief announcement?

Mr. MOYNIHAN. Yes, with great happiness, without yielding my right to the floor.

Mr. STENNIS. I thank the Senator.

Mr. President, we have had quite a few calls. Senators are waiting. Several have been waiting here concerning the pending matter, this bill that we have up. I think there has been some

progress made in getting some adjustments made there. If we could get to those now, I believe it would pay off very generously in time saved and sound suggestions, too. Of course, that would be handled by the Senator from Oregon. It would be well if we could send out the word.

Mr. MOYNIHAN. If I could say to my friend, the distinguished Senator from Mississippi, I understand the chairman of the Appropriations Committee to say that a resolution seemed about to be at hand and he will have something to say shortly, in a few minutes.

Mr. STENNIS. Well, he is making a trial run on something.

Mr. MOYNIHAN. Whatever he wishes, I shall be happy to accommodate him.

Mr. STENNIS. I thank the Senator and I thank the Senator from Oregon, too.

He is tied up in another way now.

Mr. MOYNIHAN. Well, that is what he is supposed to be doing.

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

Mr. MOYNIHAN. Mr. President——

Mr. DOLE addressed the Chair.

Mr. GRAMM addressed the Chair.

(Mr. DANFORTH assumed the chair.)

Mr. MOYNIHAN. Mr. President, I yielded the floor to the Senator from Mississippi. I am happy to yield to the majority leader.

Has the majority leader asked that I yield for a question without losing my right to the floor?

Mr. STENNIS. I thought they were ready, Mr. President, but it seems like it will take a little more time.

Mr. DOLE. I did not want to make a speech, but I do want to make a comment.

Mr. MOYNIHAN. Without losing my right to the floor——

Mr. DOLE. I wanted to announce that we are making progress. It is fairly hard to discern that. We are not certain ourselves, but we are going to announce that we are making progress.

I do believe we have worked out reconciliation. That has been completed now. So that is the remaining biggie that we have. I understand it has been worked out with Senator PACKWOOD and the chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, the Presiding Officer, and others. We appreciate that.

It is my understanding that we are going to set this aside at the appropriate time and try to go to other matters in disagreement. That is progress. I want my colleagues who may be wondering what we are doing and why we have not voted to know that it is still the intention of the chairman and the ranking member that we wind this up. I indicate that they are right. At midnight, the Government technically will close. That would not really happen, I guess, until tomorrow noon, according to OMB.

I am also of the impression that the House does not intend to send us any more short continuing resolutions. They can change their minds, but they would like to go home tomorrow. That is a funny thing, but they would like to go home. They may be a little reluctant to send us another extension. I hope we keep that in mind while we continue here.

I thank the Senator from New York.

Mr. MOYNIHAN. I thank the majority leader. The Senator from New York has four tickets for the World Series on Saturday night and two sons and one daughter-in-law. He would like, if not to go home, at least to go to New York for that occasion.

The Presiding Officer indicates—it is not the first indication I have had in these last few days—that perhaps he might be there or perhaps he would like provisions that make it possible for him to be there.

All these things are possible. As a matter of fact, the sooner we resolve this matter in favor of New York, the more box seats there are going to be available without any question. How can we doubt that a grateful State will want to respond with the courtesies that we like to think we are associated with and on occasion, we are?

I am holding the floor, Mr. President, in the absence of my colleague from New York and my colleague from Arizona—not for any purpose of prolonging this discussion, but rather awaiting the expected proposal.

Mr. GRAMM. Will the Senator yield?

Mr. MOYNIHAN. The Senator will not yield. He will yield for a question without losing his right to the floor.

Mr. GRAMM. Mr. President, the question is that there are others waiting to speak on this subject; I would like to ask unanimous consent that at the end of those speeches, the Senator have the floor back unless he just wants to control the floor for the remainder of the debate.

Mr. MOYNIHAN. The Senator wants to control the floor until his colleague from New York comes to the floor and his colleague from Arizona, who has not spoken and I do believe wishes to speak and is preparing himself to do that.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. MOYNIHAN. I am happy to do that.

□ 2220

Mr. HATFIELD. The Senator indicated a while ago that he was waiting for perhaps another option to what we are now considering. I would inform the Senator if he would be willing to yield the floor for a unanimous-consent request——

Mr. MOYNIHAN. I am happy to.

Mr. HATFIELD.—I think we can then move to other matters that we must dispose of. Then we will return to this subject where the Senator from Arizona, the Senator from New York, and others have agreed to his procedure and will be in a position to make their comments.

Mr. MOYNIHAN. Mr. President, how can I propound a unanimous-consent request that would be in accordance with the distinguished chairman's proposal?

Mr. President, I ask unanimous consent that if I now could yield the floor so that we move to other amendments in disagreement, I believe that would be the case—is that the intention of the chairman?

Mr. GRAMM. Reserving the right to object——

Mr. MOYNIHAN. Why does the good Senator from Texas not let me make the request and then decide whether he wishes to object?

Mr. HATFIELD addressed the Chair.

Mr. MOYNIHAN. Mr. President, could I just continue?

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. HATFIELD. Will the Senator from New York yield to me to make a unanimous-consent request?

Mr. MOYNIHAN. Without yielding my right to the floor subsequently.

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

Mr. HATFIELD. Mr. President, before I ask unanimous consent, let me briefly explain what the overall strategy is at this time so as to explain more clearly why I am asking for this unanimous consent.

The Senate has acted on one of the five amendments that are in disagreement with the House of Representatives. We have four remaining, obviously. It is the expectation that we can dispose of these other amendments rather expeditiously, perhaps having at least one rollcall on one of these amendments that has been requested, and we can get that out of the way very quickly.

And then we would return to where we are now, but in returning to where we are now in terms of the current amendment No. 59, as amended by Senator ABDNOR, as amended by Senator GOLDWATER, that vehicle would remain then the vehicle for I know of two amendments, one by the Senator from Ohio, one by the Senator from Montana, and there may be others that I am not aware of who want to offer an amendment, and then that vehicle would be open at appropriate times as we dispose of one of those amendments to the amendment that is pending presently.

So that no one is being precluded from offering an amendment on other matters, they will have that vehicle.

As you know—Mr. President, if I am not correct, please correct me—no Senator is in a position at this moment to offer an amendment on another subject because the Goldwater pending amendment has to be disposed of, which then opens the Abdnor amendment for another secondary amendment from any other Senator.

So we are not foreclosing any possibility of other amendments being considered. But it would, I think, perhaps assist the body as a whole to move to some kind of a compromise and to resolve the issue at hand.

Mr. MOYNIHAN. Could I ask my friend just one question.

Mr. HATFIELD. Yes.

Mr. MOYNIHAN. Would it be possible for him to include in his request that at that point when the amendments in disagreement other than the one we are on have been disposed of, and we return to the one we are on, that I receive the floor again for the simple purpose basically of seeing that my friends from Arizona and New York have an opportunity to speak as well?

Mr. HATFIELD. Mr. President, I would include that but at the same time I might observe, if I am not mistaken, that there would be no way to accommodate Senators unless the Senator from South Dakota [Mr. ABDNOR] withdrew his amendment, which would bring down the Goldwater amendment, opening up everything.

Mr. METZENBAUM. Will the Senator from Oregon make the assurance to the Senator from Ohio which I previously had indicated that there will be a vehicle, if the Senator from South Dakota will not be taking down his amendment, so that those of us who wish to offer an amendment will not be put in the position——

Mr. HATFIELD. The Senator from South Dakota has assured me that he is going to insist on his amendment until it is disposed of in one way or another.

Mr. DECONCINI. Will the Senator from Oregon yield for a question?

Mr. HATFIELD. Yes, I will be happy to yield for a question.

Mr. DECONCINI. It is my understanding that the Senator is proposing a unanimous-consent request that we set aside the Abdnor-Goldwater amendments?

Mr. HATFIELD. In effect yes, but I am going to phrase it using amendment No. 59, which is the basic amendment that is being used as the vehicle on which to build these others.

Mr. DECONCINI. Now, if that is accomplished, then if the Senator from Ohio or someone else wanted to offer amendments they could do it to these other amendments in disagreement; is the Senator from Arizona correct?

Mr. HATFIELD. That is correct.

Mr. DECONCINI. And therefore if we come back to amendment No. 59 and the Goldwater and Abdnor amendments, we will just be where we are now?

Mr. HATFIELD. When we come back we are still on the Goldwater amendment that will have to be disposed of one way or another.

Mr. MOYNIHAN. And the Senator from New York will then assume the floor once again.

Mr. DECONCINI. Yes. If the Senator will yield for a further question, if I understand the request of the Senator from New York as part of the unanimous consent, when we come back on amendment No. 59 and the Goldwater-Abdnor amendments, the Senator from New York would then be recognized to have the floor and it would still be considered his first speech on the subject matter?

Mr. MOYNIHAN. This Senator has no desire other than to assure his colleague from New York and his colleague from Arizona have an opportunity to speak.

Mr. EXON. Reserving the right to object——

Mr. HATFIELD. I have not made the request yet.

Mr. EXON. Does the Senator want me to state what my potential objection would be if he does propound it?

Mr. HATFIELD. I would be happy to hear the Senator, yes.

Mr. EXON. Since 4 o'clock this afternoon this place has been tied up, and I do not know that anyone is trying to prevent either one of the Senators from New York or the Senator from Arizona or any other Senator from pursuing their interests, legitimate or otherwise, to protect defense industries in their States. But I do feel, since no one has been trying to shut off debate that I know of, that it might be appropriate to recognize some of us who do not happen to agree with their proposition. And I for one may object to the fact that we have been going through a charade here for a long, long time that is about to be successful in the Senate caving in, as it usually does, to unnecessary spending in defense or somewhere else, and I therefore, when the Senator propounds the request, may object only from the standpoint that the Senator from New York be recognized again for his stated purpose of attempting to turn the floor back to only one side of this debate. So I thought it would only be appropriate for this Senator to state what his objection might be.

Mr. HATFIELD. I thank the Senator for alerting me to the problem.

Mr. President, I will suggest the following, and I would ask hopefully that the Senator from New York would understand that we are trying to expedite as well as protect every other Senator and not deny any Senator any right.

Mr. President, I will propound two unanimous consent agreements hoping that one of them will be accepted, and I am asking for the most generous outpouring of spirit on all sides to the issue.

First, I would propose a unanimous consent request that we temporarily lay aside the amendment No. 59, which is the current amendment under consideration, as amended, in order that we may proceed to the consideration of the other remaining amendments, and that the Senator from New York be recognized when we return to the current amendment that would be set aside.

Mr. GRAMM. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I will object, because I have waited here for 2 hours to have an opportunity to respond while others are not being denied a voice. Nobody is trying to bring this to a vote, but I think for Members to continually hold the floor while entering into long dialogs, blaming the death of this poor plane that nobody wants to buy on Gramm-Rudman, is simply an abuse of the basic courtesies that we extend to each other.

□ 2230

I am going to object until I have simply 5 minutes—not 2 hours. I do not need equal time to respond to that argument. But until I have 5 minutes to respond to these arguments, I intend to object to all unanimous-consent requests, and I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATFIELD. Mr. President, I now propound a second unanimous-consent request, and that is that we temporarily lay aside the current pending amendment, No. 59, in order that we may proceed to the consideration of the other amendments in disagreement.

Mr. GRAMM. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATFIELD. I have not included the Senator from New York's——

Mr. GRAMM. Will the Senator restate the request?

Mr. HATFIELD. I asked that we temporarily lay aside the pending amendment, No. 59, in order that we may proceed to the consideration of other amendments.

Mr. GRAMM. I withdraw my objection.

Mr. MOYNIHAN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MOYNIHAN. I can make another proposal. The Senator from

Texas asked that he have 5 minutes to speak on this matter. I would be happy, when we return to the subject, if I can have the floor, and the first thing I would do is ask unanimous consent to yield to the Senator from Texas 5 minutes or as much time as he wants.

Mr. HATFIELD. Mr. President, I ask unanimous consent that we temporarily lay aside the pending amendment, No. 59, in order that we may proceed to the consideration of other amendments; and that when we return to No. 59, the Senator from New York will be recognized as having the floor, and immediately thereafter the Senator from Texas would be yielded to by the Senator from New York for 15 minutes.

Mr. GRAMM. Five.

Mr. HATFIELD. Five minutes for his presentation.

Mr. MOYNIHAN. Without the Senator from new York losing his right to the floor.

Mr. HATFIELD. Certainly.

Mr. RUDMAN. Mr. President, reserving the right to object——

Mr. EXON. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. I object to an arrangement of any type. We are here now on a matter of importance to the country—this continuing resolution. I have heard a number of people on this floor—and I say this with the utmost respect to the Democratic leader, whom I respect deeply—talk about the management of time, and I have agreed with him on occasions, probably to his surprise.

Nobody is filibustering this except the Senators from New York. No one is saying that they cannot speak all night and into next week. But, quite frankly, I will take my direction from the President of the United States Senate, not from any Senator, as to my right to speak.

I do not like unanimous-consent agreements at this time of night, at the last hour, in which I have to, at my sufference, get permission to speak. So I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from New York.

Mr. HATFIELD. Mr. President, I have run out of unanimous-consent requests.

Mr. MOYNIHAN. Mr. President, we have had observations about the defense program generally in the course of this conversation this evening. I had not thought I would be speaking. I have not anything further to say in anticipation of a resolution which the Senator from Oregon said may shortly be at hand, and indeed it may shortly be at hand, in any event. But I would like to go back to a statement——

The PRESIDING OFFICER. If the Senator will withhold, the Senate is not in order.

The Senator from New York.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I should like to go back, in the spirit of conciliation and in the hope that we are going to see this resolved, to make the point I did at the outset, when I referred to my comments yesterday in this regard. I said:

> I hate to say something I have not ever said before, I believe, on the floor, but the continuing resolution must pass as it is now written, or I cannot anticipate the time when we will be able to vote.

That was certainly a good faith statement. In 10 years in this Chamber, I have never made one such, that I am aware of, and I find myself speaking now, not out of any desire to prolong these activities—rather, in the expectation that we may be resolving them—but because others have made it impossible.

I see that the Senator from Arizona is on his feet.

Mr. President, would I be correct in saying that if I yield the floor—there are three Senators on their feet now. I would hope that I might allow the Senator from Arizona—not me allow; only the Presiding Officer can do that—but I hope he can contribute to the debate. He has been patiently waiting for that to be done since 9 o'clock.

In the expectation that goodwill will prevail, I yield the floor.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. I thank the Chair, and I thank the distinguished Senator from New York.

Mr. President, let me say that I have been here for an hour. The Senator from New York has been discussing at great length the economic problems this country faces as it relates to the T-46, but also as it relates to our defense.

Although I missed the first few minutes of the Senator's remarks, I compliment him on what he has laid out, because I think it has been excellent to understand why we are even discussing tonight the T-46.

Mr. President, amid all the discussions and debate on the T-46, there are several facts about which there can be no disagreement.

First, the Air Force needs something other than the present fleet of T-37 aircraft to meet its current and future training requirements.

Second, a new generation trainer was defined by the Air Force some years ago. A competition was held, and the Fairchild T-46 emerged the clear winner. That was the competitive basis, not sole sourcing. I should note here that the GAO substantiated the results of that competition.

Third, while there is no dispute about the facts that the program in its formative stage was troubled in a number of ways, it is equally clear that the manufacturer has taken the steps necessary to eliminate virtually all those problems.

Fourth, there can be no doubt that the economics of the situation—from the standpoint of what the American taxpayer has already invested in this program, as well as the projected relative costs of the alternatives—all reflect favorably on the T-46.

I would like to elaborate on each of these facts, the sum total of which is an extremely compelling argument for the T-46.

First, the Air Force needs something other than the T-37 trainer.

In 1979, during the Carter administration, the Deputy Secretary of Defense approved an Air Force Mission Element Needs Statement for a T-37 replacement. The replacement was accorded a "priority no less than equal to producing the prime weapons systems."

The T-37 shortcomings cited in this and subsequent Air Force statements remain valid today as they did in 1979. Among the deficiencies was that it was approaching the end of the service life with pilot shortfalls after 1988—that is a short time away, a year and a half—excessive fuel consumption and related high costs; excessive maintenance and related high costs; engine noise double that allowed by Federal aviation regulations; limited range/endurance; limited to altitudes below 25,000 feet; limited weather capability. That plane has flown in Arizona a lot. We do not have a lot of problem weather, but our pilots once they are trained have to be able to fly in all kinds of weather; out dated instruments. That was part of the problem of the T-46.

I would submit to my colleagues that one could hardly make a more comprehensive case for replacing the T-37 than that needs study that was put out by the Air Force and demonstrated that the T-37 had seen its day.

Second, the T-46 won the original competition for the replacement and is still the answer to the Air Force's training problem.

This statement requires no further elaboration, for as the following remarks illustrate, the T-46 test flight program is proving that the next generation trainer aircraft can meet or exceed the ambitious programmatic and financial goals set out for it. To quote the Congressional Research Service: "Both the Fairchild T-46 and Cessna T-37 are twin-engine, two-seat aircraft with the side-by-side seating of instructor and trainee that the Air Force prefers (in contrast to the Navy's preference for front-to-back

tandem seating). The T-46 has better performance capabilities than the T-37 in many respects, with a range of 1,200 vs. 500 nautical miles (nmi), a speed of 430 vs. 370 knots (nmi/h), and an altitude of 47,000 vs 25,000 ft. In contrast to the T-37, the T-46 has a pressurized cockpit, improved ejector-seats and avionics, and the more fuel-efficient F-109 turbofan engine."

Third, manufacturer has overcome early difficulties. The Commander of the Air Force Contracts Management Division, Major General Weiss, recently noted the remarkable turnaround at Fairchild. This resulted from substantial corrective actions—actions initiated and paid for by the company. They did a number of things and let me cite some of them. They appointed a new company president. Any of us who have been involved in the corporate world know that is not something easy and is just not done overnight. They promoted capable employees from within that have proven capacity.

They sold $200 million of corporate assets to provide needed funds so that they could complete this project. They invested over $110 million of stockholder funds in the T-46A Program. They devoted additional personnel to the program. They ordered new major equipment. They improved communication from top to middle management.

They increased skills and supervisory training.

They increased emphasis on quality, safety, and schedule rather than on cost only.

They strengthened the quality analysis function as part of their whole operation.

This effort resulted in a highly favorable GAO report on the T-46 Program. Defense News boldly stated: "A Clean Bill of Health." Defense Daily headlined, "GAO Issues Favorable Report on Fairchild T-46A." The New York Times reported, "Cancelled Jet Apparently Met Air Force Needs."

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

Mr. DECONCINI. I am happy to yield.

Mr. HATFIELD. The Senator will yield so I might propound a unanimous-consent request without the Senator losing his right to the floor and following the request and the approval of the request hopefully the Senator would have the floor back.

Mr. DECONCINI. And still be considered as a first speech on the subject matter.

Mr. HATFIELD. Yes.

Mr. President, I propose the unanimous-consent request that we temporarily lay aside the amendment No. 59, the current pending amendment, in order that we may take up other amendments on this list and that when we return to No. 59, the Senator from Arizona will have his right to the floor.

Mr. DECONCINI. The Senator will add, it will still be considered the first speech on the subject matter.

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

Mr. HATFIELD. I thank the Chair and I thank the Senator from Arizona.

AMENDMENT IN DISAGREEMENT TO NO. 117

The PRESIDING OFFICER. The clerk will report the next amendment in disagreement.

The assistant legislative clerk read as follows:

The House recedes and concurs with an amendment in Senate amendment No. 117.

The amendment of the House to Senate amendment numbered 117 follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 117 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 155. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended (without regard to the limitation contained in section 102) by adding at the end the following new subsection:

"(j)(1) Any rig, platform, or other structure used for the purpose of exploration or production of oil and gas on the Outer Continental Shelf south of 49 degrees North latitude shall be built—

"(A) in the United States either by a United States chartered corporation or a joint venture between a United States chartered corporation and a foreign corporation, with at least 50 percent of total man hours expended in the United States; and

"(B) from articles, materials, or supplies at least 50 percent of which by cost, shall have been mined, produced, or manufactured, as the case may be, in the United States.

"(2) The requirements of paragraph (1) shall not apply to any rig, platform, or other structure which was built, which is being built, or for which a building contract has been executed, or on before October 1, 1986, and shall expire with respect to any rig, platform, or other structure for which either the bidding or award process has commenced on or after September 30, 1991.

"(3) The Secretary may waive—

"(A) the requirement in paragraph (1)(B) whenever the Secretary determines that 50 percent of the articles, materials, or supplies for a rig, platform, or other structure cannot be mined, produced, or manufactured, as the case may be, in the United States; and

"(B) the requirement in paragraph (1)(A) upon application, with respect to any classification of rigs, platforms, or other structures on a specific lease, when the Secretary determines that at least 50 percent of such classification, as calculated by number and by weight, which are to be built for exploration or production activities under such lease will be built in the United States in compliance with the requirements of paragraph (1)(A).".

Mr. HATFIELD. No. 117 is the amendment the Chair will report.

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. Mr. President, I am now going to ask for a unanimous consent request that has been again cleared by the major parties, that we have a 20-minute time agreement to be equally divided under control of the two managers of the bill on No. 117 that has now been reported and that I would then respond to the request of a number of Senators that we have a rollcall vote.

I would have that as a vote on a tabling motion that I will make on No. 117.

So that is the strategy that I want to lay out clearly for any questions before I either propound the request for time agreement or before I would make a motion to table the amendment.

Mr. HEINZ. Mr. President, will the Senator yield for an inquiry?

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

Mr. HEINZ. Is amendment 117 the so-called Buy America offshore drilling amendment?

Mr. HATFIELD. The Senator from Pennsylvania is correct and had informed me that he wished to be heard on the amendment. That is why I am asking for the 20 minutes to be equally divided.

Mr. HEINZ. It is the view of the Senator from Pennsylvania that that should be an adequate amount of time, and I appreciate the Senator from Oregon's willingness to insure that there be a vote on it. I appreciate that very much.

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

Mr. HATFIELD. I am happy to yield for a question. I am going to hold the floor.

Mr. CHAFEE. Yes; a question. I would like to be heard in opposition to the Buy America amendment for, say, 4 minutes.

Is there going to be adequate time for that in what you propounded, 20 minutes equally divided?

Mr. HATFIELD. Mr. President, 20 minutes equally divided, and I do not want to cut anyone off and, again, if we have to go further, certainly we would have unanimous consent to go further than that time. I would not object to a reasonable extension.

Mr. CHAFEE. Except you cannot guarantee that you are going to get the unanimous consent. I notice that the Presiding Officer would like some time. It is my understanding he would like 4 minutes also.

Mr. McCLURE. He said 3.

Mr. HATFIELD. We seek to accommodate everyone in a reasonable timeframe to be heard on this subject. We will not make that broad invitation for Senators to come to be heard.

Mr. CHAFEE. We are not expecting an invitation this time of night. People

have to move forward. Those who are awake are welcome to be heard.

Mr. HATFIELD. Did the Senator understand, too, there will be a motion to table this and the yeas and nays will be asked on that?

Mr. CHAFEE. May I understand this: the motion will be to table the House amendment.

As long as the manager will guarantee this Senator 4 minutes, the Presiding Officer 3 minutes, that is all I have to ask at this time.

Mr. HATFIELD. I will guarantee only within the timeframe I will be allowed under the unanimous-consent request. If a Senator at that point wanted to extend it he will ask his own unanimous consent and I will not object to 2 or 3 minutes more.

Mr. CHAFEE. Let me ask of this manager, does he know of any other Senator who desires to speak?

Mr. HATFIELD. No.

I only know of one Senator, the Senator from Ohio, who I believe wanted to say a few words briefly.

Mr. CHAFEE. In opposition or favor of the amendment?

Mr. METZENBAUM. If I speak it will be in the same side as the Senator from Pennsylvania, in favor if I speak.

Mr. CHAFEE. Who is going to control the time in opposition?

Mr. HATFIELD. The two managers of the bill, or I would be very happy to designate Senators on my side, the Senator from Ohio, for instance, who wants to speak in favor of it, the Senator from Rhode Island wants to speak in opposition. I will be very happy to suggest to the manager that we yield the time to those two Senators.

Mr. CHAFEE. Mr. President, I ascertain that there are two others.

Mr. HATFIELD. A half hour. Would the Senator feel more confortable with a half hour equally divided?

Mr. CHAFEE. I think that would be fair.

Mr. DOMENICI. Good.

Mr. HATFIELD. Now, Mr. President, if there is no other request about this unanimous consent request on time.

□ 2250

Mr. President, I now ask unanimous consent that on amendment No. 117 debate the limited to one-half hour, equally divided between the Senator from Ohio and the Senator from Rhode Island.

Mr. BYRD. Mr. President, I reserve the right to object. I do have a Senator who wishes to speak. We are trying to inquire as to how much time he would want. Therefore, I could not agree at the moment. I wonder if the Senator could proceed and be speaking on the amendment.

AMENDMENT IN DISAGREEMENT TO NO. 124

Mr. HATFIELD. Mr. President, may I ask unanimous consent to temporarily lay aside No. 117 in order that we may go to No. 4 on the list?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The House recedes and concurs with an amendment to Senate amendment No. 124.

The text of the amendment in disagreement follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 124 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

TITLE VI—METROPOLITAN WASHINGTON AIRPORTS

SEC. 6001. SHORT TITLE.

This title may be cited as the "Metropolitan Washington Airports Act of 1986".

SEC. 6002. FINDINGS.

The Congress finds that—

(1) the two federally owned airports in the metropolitan area of Washington, District of Columbia, constitute an important and growing part of the commerce, transportation, and economic patterns of the Commonwealth of Virginia, the District of Columbia, and the surrounding region;

(2) Baltimore/Washington International Airport, owned and operated by the State of Maryland, is an air transportation facility that provides service to the greater Metropolitan Washington region together with the two federally owned airports, and timely Federal-aid grants to Baltimore/Washington International Airport will provide additional capacity to meet the growing air traffic needs and to compete with other airports on a fair basis;

(3) the Federal Government has a continuing but limited interest in the operation of the two federally owned airports, which serve the travel and cargo needs of the entire Metropolitan Washington region as well as the District of Columbia as the national seat of government;

(4) operation of the Metropolitan Washington Airports by an independent local agency will facilitate timely improvements at both airports to meet the growing demand of interstate air transportation occasioned by the Airline Deregulation Act of 1978 (Public Law 95-504; 92 Stat. 1705);

(5) all other major air carrier airports in the United States are operated by public entities at the State, regional, or local level;

(6) any change in status of the two airports must take into account the interest of nearby communities, the traveling public, air carriers, general aviation, airport employees, and other interested groups, as well as the interests of the Federal Government and State governments involved;

(7) in recognition of a perceived limited need for a Federal role in the management of these airports and the growing local interest, the Secretary has recommended a transfer of authority from the Federal to the local/State level that is consistent with the management of major airports elsewhere in the Nation;

(8) an operating authority with representation from local jurisdictions, similar to authorities at all major airports in the United States, will improve communications with local officials and concerned residents regarding noise at the Metropolitan Washington Airports;

(9) a commission of congressional, State, and local officials and aviation representatives has recommended to the Secretary that transfer of the federally owned airports be as a unit to an independent authority to be created by the Commonwealth of Virginia and the District of Columbia; and

(10) the Federal interest in these airports can be provided through a lease mechanism which provides for local control and operation.

SEC. 6003. PURPOSE.

(a) IN GENERAL.—It is therefore declared to be the purpose of the Congress in this title to authorize the transfer of operating responsibility under long-term lease of the two Metropolitan Washington Airport properties as a unit, including access highways and other related facilities, to a properly constituted independent airport authority created by the Commonwealth of Virginia and the District of Columbia, in order to achieve local control, management, operation, and development of these important transportation assets.

(b) INCLUSION OF BWI NOT PRECLUDED.—Nothing in this title shall be construed to prohibit the Airports Authority and the State of Maryland from entering into an agreement whereby Baltimore/Washington International Airport may be made part of a regional airports authority, subject to terms and conditions agreed to by the Airports Authority, the Secretary, the Commonwealth of Virginia, the District of Columbia, and the State of Maryland.

SEC. 6004. DEFINITIONS.

In this title—

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) AIRPORTS AUTHORITY.—The term "Airports Authority" means the Metropolitan Washington Airports Authority, a public body to be created by the Commonwealth of Virginia and the District of Columbia consistent with the requirements of section 6007.

(3) EMPLOYEES.—The term "employees" means all permanent Federal Aviation Administration personnel employed on the date the lease under section 6005 takes effect by the Metropolitan Washington Airports, an organization within the Federal Aviation Administration.

(4) METROPOLITAN WASHINGTON AIRPORTS.—The term "Metropolitan Washington Airports" means Washington National Airport and Washington Dulles International Airport.

(5) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(6) WASHINGTON DULLES INTERNATIONAL AIRPORT.—The term "Washington Dulles International Airport" means the airport constructed under the Act entitled "An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770), and includes the Dulles Airport Access Highway and Right-of-way, including the extension between the Interstate Routes I-495 and I-66.

(7) WASHINGTON NATIONAL AIRPORT.—The term "Washington National Airport" means the airport described in the Act entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686).

SEC. 6005. LEASE OF METROPOLITAN WASHINGTON AIRPORTS.

(a) AUTHORITY TO ENTER INTO LEASE.—The Secretary is authorized to enter into a lease of the Metropolitan Washington Airports with the Airports Authority for a 50-year term and to enter into any related agreement necessary for the transfer of authority and property to the Airports Authority. Authority to enter into a lease and agreement under this section shall lapse two years after the date of the enactment of this title.

(b) PAYMENTS.—

(1) LEASE PAYMENTS.—The lease shall provide for the Airports Authority to pay to the general fund of the Treasury annually an amount, computed using the GNP Price Deflator, to equal $3,000,000 in 1987 dollars. The Secretary and the Airports Authority may renegotiate the level of lease payments attributable to inflation costs every ten years.

(2) RETIREMENT OBLIGATIONS.—

(A) DISCONTINUED SERVICE.—Not later than one year after the lease takes effect, the Airports Authority shall pay to the Treasury of the United States, to be deposited to the credit of the Civil Service Retirement and Disability Fund, an amount determined by the Office of Personnel Management to represent the actual added costs incurred by the Fund due to discontinued service retirement under section 8336(d)(1) of title 5, United States Code, of employees who elect not to transfer to the Airports Authority.

(B) UNFUNDED LIABILITY.—Not later than one year after the lease takes effect, the Airports Authority shall pay to the Treasury of the United States, to be deposited to the credit of the Civil Service Retirement and Disability Fund, an amount determined by the Office of Personnel Management to represent the present value of the difference between (i) the future cost of benefits payable from the Fund and due the employees covered under section 6008(e) of this title that are attributable to the period of employment following the date the lease takes effect, and (ii) the contributions made by the employees and the Airports Authority under section 6008(e). In determining the amount due, the Office of Personnel Management shall take into consideration the actual interest such amount can be expected to earn when invested in the Treasury of the United States.

(c) MINIMUM TERMS AND CONDITIONS.—The Airports Authority shall agree, at a minimum, to the following conditions and requirements in the lease:

(1) OPERATION OF AIRPORTS AS A UNIT.—The Airports Authority shall operate, maintain, protect, promote, and develop the Metropolitan Washington Airports as a unit and as primary airports serving the Metropolitan Washington area.

(2) AIRPORT PURPOSES.—The real property constituting the Metropolitan Washington Airports shall, during the period of the lease, be used only for airport purposes. For the purposes of this paragraph, the term "airport purposes" means a use of property interests (other than a sale) for aviation business or activities, or for activities necessary or appropriate to serve passengers or cargo in air commerce, or for nonprofit, public use facilities. If the Secretary determines that any portion of the real property leased to the Airports Authority pursuant to this Act is used for other than airport purposes, the Secretary shall (A) direct that appropriate measures be taken by the Airports Authority to bring the use of such portion of real property in conformity with airport purposes, and (B) retake possession of such portion of real property if the Airports Authority fails to bring the use of such portion into a conforming use within a reasonable period of time, as determined by the Secretary.

(3) AIP REQUIREMENTS.—The Airports Authority shall be subject to the requirements of section 511(a) of the Airport and Airway Improvement Act of 1982 and the assurances and conditions required of grant recipients under such Act as of the date the lease takes effect. Notwithstanding section 511(a)(12) of such Act, all revenues generated by the Metropolitan Washington Airports shall be expended for the capital and operating costs of such airports.

(4) CONTRACTS.—In acquiring by contract supplies or services for an amount estimated to be in excess of $200,000, or awarding concession contracts, the Airports Authority shall obtain, to the maximum extent practicable, full and open competition through the use of published competitive procedures. By a vote of seven members, the Airports Authority may grant exceptions to the requirements of this paragraph.

(5) CONTINUATION OF REGULATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), all regulations of the Metropolitan Washington Airports (14 C.F.R. part 159) shall become regulations of the Airports Authority on the date the lease takes effect and shall remain in effect until modified or revoked by the Airports Authority in accordance with procedures of the Airports Authority.

(B) EXCEPTIONS.—The following regulations shall cease to be in effect on the date the lease takes effect:

(i) section 159.59(a) of title 14, Code of Federal Regulations (relating to new-technology aircraft); and

(ii) section 159.191 of title 14, Code of Federal Regulations (relating to violations of Federal Aviation Administration regulations as Federal misdemeanors).

(C) OPERATIONS.—The Airports Authority may not increase or decrease the number of instrument flight rule takeoffs and landings authorized by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport on the date of the enactment of this Act and may not impose a limitation after the date the lease takes effect on the number of passengers taking off or landing at Washington National Airport.

(6) TRANSFER OF RIGHTS, LIABILITIES, AND OBLIGATIONS.—

(A) IN GENERAL.—Except as specified in subparagraph (B) of this paragraph, the Airports Authority shall assume all rights, liabilities, and obligations (tangible and incorporeal, present and executory) of the Metropolitan Washington Airports on the date the lease takes effect, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, and litigation relating to such rights and obligations, regardless whether judgment has been entered, damages awarded, or appeal taken. Before the date the lease takes effect, the Secretary shall also assure that the Airports Authority has agreed to cooperate in allowing representatives of the Attorney General and the Secretary adequate access to employees and records when needed for the performance of functions related to the period before the effectiveness of the lease. The Airports Authority shall assume responsibility for the Federal Aviation Administration's Master Plans for the Metropolitan Washington Airports.

(B) EXCEPTIONS.—The procedure for disputes resolution contained in any contract entered into on behalf of the United States before the date the lease takes effect shall continue to govern the performance of the contract unless otherwise agreed to by the parties to the contract. Claims for monetary damages founded in tort, by or against the United States as the owner and operator of the Metropolitan Washington Airports, arising before the date the lease takes effect shall be adjudicated as if the lease had not been entered into.

(C) PAYMENTS INTO EMPLOYEES' COMPENSATION FUND.—The Federal Aviation Administration shall remain responsible for reimbursing the Employees' Compensation Fund, pursuant to section 8147 of title 5, United States Code, for compensation paid or payable after the date the lease takes effect in accordance with chapter 81 of title 5, United States Code, with regard to any injury, disability, or death due to events arising before such date, whether or not a claim has been filed or is final on such date.

(D) COLLECTIVE BARGAINING RIGHTS.—The Airports Authority shall continue all collective bargaining rights enjoyed before the date the lease takes effect by employees of the Metropolitan Washington Airports.

(7) AUDITS.—The Comptroller General of the United States may conduct periodic audits of the activities and transactions of the Airports Authority in accordance with generally accepted management principles, and under such rules and regulations as may be prescribed by the Comptroller General. Any such audit shall be conducted at such place or places as the Comptroller General may deem appropriate. All books, accounts, records, reports, files, papers, and property of the Airports Authority shall remain in possession and custody of the Airports Authority.

(8) CODE OF ETHICS.—The Airports Authority shall develop a code of ethics and financial disclosure in order to assure the integrity of all decisions made by its board of directors and employees.

(9) RESTRICTION ON USE OF CERTAIN REVENUES.—Notwithstanding any other provision of law, no landing fee imposed for operating an aircraft or revenues derived from parking automobiles—

(A) at Washington Dulles International Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington National Airport; or

(B) at Washington National Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington Dulles International Airport.

(10) GENERAL AVIATION FEES.—The Airports Authority shall compute the fees and charges for landing general aviation aircraft at the Metropolitan Washington Airports on the same basis as the landing fees for air carrier aircraft, except that the Airports Authority may require a minimum landing fee not in excess of the landing fee for aircraft weighing 12,500 pounds.

(11) OTHER TERMS.—The Secretary shall include such other terms and conditions applicable to the parties to the lease as are consistent with and carry out the provisions of this title.

(d) SUBMISSION TO CONGRESS.—The Secretary shall submit the lease entered into under this section to Congress. The lease may not take effect before the passage of (1) 30 days, or (2) 10 days in which either

House of Congress is in session, whichever occurs later.

(e) ENFORCEMENT OF LEASE PROVISIONS.—The district courts of the United States shall have jurisdiction to compel the Airports Authority and its officers and employees to comply with the terms of the lease. An action may be brought on behalf of the United States by the Attorney General, or by any aggrieved party.

SEC. 6006. CAPITAL IMPROVEMENTS, CONSTRUCTION, AND REHABILITATION.

(a) IMPROVEMENTS.—It is the sense of the Congress that the Airports Authority should—

(1) pursue the improvement, construction, and rehabilitation of the facilities at Washington Dulles International Airport and Washington National Airport simultaneously; and

(2) to the extent practicable, cause the improvement, construction, and rehabilitation proposed by the Secretary to be completed at both of such Airports within 5 years after the earliest date on which the Airports Authority issues bonds under the authority required by section 6007 of this title for any such improvement, construction, or rehabilitation.

(b) SECRETARY'S ASSISTANCE.—The Secretary shall assist the three airports serving the Washington, D.C. metropolitan area in planning for operational and capital improvements at those airports and shall accelerate consideration of applications for Federal financial assistance by whichever of the three airports is most in need of increasing airside capacity.

SEC. 6007. AIRPORTS AUTHORITY.

(a) POWERS CONFERRED BY VIRGINIA AND THE DISTRICT OF COLUMBIA.—The Airports Authority shall be a public body corporate and politic, having the powers and jurisdiction as are conferred upon it jointly by the legislative authority of the Commonwealth of Virginia and the District of Columbia or by either of the jurisdictions and concurred in by the legislative authority of the other jurisdiction, but at a minimum meeting the requirements of this section.

(b) PURPOSE.—The Airports Authority shall be—

(1) independent of the Commonwealth of Virginia and its local governments, the District of Columbia, and the Federal Government; and

(2) a political subdivision constituted solely to operate and improve both Metropolitan Washington Airports as primary airports serving the Metropolitan Washington area.

(c) GENERAL AUTHORITIES.—The Airports Authority shall be authorized—

(1) to acquire, maintain, improve, operate, protect, and promote the Metropolitan Washington Airports for public purposes;

(2) to issue bonds from time to time in its discretion for public purposes, including the purposes of paying all or any part of the cost of airport improvements, construction, and rehabilitation, and the acquisition of real and personal property, including operating equipment for the airports, which bonds—

(A) shall not constitute a debt of either jurisdiction or a political subdivision thereof; and

(B) may be secured by the Airports Authority's revenues generally, or exclusively from the income and revenues of certain designated projects whether or not they are financed in whole or part from the proceeds of such bonds;

(3) to acquire real and personal property by purchase, lease, transfer, or exchange, and to exercise such powers of eminent domain within the Commonwealth of Virginia as are conferred upon it by the Commonwealth of Virginia;

(4) to levy fees or other charges; and

(5) to make and maintain agreements with employee organizations to the extent that the Federal Aviation Administration is so authorized on the date of enactment of this title.

(d) CONFLICT-OF-INTEREST PROVISIONS.—The Airports Authority shall be subject to a conflict-of-interest provision providing that members of the board and their immediate families may not be employed by or otherwise hold a substantial financial interest in any enterprise that has or is seeking a contract or agreement with the Airports Authority or is an aeronautical, aviation services, or airport services enterprise that otherwise has interests that can be directly affected by the Airports Authority. Exceptions to requirements of the preceding sentence may be made by the official appointing a member at the time the member is appointed, if the financial interest is fully disclosed and so long as the member does not participate in board decisions that directly affect such interest. The Airports Authority shall include in its code developed under section 6005(c)(8) of this title the standards by which members will determine what constitutes a substantial financial interest and the circumstances under which an exception may be granted.

(e) BOARD OF DIRECTORS.—

(1) APPOINTMENT.—The Airports Authority shall be governed by a board of directors of 11 members, as follows:

(A) five members shall be appointed by the Governor of Virginia;

(B) three members shall be appointed by the Mayor of the District of Columbia;

(C) two members shall be appointed by the Governor of Maryland; and

(D) one member shall be appointed by the President with the advice and consent of the Senate.

The Chairman shall be appointed from among the members by majority vote of the members and shall serve until replaced by majority vote of the members.

(2) RESTRICTIONS.—Members shall (A) not hold elective or appointive political office, (B) serve without compensation other than for reasonable expenses incident to board functions, and (C) reside within the Washington Standard Metropolitan Statistical Area, except that the member appointed by the President shall not be required to reside in that area.

(3) TERMS.—Members shall be appointed to the board for a term of 6 years, except that of members first appointed—

(A) by the Governor of Virginia, 2 shall be appointed for 4 years and 2 shall be appointed for 2 years;

(B) by the Mayor of the District of Columbia, 1 shall be appointed for 4 years and 1 shall be appointed for 2 years; and

(C) by the Governor of Maryland, 1 shall be appointed for 4 years.

(4) REMOVAL OF PRESIDENTIAL APPOINTEES.—A member of the board appointed by the President shall be subject to removal by the President for cause.

(5) REQUIRED NUMBER OF VOTES.—Seven votes shall be required to approve bond issues and the annual budget.

(f) BOARD OF REVIEW.—

(1) COMPOSITION.—The board of directors shall be subject to review of its actions and to requests, in accordance with this subsection, by a Board of Review of the Airports Authority. Such Board of Review shall be established by the board of directors and shall consist of the following, in their individual capacities, as representatives of users of the Metropolitan Washington Airports:

(A) two members of the Public Works and Transportation Committee and two members of the Appropriations Committee of the House of Representatives from a list provided by the Speaker of the House;

(B) two members of the Commerce, Science, and Transportation Committee and two members of the Appropriations Committee of the Senate from a list provided by the President pro tempore of the Senate; and

(C) one member chosen alternately from members of the House of Representatives and members of the Senate, from a list provided by the Speaker of the House or the President pro tempore of the Senate, respectively.

The members of the Board of Review shall elect a chairman. A member of the House of Representatives or the Senate from Maryland or Virginia and the Delegate from the District of Columbia may not serve on the Board of Review.

(2) TERMS.—Members of the Board of Review appointed under subparagraphs (A) and (B) of paragraph (1) shall be appointed for terms of six years, except that of the members first appointed, one member under each of subparagraphs (A) and (B) shall be appointed for a term of two years and one member under each of subparagraphs (A) and (B) shall be appointed for a term of four years. Members of the Board of Review appointed under subparagraph (C) shall be appointed for terms of two years. A vacancy in the Board shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term.

(3) PROCEDURES.—The Board of Review shall establish procedures for conducting its business. The procedures may include requirements for a quorum at meetings and for proxy voting. The Board shall meet at least once each year and shall meet at the call of the chairman or 3 members of the Board. Any decision of the Board of Review under paragraph (4) or (5) shall be by a vote of 5 members of the Board.

(4) DISAPPROVAL PROCEDURE.—

(A) SUBMISSION REQUIRED.—An action of the Airports Authority described in subparagraph (B) shall be submitted to the Board of Review at least 30 days (or at least 60 days in the case of the annual budget) before it is to become effective.

(B) ACTIONS AFFECTED.—The following are the actions referred to in subparagraph (A):

(i) the adoption of an annual budget;

(ii) the authorization for the issuance of bonds;

(iii) the adoption, amendment, or repeal of a regulation;

(iv) the adoption or revision of a master plan, including any proposal for land acquisition; and

(v) the appointment of the chief executive officer.

(C) 30-DAY DISAPPROVAL PERIOD.—If the Board of Review does not disapprove an action within 30 days of its submission under this paragraph, the action may take effect. If the Board of Review disapproves any such action, it shall notify the Airports

Authority and shall give reasons for the disapproval.

(D) EFFECT OF DISAPPROVAL.—An action disapproved under this paragraph shall not take effect. Unless an annual budget for a fiscal year has taken effect in accordance with this paragraph, the Airports Authority may not obligate or expend any money in such fiscal year, except for (i) debt service on previously authorized obligations, and (ii) obligations and expenditures for previously authorized capital expenditures and routine operating expenses.

(5) REQUEST FOR CONSIDERATION OF OTHER MATTERS.—The Board of Review may request the Airports Authority to consider and vote, or to report, on any matter related to the Metropolitan Washington Airports. Upon receipt of such a request the Airports Authority shall consider and vote, or report, on the matter as promptly as feasible.

(6) PARTICIPATION IN MEETINGS OF AIRPORTS AUTHORITY.—Members of the Board of Review may participate as nonvoting members in meetings of the board of the Airports Authority.

(7) STAFF.—The Board of Review may hire two staff persons to be paid by the Airports Authority. The Airports Authority shall provide such clerical and support staff as the Board may require.

(8) LIABILITY.—A member of the Board of Review shall not be liable in connection with any claim, action, suit, or proceeding arising from service on the Board.

(g) CERTAIN ACTIONS TO BE TAKEN BY REGULATION.—Any action of the Airports Authority changing, or having the effect of changing, the hours of operation of or the type of aircraft serving either of the Metropolitan Washington Airports may be taken only by regulation of the Airports Authority.

(h) LIMITATION ON AUTHORITY.—If the Board of Review established under subsection (f) is unable to carry out its functions under this title by reason of a judicial order, the Airports Authority shall have no authority to perform any of the actions that are required by paragraph (f)(4) to be submitted to the Board of Review.

SEC. 6008. FEDERAL EMPLOYEES AT THE METROPOLITAN WASHINGTON AIRPORTS.

(a) EMPLOYEE PROTECTION.—Not later than the date the lease under section 6005 takes effect, the Secretary shall ensure that the Airports Authority has established arrangements to protect the employment interests of employees during the 5-year period beginning on such date. These arrangements shall include provisions—

(1) which ensure that the Airports Authority will adopt labor agreements in accordance with the provisions of subsection (b) of this section;

(2) for the transfer and retention of all employees who agree to transfer to the Airports Authority in their same positions for the 5-year period commencing on the date the lease under section 6005 takes effect except in cases of reassignment, separation for cause, resignation, or retirement;

(3) for the payment by the Airports Authority of basic and premium pay to transferred employees, except in cases of separation for cause, resignation, or retirement, for 5 years commencing on the date the lease takes effect at or above the rates of pay in effect for such employees on such date;

(4) for credit during the 5-year period commencing on the date the lease takes effect for accrued annual and sick leave and seniority rights which have been accrued during the period of Federal employment by transferred employees retained by the Airports Authority; and

(5) for an offering of not less than one life insurance and three health insurance programs for transferred employees retained by the Airports Authority during the 5-year period beginning on the date the lease takes effect which are reasonably comparable with respect to employee premium cost and coverage to the Federal health and life insurance programs available to employees on the day before such date.

(b) LABOR AGREEMENTS.—

(1) ADOPTION.—The Airports Authority shall adopt all labor agreements which are in effect on the date the lease under section 6005 takes effect. Such agreements shall continue in effect for the 5-year period commencing on such date, unless the agreement provides for a shorter duration or the parties agree to the contrary before the expiration of that 5-year period. Such agreements shall be renegotiated during the 5-year period, unless the parties agree otherwise. Any labor-management negotiation impasse declared before the date the lease takes effect shall be settled in accordance with chapter 71 of title 5, United States Code.

(2) CONTINUATION.—The arrangements made pursuant to this section shall assure, during the 50-year lease term, the continuation of all collective bargaining rights enjoyed by transferred employees retained by the Airports Authority.

(c) RIGHTS OF TERMINATED EMPLOYEES.—Any transferred employee whose employment with the Airports Authority is terminated during the 5-year period beginning on the date the lease under section 6005 takes effect shall be entitled, as a condition of any lease entered into in accordance with section 6005 of this title, to rights and benefits to be provided by the Airports Authority that are similar to those such employee would have had under Federal law if termination had occurred immediately before such date.

(d) ANNUAL AND SICK LEAVE.—Any employee who transfers to the Airports Authority under this section shall not be entitled to lump-sum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the Airports Authority with the unused annual leave balance on the date the lease under section 6005 takes effect, along with any unused sick leave balance on such date. During the 5-year period beginning on such date, annual and sick leave shall be earned at the same rates permitted on the day before such date, and observed official holidays shall be the same as those specified in section 6103 of title 5, United States Code.

(e) CIVIL SERVICE RETIREMENT.—Any Federal employee who transfers to the Airports Authority and who on the day before the date the lease under section 6005 takes effect is subject to subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title shall, so long as continually employed by the Airports Authority without a break in service, continue to be subject to such subchapter or chapter, as the case may be. Employment by the Airports Authority without a break in continuity of service shall be considered to be employment by the United States Government for purposes of such subchapter and chapter. The Airports Authority shall be the employing agency for purposes of such subchapter and chapter and shall contribute to the Civil Service Retirement and Disability Fund such sums as are required by such subchapter and chapter.

(f) SEPARATED EMPLOYEES.—An employee who does not transfer to the Airports Authority and who does not otherwise remain a Federal employee shall be entitled to all of the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Airports Authority of work substantially similar to that performed for the Federal Government.

(g) ACCESS TO RECORDS.—The Airports Authority shall allow representatives of the Secretary adequate access to employees and employee records of the Airports Authority when needed for the performance of functions related to the period before the date the lease under section 6005 takes effect. The Secretary shall provide the Airports Authority access to employee records of transferring employees for appropriate purposes.

SEC. 6009. RELATIONSHIP TO AND EFFECT OF OTHER LAWS.

(a) OTHER LAWS.—In order to assure that the Airports Authority has the same proprietary powers and is subject to the same restrictions with respect to Federal law as any other airport except as otherwise provided in this title, during the period that the lease authorized by section 6005 of this title is in effect—

(1) the Metropolitan Washington Airports shall be considered public airports for purposes of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2201 et seq.); and

(2) the Acts entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686), "An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770), and "An act making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes", approved October 9, 1940 (54 Stat. 1030), shall not apply to the operation of the Metropolitan Washington Airports, and the Secretary shall be relieved of all responsibility under those Acts.

(b) INAPPLICABILITY OF CERTAIN LAWS.—The Metropolitan Washington Airports and the Airports Authority shall not be subject to the requirements of any law solely by reason of the retention by the United States of the fee simple title to such airports or by reason of the authority of the Board of Review under subsection 6007(f).

(c) POLICE POWER.—The Commonwealth of Virginia shall have concurrent police power authority over the Metropolitan Washington Airports, and the courts of the Commonwealth of Virginia may exercise jurisdiction over Washington National Airport.

(d) PLANNING.—

(1) IN GENERAL.—The authority of the National Capital Planning Commission under section 5 of the Act of June 6, 1924 (40 U.S.C. 71d) shall not apply to the Airports Authority.

(2) CONSULTATION.—The Airports Authority shall consult—

(A) with the National Capital Planning Commission and the Advisory Council on Historic Preservation before undertaking any major alterations to the exterior of the main terminal at Washington Dulles International Airport, and

(B) with the National Capital Planning Commission before undertaking development that would alter the skyline of Washington National Airport when viewed from the opposing shoreline of the Potomac River or from the George Washington Parkway.

(e) OPERATION LIMITATIONS.—

(1) HIGH DENSITY RULE.—The Administrator may not increase the number of instrument flight rule takeoffs and landings authorized for air carriers by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport on the date of the enactment of this title and may not decrease the number of such takeoffs and landings except for reasons of safety.

(2) ANNUAL PASSENGER LIMITATIONS.—The Federal Aviation Administration air traffic regulation entitled "Modification of Allocation: Washington National Airport" (14 C.F.R. 93.124) shall cease to be in effect on the date of the enactment of this title.

SEC. 6010. AUTHORITY TO NEGOTIATE EXTENSION OF LEASE.

The Secretary and the Airports Authority may at any time negotiate an extension of the lease entered into under section 6005(a).

SEC. 6011. SEPARABILITY.

Except as provided in section 6007(h), if any provision of this title or the application thereof to any person or circumstance, is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 6012. NONSTOP FLIGHTS.

PERIMETER RULE.—An air carrier may not operate an aircraft nonstop in air transportation between Washington National Airport and another airport that is more than 1,250 statute miles away from Washington National Airport.

Mr. HATFIELD. Mr. President, I move that the Senate concur in the House amendment to Senate amendment No. 124.

Mr. METZENBAUM. Mr. President, would the Senator be good enough to tell us what that is?

Mr. HATFIELD. This is the amendment on the Dulles-National Airport.

Mr. BYRD. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Oregon.

Mr. BYRD. Would the Senator put in a quorum so that we can get a Senator on the phone?

Mr. HATFIELD. Mr. President, may I then ask unanimous consent to temporarily lay aside No. 124? I so make that request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report the next amendment.

The assistant legislative clerk read as follows:

The House insists on its disagreement with Senate Amendment No. 23.

Mr. HATFIELD. Mr. President, No. 23 is the amendment dealing with a cap on farm payments that was insisted on by the House. I now move that the Senate recede from its amendment which would then, in effect, establish the House position.

The PRESIDING OFFICER. The question is on the motion.

Mr. CHAFEE. Could I ask the manager of the bill, what are these caps? What is the limitation?

Mr. HATFIELD. The limitation is $250,000.

Mr. CHAFEE. Per recipient?

Mr. HATFIELD. That is correct.

Senator COCHRAN is the chairman of the subcommittee.

Mr. COCHRAN. Mr. President, if the Senator will yield, the chairman has accurately answered. It is payment limitation put on the CR by the House of Representatives.

Mr. CHAFEE. Are there any provisions preventing people from setting up all sorts of, if you want to call them, dummy corporations so that they can get multiple payments of $200,000 or one-quarter of a million dollars? Any limitation?

Mr. COCHRAN. There is no limitation except that for individual payment benefit purposes there is a $50,000 payment limitation that is a matter of law in the 1985 farm bill. This amendment does not seek to amend that in any respect. An entity is defined as a person or a partnership or a corporation.

So, to respond to the Senator's question, this amendment does not seek to reform or impose any new restrictions or redefine entities entitled to those benefits.

Mr. ANDREWS. Would my colleague yield?

Mr. COCHRAN. The Senator from Rhode Island has the floor.

Mr. CHAFEE. I am not sure I understand. Currently in the law there is a $50,000 payment limitation for individuals.

Mr. COCHRAN. The Senator is correct.

Mr. CHAFEE. For cotton, wheat payments. What is the $250,000 cap?

Mr. COCHRAN. If the Senator will yield, this is a limitation on payments defined very elaborately by the House in an amendment that we recommended be rejected and has been rejected all along by the Senate. It is loosely defined. And I will say to the Senator, if he is looking for an amendment to support that would seek to restrict, as I know he would like to restrict, these payments, this is not it. It has been estimated that this is going to reduce the cost of the Farm Program by about $26 million.

So you can see, by comparison of that figure with the total cost of $30 billion, that there is not going to be much restriction on payments.

Mr. CHAFEE. It is pretty loose.

Mr. ANDREWS. Would my colleague yield?

Mr. CHAFEE. Yes.

Mr. ANDREWS. What we are trying to do, however, is to get away from these multimillion dollar payments we are reading about in the papers. As my colleague, the Senator from Mississippi points out, this in no way changes the $50,000 payment limitation for payments that we now have. It does put a $250,000 overall cap on the assemblage of payments that have been giving us all these newspaper headlines. I think it would do us a lot of good in the farm country to make sure that these abuses that have been written up time after time cease, which is the reason we hope we can get this amendment agreed to.

Mr. CHAFEE. Thank you.

The PRESIDING OFFICER. The question is on the motion.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Nebraska.

Mr. EXON. Could I inquire as to what the motion is?

The PRESIDING OFFICER. The motion is to recede from the Senate amendment No. 23.

Mr. EXON. Mr. President, I see that the filibuster has paid off once again. I have been on this floor for most of the last 5 or 6 hours. I am going to take about 10 or 15 minutes to explain to the Senate why they are making the wrong move.

It is always clear, is it not, that if we can just hang on long enough and talk long enough about what we need to do to take care of a certain constituency, we can get the job done in the U.S. Senate, regardless of what it does to the defense program.

Now, there have been speeches made on this floor that the U.S. Air Force has indicated that if we buy this airplane for them, the airplane we are talking about here, that all kinds of negotiations are going on about, that if we buy this airplane, what they are going to do is they would put it in the boneyard; they would not use it.

Well, when we get back to this matter of the trainer airplane, I would hope that the Members of the U.S. Senate would understand that under the constraints that we are going to be under in the years to come on the whole matter of procurement for the Air Force, the Navy, the Army, the Marines, and the other departments of our armed services, we are going to have to start exercising some restraint on how they do things. If we go ahead and cave in on the T-46, as we seem to be moving toward slowly but surely, we are going to continue to authorize the use of three trainer planes for beginning pilots. The T-37 and the T-46 for the Air Force, the latter the Air Force says they do not want, do not need, will not use and put in a boneyard if we buy it for them. Meanwhile, the Navy goes merrily ahead with their T-46, the Navy trainer.

We are talking about the basic training aircraft the pilots of our services go into in the initial instance. It seems to me that what we should do when we get back to the trainer matter—and I throw this in now for consideration for those who are making the compromise that we are or are not going to accept—that this would be a good time for us to say no. This would be a good time for us to say, "Let us not do anything more with the T-46 now. Let us direct the Pentagon, the Secretary of Defense, the Secretaries of the various services, to come forth within the next 6 months and agree on one trainer aircraft, one trainer aircraft, that could be used for the beginning trainer of all of the various services." What is wrong with that?

□ 2300

I do not think there is anything wrong with it except the Congress has not had the courage to stand up to the various demands of the various services. They all want a trainer aircraft built only to their specifications. I do not know what aircraft Tom Cruise used in portraying that great pilot in the popular movie today called Top Gun, but whatever that trainer was, it must have been a pretty good one if they turn out the Tom Cruises of the world to serve the national defense needs of the United States of America.

I would simply hope that we would realize and recognize that because of the various pressures that are brought to bear in the Congress that we have had great evidence of here tonight to protect every defense industry in every State in the Union, we have so proliferated our defense expenditures and our procurement policies, both as a Congress to the extent that even the executive branch and the Pentagon itself cannot stop any kind of a program whether they want it or not, and whether they say they are going to send it right to the boneyard, if I can believe, and I do believe, my distinguished friend from Arizona, the chairman of the Armed Services Committee.

I would simply say, Mr. President, that this is the time maybe for a historic turn in the U.S. Senate.

If we could have a little order, Mr. President.

This is a time, Mr. President, when we turn to the consideration of this trainer aircraft for the U.S. Senate to take a historic move and say enough is enough is enough. We do not need three trainer aircraft for the training of beginning pilots. We only need one. And you, Pentagon, come forth and tell us which one you want. Maybe it is the T-46. I do not have any serious feelings about that one way or the other. Maybe the Air Force will change their mind and decide not to send it to the boneyard.

Maybe we should put whatever trainer we come up with and under whatever specification, put it up for bid to all of the possible contractors so we can get the cost down. If we could do that, we would save billions and billions and billions of taxpayers' dollars because not only would we buy the airplanes cheaper, but we would not have to buy the expensive simulators, the hundreds of simulators that we have to train the pilots on the simulators before they get into the three different trainers we have.

Mr. President, I simply say that I think the discussion on the T-46 tonight indicates that there is hardly any kind of a defense program that we cannot develop enough constituency for and if we cannot develop the constituency for it we can always handle it through a filibuster in the U.S. Senate, supposedly the most deliberative body in the world.

I will not take any more time now. I have been patiently waiting to make these brief remarks that I hope a few people will listen to. While the discussions are going on to hurry through this, and get the CR passed which I agree is necessary, I hope maybe for just once, maybe just once, Mr. President, we would say let us not go ahead and authorize a T-46 for expenditures when the measure was not authorized by the authorizing committee; namely, the Armed Services Committee.

I yield the floor.

The PRESIDING OFFICER. The question is on the motion.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

HOUSE AMENDMENT TO SENATE AMENDMENT NO. 124

Mr. HATFIELD. Mr. President, I ask unanimous consent that we temporarily lay aside the current pending amendment No. 23 in order that we may go to amendment No. 124 which has now been cleared on both sides of the aisle.

Mr. BYRD. Yes. Mr. President, that amendment a little while ago I had to clear with two Senators. That has been done. So there is no objection.

Mr. METZENBAUM. Mr. President, would the Senator tell us——

Mr. HATFIELD. This is the airport one.

Mr. METZENBAUM. I thank the Senator.

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

The clerk will report.

The assistant legislative clerk read as follows:

The House recedes and concurs with Senate Amendment No. 124, with an amendment.

Mr. HATFIELD. Mr. President, I move the Senate concur in the House amendment to Senate amendment No. 124.

The motion was agreed to.

Mr. DOLE. I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT OF THE HOUSE TO SENATE AMENDMENT NO. 23

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of amendment No. 23.

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

The clerk will report.

Mr. HATFIELD. Mr. President, would the Chair state the motion that is now pending on this amendment at the current moment?

The PRESIDING OFFICER. The clerk will report the amendment first.

The assistant legislative clerk read as follows:

The House insists upon its disagreement with the Senate amendment No. 23.

The PRESIDING OFFICER. The Senator's motion is to recede from the Senate amendment.

Mr. HATFIELD. I thank the Chair.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, parliamentary inquiry: Is the motion to recede to the House position?

The PRESIDING OFFICER. It is a motion to recede from the Senate position.

Mr. HARKIN. Mr. President, I rise in support of the motion to recede to the House position in this matter of the payment limitation of $250,000 which the House had put on, a cap on payments to farmers under the present farm bill.

I want to point out, Mr. President, that under the existing payment cap and listening to part of the debate in my office, there is some confusion as to why there is a $50,000 payment limitation, and yet farmers are getting upwards of maybe 50——

Mr. STENNIS. Mr. President, the Senate is not in order.

The PRESIDING OFFICER (Mr. STEVENS). The Senator is correct. The Senate is not in order.

The Senator will suspend.

The Senator from Iowa.

Mr. HARKIN. Mr. President, thank you.

There is some confusion I think among those who have not been around the farm program for a long time as to why we have a $50,000 payment limitation, and yet, we read stories about large farms getting as much as $15 or $20 million in payments. That is because in the last farm bill that passed the Congress a number of provisions were added which opened a lot of loopholes to get around the $50,000 payment limitation. I would just read a list of those again just to inform Members as to how they get around these payment limitations.

The following payments that go to farmers that are not included in the $50,000 payment limitation: deficiency payments and land diversion payments, No. 1; disaster payments, No. 2; the so-called Findley payments, No. 3; inventory reduction payments, No. 4; gain from marketing loans, No. 5; loan deficiency payments, No. 6; resource adjustment and public access payments, No. 7; also No. 8, nonrecourse loans.

Mr. President, the amendment added on the House side would effectively cover all of those eight exemptions that I just mentioned with one exception. That exception is a loophole that can be big enough to drive a Mack truck through. That is the exception for the nonrecourse loans.

Mr. President, again I am supporting the Senate's position in receding to the House because I believe it is better than what we have right now.

□ 2310

But I do not want any Senator to believe that adopting the House position is going to limit payments to every farmer to a maximum of $250,000 because it simply will not do that.

I do not want anyone to think they are going to vote for this and say, "Well, that is the end of it, no farmer can get more than $250,000."

What will happen is that the loophole that is left is the nonrecourse loans.

Normally I would not be in favor of limiting nonrecourse loans at all. However, under the new program in the farm bill, the nonrecourse loan program is being used as a payment program, especially when you couple it with the marketing loan program.

Therefore, the nonrecourse loan program really becomes a payment program and not a loan payment as it was first envisioned.

I know to many Senators that may sound very convoluted, but I wanted to make the record on this point, that the $250,000 cap is not an absolute cap. It will take care of about seven of the exemptions that are in the bill now. That is a big step in the right direction.

But the big culprit is the nonrecourse loan coupled with the marketing loan program, which is allowing many of these large farms to get these $15 and $20 million payments.

Again, it is, as I said, a step in the right direction.

I know the hour is late and I know that Senators want to get on to other business and bring this continuing resolution to a close, but there is one other issue that I want to bring up because it closely correlates with these huge payments that farmers are getting.

I am one of those who believe very strongly that come next year, early next year, we are going to be under the gun in trying to save anything resembling a farm program.

One of the reasons is because we are going to see headlines next month, the month after, December and January, when the final payments come in, we are going to see the Boswell Farm in California getting a payment of $20 million; we are going to see other farms getting $15, $5, $6 million. People will say, "What do you mean farmers are going broke? Farmers are not going broke. Look, they are getting multi-million-dollar payments."

I think adopting this amendment will not solve the problem this year but at least it will help solve the problem next year, as we go into next year.

One other thing I think is going to hurt us is the use of PIK certificates and the way they are being used right now.

As I say, this is not directly into this amendment but it strongly correlates to this amendment.

We have a situation right now in the countryside where farmers are making more money by rolling PIK certificates around than from selling their crops. Yesterday corn was selling in Iowa for $1 a bushel.

What farmers are doing is they are going into the local ASCS office and getting the loan rate of $1.85 and then they are buying PIK certificates, let us say at $1.55. They are using the PIK certificates to pay off their loan and they are walking out of the ASCS office with 30 cents a bushel in their pocket and they still have all the grain which they are going to dump on the marketplace at the present prices.

This is not the time or place to debate that issue but I only wanted to bring it up to point out that we are going to see a plethora of stories between now and next January about big deficiency payments to farmers, and we will hear more about farmers who walk into an ASCS office and 10 minutes later walk out with $30,000 in their pockets and still have all the grain.

It is a scam of the worst sort. It is depressing the marketplace prices. It is doing nothing to resolving the problems that we have out there. We will march right down the same road next year.

I make these comments only to alert Senators that early next year we are going to have to make some very drastic changes in the existing farm bill, some drastic changes.

The PRESIDING OFFICER. Will the Senator withhold? The Senate is not in order.

The Senator from Iowa.

Mr. HARKIN. I thank the Chair.

Again I say that we have to take these steps. We have to take this first step of receding to the House, but we are going to have to take some next steps early next year to make some drastic changes in the farm bill if we hope to preserve anything at all of any kind of a farm program for our beleaguered farmers in the countryside.

I will sum up by saying this, that the $250,000 payment limitation is a big step in the right direction, but I do not want any Senator to believe that no farmer will ever receive a payment of over $250,000 because they will, because there is one big loophole left in it which is the nonrecourse loan coupled with the marketing loan program. Hopefully, maybe next year we can take the step to close that loophole also.

Mr. ANDREWS. Mr. President, I totally agree with what my colleague has said. I think it ought to be pointed out that my colleague and I in the Appropriations Committee meeting, discussed this proposed payment limitation that had a few more teeth in it. My amendment, as amended by the Senator from Iowa, ended up being an amendment that would have had those teeth that he talks about now, but it failed by a one-vote margin.

So this is what we have, and it is, as the Senator from Iowa points out quite properly, a step in the right direction because if these excessive payments continue, we are going to see it extremely difficult to hold a farm program of any type next year.

Mr. HARKIN. If the distinguished Senator will yield, I thank the Senator for making those comments. I only want to make it clear here that it was the distinguished Senator from North Dakota who really first proposed this in committee. I did join with him in that effort to try to get that done. It was the Senator from North Dakota who first pointed out quite clearly the different loopholes that existed, those seven or eight loopholes that existed in the law. We attempted, as the distinguished Senator from North Dakota said, or he attempted, to get more teeth into it. He lost it, if I am not mistaken, by, I think, one vote.

The distinguished Senator from North Dakota has really done yeoman's work on this in bringing this to the attention of the Senate. I want to thank him publicly for all of his efforts in this regard, to bring some sanity to this kind of payment pro-

gram. I compliment the Senator from North Dakota for his actions in this regard.

Mr. ANDREWS. I appreciate the comments of the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I am now informed by one of our colleagues that he would request a rollcall on this amendment, the Senator from Arkansas.

So, Mr. President, in order to alert those Senators who may not be on the Hill at the moment that a rollcall will be taken on this amendment, I would like to suggest a procedure by which we lay this aside temporarily and go back to take up an agreement that we will propound on the No. 117, the Buy America, which has now been cleared on both sides of the aisle for a unanimous-consent request.

Therefore, I ask unanimous consent that we—I wonder if I can have the attention of the Senator from Arkansas.

Would the Senator from Arkansas like to put the request in for the yeas and nays now or wait until after we return to the amendment?

Mr. BUMPERS. It is absolutely immaterial to me, Mr. President. I will defer to the chairman.

Mr. HATFIELD. I suggest that we ask for the yeas and nays at this time.

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

The PRESIDING OFFICER. The Senator from Iowa has the floor. Does he yield for that purpose?

Mr. HATFIELD. I will not put that request at this time.

Mr. METZENBAUM. Will the Senator yield?

Mr. HATFIELD. I yield.

Mr. METZENBAUM. He knows he will have a rollcall on the Buy America amendment. Does the Senator think he can work it out so that both of those rollcalls can be one after another?

Mr. HATFIELD. That is precisely what we are attempting to do. I believe that most of the comments have been made on the pending amendment No. 23, the agriculture amendment. I am told that there will have to be a period of time given for alerting Senators off the Hill before any rollcall can begin.

Therefore, not to waste that time, we would like to move now to the half-hour request for the Buy America, which we can now give the alert in, take that half hour that is required to make that alert possible, and then have this amendment of Buy America and move back to amendment 23.

Mr. METZENBAUM. I thank the Senator.

□ 2320

Mr. HATFIELD. Mr. President, I believe I have made a unanimous-consent request to temporarily lay aside amendment No. 23 and take up No. 117.

The PRESIDING OFFICER. Is there objection to the Senator's request to temporarily lay aside this amendment and take up the amendment that deals with Buy America concepts?

Is there objection to the Senator's request?

Mr. EXON. Reserving the right to object, Mr. President, does this mean that we are closing off debate on the farm amendment?

The PRESIDING OFFICER. There is no such request pending before the Chair.

Mr. EXON. So if we want some additional time to debate the farm amendment, we could come back to that, is that correct?

Mr. HATFIELD. Yes, Mr. President.

Mr. EXON. I have no objection.

The PRESIDING OFFICER. Is there objection to the Senator's request? Without objection, it is so ordered.

This amendment (No. 23) is temporarily laid aside.

We will take up amendment numbered 117.

HOUSE AMENDMENT TO SENATE AMENDMENT NUMBERED 117

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The House concurs with an amendment to Senate amendment numbered 117.

Mr. HATFIELD. Mr. President, I ask unanimous consent that a half-hour time limit be agreed to, to be equally divided between the Senator from Ohio [Mr. METZENBAUM] and the Senator from Rhode Island [Mr. CHAFEE].

The PRESIDING OFFICER. Is there objection to the Senator's request? Hearing no objection, it is so ordered.

Mr. HATFIELD. Mr. President, I inquire of the Chair at this time, it is my intention to offer a tabling motion with the yeas and nays. I would like to make that motion now, if I understand the situation, but still provide for the debate.

The PRESIDING OFFICER. That would take unanimous consent. That would not be in order until all time has been used or yielded back.

Mr. HATFIELD. I ask unanimous consent that I may make such a motion.

The PRESIDING OFFICER. Is there objection to the request? Hearing no objection, it is so ordered.

Mr. HATFIELD. Mr. President, with the understanding that debate will proceed, I now move to table the House amendment to the Senate amendment numbered 117.

The PRESIDING OFFICER. Does the Senator wish for the yeas and nays?

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. There are 30 minutes' time on this amendment. Who yields time?

Mr. CHAFEE. Mr. President, I yield myself 4 minutes.

Mr. President, the Buy America provision in the House-passed continuing resolution regarding offshore oil rigs is bad for American trade. If put into effect, this provision could amount to a complete ban on imports of vessels and platforms used for oil exploration and production on the Outer Continental Shelf. While in the short term, accepting this provision may result in more contracts for a few American firms, in the long run, it undoubtedly will hurt our international trade. Also, Mr. President, I want to stress this: It undoubtedly will lead to retaliation on the part of our international trading partners. In the long term, this provision will hurt, not help, American business.

Mr. President, I think we have been down this track before and clearly, by taking an action such as is proposed in the reconciliation measure, we are going to hurt, not help, American jobs. That is what we are trying to do, provide for more American jobs. The Buy America legislation of this sort is a violation of our obligations under the General Agreement on Tariffs and Trade, the so-called GATT. A likely consequence of this protectionist legislation is the prospect of mirror legislation by our trading partners. And why should they not?

This quickly becomes a vicious circle. If the United States were to pass this measure, other governments such as the United Kingdom, Norway, the Netherlands, and Denmark, all of which have offshore rigs, would have little choice but to reciprocate by excluding or severely limiting United States exploration or production equipment in their respective countries.

This legislation does not help American industry. On the contrary, retaliation will reduce business opportunities abroad and set a dangerous precedent for other restrictive procurement practices. So I urge my colleagues to join with me in striking this provision from the continuing resolution.

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

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, does the Senator from Pennsylvania wish to be recognized?

Mr. HEINZ. Mr. President, I ask for 4 minutes.

Mr. METZENBAUM. I yield 4 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 4 minutes.

Mr. HEINZ. Mr. President, let me describe very briefly what the House amendment is that we are debating. It is an amendment to give American firms, American labor, American materials a preference in the construction of offshore drilling rigs, the kind of rigs and platforms that we use to explore and complete wells off the continental United States. This is extremely important technology. It is very sensitive, important technology. It is vital to our national security.

The problem is a very simple one. We have not been able to win an award of a drilling rig since 1982. Since 1979, there has been a total of 10 oil rigs awarded. We have won exactly one of them. The Japanese won six, the Koreans have won five. Two of them have been in other parts of the world.

You might ask, why should we worry about this? If the Koreans or the Japanese are making these rigs more cheaply, if they can sell them to our people more cheaply, what is the problem? The problem is that they are cheating. The problem is that they are dumping and subsidizing. And you do not have to take my word for it. Ten months ago, I said that it was my judgment that there were subsidies and dumping by the Japanese and the Koreans, the two suppliers. I could not prove that case last year when we debated this same amendment. Today, I can prove that case because Japan has been found to be dumping; Korea has been found to be dumping. A hefty 22 percent dumping of subsidy margin has been determined.

Mr. President, fair is fair. But when two countries engage in the kind of unfair trading practices that, for all intents and purposes, wipe out not only these jobs, not only these purchases vital to many industries, but wipe out our ability to replicate this technology, it is time to do something about it. That is the purpose of the House amendment.

Let me make one last point—two points. I heard an argument that there would be something improper about this. I direct my colleagues' attention to article 21 of the GATT, which contains a specific national security exemption for issues of this kind. It has also been argued that were we to prevail with this amendment, somebody would retaliate against us. Mr. President, there are essentially only two countries that are selling us these rigs. Let me just say there are no United States drilling rigs being sold to Japan and Korea. And if, by some stretch of the imagination, they should ever find oil off of Japan or off of Korea, if anybody thinks the Japanese or the Koreans would ever let the Americans, the French, the British or anybody else bid on these platforms, they have another think coming.

□ 2330

I thank my colleague from Ohio for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, will the Senator yield me 3 minutes?

Mr. CHAFEE. Which side is the Senator going to be on?

Mr. JOHNSTON. Against Buy America.

Mr. CHAFEE. I yield 3 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 3 minutes.

Mr. JOHNSTON. Mr. President, ordinarily I would be on the side of Buy American because I think this country has been made a chump in a lot of its trade policy. But, Mr. President, I wonder if all of my colleagues from all of the country recognize how sick this oil industry really is. It is on its very last legs. There are no wells being drilled offshore at this particular time. There is one rather rich area off California, probably the richest area in the country. But there is no real competition off California. You still have Exxon and Chevron and Standard Oil that are interested in that area. Shell has withdrawn from the area because they say it is, No. 1, too expensive; No. 2, too big a pain to fool with the Californians and all their regulations, so they have withdrawn altogether.

Now, what we do, Mr. President, by putting in a Buy American provision is double the cost of drilling offshore. Why do I say doubling the cost? Because an API study indicates that the cost of a platform is one-half the cost of offshore exploration. A full one-half of the cost is the cost of that platform. Now, last year Exxon purchased two offshore platforms for $100 million. They actually got a bid from Kaiser Steel which was for $200 million. So that the cost from Kaiser was exactly twice what it was to buy those platforms offshore.

Mr. President, what you have is half the cost is the cost of the platform. If you put in this Buy American provision, you are going to double the cost.

Well, now that sounds like a pretty good deal because we will create American jobs, right? Wrong. All you are going to do is drive these people out of the country and what last prospect there is for drilling off the Outer Continental Shelf of the United States is going to be gone, just as simple as that, because without this Buy American provision you have already had Shell Oil Co., one of the biggest international oil companies in the world, that has withdrawn altogether.

Mr. President, the point has been made, but it bears repeating, that this would violate the GATT agreements and it would call for retaliation under GATT by other countries against us.

This is the one area, probably the only area I know of where our trade agreements are working. Last year ITA ruled——

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

Mr. JOHNSTON. One minute.

Last year ITA ruled for the steel industry and enacted tariffs from 9 to 21 percent against Koreans and others. So this is one area where the trade laws are working.

One final point, Mr. President, and this I think ought to be the real clincher. That is that this is a category one veto bait item. The President has indicated that this, and I think one other item, will cause a veto of this bill. Now, if we want to put ourselves through the self-flagellation of a late night session, enacting a bill and having to come back tomorrow, Friday or Saturday or whenever the vetoed bill returns, then this is the way to do it. Let us do the right thing and kill this Buy American provision.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. METZENBAUM. I yield 4 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 4 minutes.

Mr. SPECTER. Mr. President. I rise in support of this Buy American provision. The propriety of this provision, Mr. President, I think is established because it is the U.S. Government which is doing the leasing. There are property rights which inhere in our Government and it is fair and appropriate for the Government to make a determination as to the circumstances of the drilling and to impose this Buy American provision.

I associate myself with the remarks of my distinguished colleague from Pennsylvania, Senator HEINZ, on the very basic point that we need a Buy American provision to achieve fundamental justice.

The Koreans and the Japanese and others who are commanding these contracts at the present time are engaging in subsidies and in dumping, and when the distinguished Senator from Louisiana comments about having the price one-half, that is because these other countries are engaging in predatory pricing practices. Free tade means fair trade and that is the cost of production plus a reasonable profit. Korea and Japan in gaining these contracts are not engaging in fair trade practices or in free trade practices. That is why the Congress of the United States ought to insist that these Buy American provisions be inserted.

Mr. President, this is one issue of a larger program. We have not taken an appropirately rough stand in our dealings in international trade to insist on two basic propositions consistent with free trade principles. One is that there ought to be reciprocity. If Japan wants access to United States markets, we ought to have equal access to Japanese markets, and we do not have that access. The second point, again consistent with free trade principles, is that we ought not be victimized by subsidies and dumping which are costing tens of thousands of jobs in the steel industry, of one, a subject about which Senator HEINZ and I, as Senators from a steel-producing State, or once a steel-producing State, are very much concerned.

If we had a trade policy which gave basic justice to the steel industry and which did not allow the steel industry to be victimized by these predatory pricing practices, then it might not be necessary to come in on this kind of a specific item and insist on a Buy American provision. But until that is done, our only recourse is a step at a time to insist on Buy American, and that is why this provision provides for fundamental justice and ought to be adopted. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. I yield 4 minutes to the Senator from Missouri.

Mr. DANFORTH. Mr. President, first, in answer to the Senators from Pennsylvania, this provision in the House bill has nothing whatever to do with unfair trade practices—nothing. This is directed at fair trade, not unfair trade. We have already had a successful antidumping case against Japanese and Korean offshore jackets and piles. That was the successful case against unfair trade practices, against dumping. This Buy American provision is aimed at shutting out fair trade, not unfair trade.

A second point that should be made is that if we agree to the House provision, this would mark the first time in the history of our country we have had a Buy America requirement that has extended beyond requirements on Government to the private sector. So this is truly a breakthrough in protectionism if we do it. It is special interest legislation in the extreme. It would benefit a handful of west coast steel companies, having no effect on the rest of the steel industry, at least no positive effect. At the very most it would increase domestic steel production by one-twentieth of 1 percent.

Now, Mr. President, there is a zero sum gain in trade. There is never any situation where there is a pure victory, and the losers, as the Senator from Louisiana has pointed out, are the oil producers. This is a measure which is designed to help a few steel companies at the expense of the oil industry. I would suggest that if there is one beleaguered industry in this country right now, it is oil.

It is projected that the effect of adopting this provision would be the loss of somewhere between 16,000 and 25,000 American jobs.

As domestic oil production becomes less attractive, as it becomes more expensive because of this provision, so Government revenues would decline by an estimated $2 billion over the next 15 years from less money paid to the Federal Government for offshore leases.

□ 2340

It was pointed out earlier that this is a clear violation of the General Agreement on Tariffs and Trade. There is absolutely no question about it. It would make the United States vulnerable to retaliation, to compensation to other countries. They would not even have to retaliate. They have an absolute right, under GATT, to be compensated by the United States, and that would cost American jobs.

Also, Mr. President, at a time when the United States is making so much noise about unfair trade practices in other countries, certainly the power of such an argument would be reduced very significantly if the United States now were to lead the way in GATT violations.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

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

Mr. METZENBAUM. Mr. President, how much time does each side have?

The PRESIDING OFFICER. The Senator has 8 minutes and 22 seconds, and the opposition has 4 minutes and 54 seconds.

Mr. METZENBAUM. I yield myself 4½ minutes.

The PRESIDING OFFICER. The Senator is recognized for 4½ minutes.

Mr. METZENBAUM. Mr. President, I think the issue is well stated by the Senator from Missouri. It is not a question of unfair trade; it is a question of fair trade. I think the question is what really is fair about this entire matter.

The Senator from Louisiana has talked about how sick the oil industry is. As a matter of fact, it was only yesterday that about an hour was spent on the floor of the Senate during which Members pointed out the problems of the oil industry. Although I have had my differences with the oil industry on more than one occasion, I make no bones about it, that I think it is an imperative that we all join together in protecting the oil industry and seeing to it that we have an oil industry in the future.

So, too, I am concerned about the steel industry. I would hate the day to arrive in the country when there no longer was a viable steel industry.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator is entitled to order. Time will stop running.

Will the Senators and staff in the rear of the Chamber withdraw from the Chamber, please?

Mr. METZENBAUM. I thank the Chair.

I cannot think of an industry that is hurting more than the steel industry in this country. I think we have to recognize that we need an oil industry and we need a steel industry, and I hope the day never comes in this country when either of them is nonexistent. But the fact is that we do not want to have an oil industry at the price of the steel industry.

Since 1978, Korean and Japanese producers have all but obliterated the west coast market for offshore production of rigs and platforms used for energy development on the United States Outer Continental Shelf, costing this country literally tens of thousands of domestic jobs. Thirteen out of fourteen west coast platform construction contracts have been issued to Japan and Korea since 1979.

That trend has now extended into the gulf coast as well, where two out of the last five deck houses were awarded to Korea since 1983 alone.

In May 1986, the United States International Trade Commission ruled unanimously that Korean and Japanese dumping of offshore platform jackets had seriously injured the American offshore fabrication industry. The ITC also ruled that American industry had been injured by dumping of platform pilings and as a result of Korean subsidies.

Frankly, I believe in the basic proposition of free trade, and that has been a longstanding position I have taken. But I have seen what has happened to American industry as we have supported free trade in this country, and free trade has developed into a posture of unfair trade throughout the world. It is a reality. We have not been permitted to compete on an equal basis with the Korean steel companies, with the Japanese steel companies; and, as a consequence, our own steel industry is hurting and it is costing us jobs in Ohio. It is costing us jobs in Pennsylvania. It is costing us jobs in every part of the Nation where there is a steel industry.

Let us take a look at this whole situation. The regulations for the Outer Continental Shelf leasing program, as promulgated by the Minerals Management Service, permit issuance of leases—that is a preferential basis, and listen to this—only to U.S. citizens and nationals, aliens with permanent resident status, and U.S. corporations.

I do not take issue with that, nor do I take issue with the fact that the Jones Act requires the use of U.S.-built ships and U.S. crews and extends the crew requirement to include offshore platforms operating on the U.S. Outer Continental Shelf. If we are going to provide that kind of preference with respect to the matter of obtaining the leases, is it not only fair and reasonable that we expect that U.S. companies will be permitted and in a position to sell their steel?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. METZENBAUM. I yield myself 1 more minute.

I think the Buy American provision that is provided in the house amendment is right. It is proper. It is in the best interests of our country, and I do not think we ought to call upon the American steel industry to stand back on behalf of the oil industry, notwithstanding the fact that I think all of us in this body agree we want to do everything possible to help the oil industry as well as the steel industry.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, I will say that everybody obviously has their parochial interests to represent, and we have heard from one parochial section of the country.

The point has been well made by the Senator from Missouri—that for the first time we are saying to private individuals, "You must buy American." We are not going through the normal tariff procedure. We are not going through a normal quota procedure. In tariffs, the tariffs go to the Government.

We are saying to a private individual, those who buy oil equipment, "You can't buy oil rigs unless 50 percent of that steel has come from the United States." We previously tried that with Government: The U.S. Government must buy American. But we have not tried it before with private individuals.

I think these are dangerous waters. Clearly, they are contrary to GATT, and clearly they are going to invite retaliation and will hurt one sector of the country—namely, the oil business.

Mr. President, I yield 1 minute to the Senator from Idaho.

Mr. McCLURE. I thank the Senator.

Mr. President, the measure we are addressing today is not a provision to "Buy America" but an attempt by one industry to prop themselves up at the expense of another.

Nobody feels worse than I about the current situation of our domestic steel industry. I have been a strong proponent of our industrial and natural resource industries, especially as they relate to our national security. However, it makes little sense to use the argument that this provision will aid the steel industry and increase employment, when in fact it will do just the opposite.

The provision says that 50 percent of the materials and supplies on structures used for exploration and production activities on the Outer Continental Shelf [OCS] be of domestic origin and these structures be built in the United States.

A major purpose of the proposal is to protect domestic steel producers and fabricators of structures used in offshore production from foreign competition. However, the oil industry already purchases many of the most costly components of offshore platforms from domestic firms. And, over the life of a project, 90 percent of the total project cost is spent domestically, even if the jackets and piles are produced offshore.

As a result of this proposal, many marginal oil prospects will be abandoned, especially at today's oil prices, because the additional cost of the rig could not be justified in a benefit/cost ratio. For example, last year a major contract bid came in for a project offshore California in which the domestic bid for $200 million for the jacket and piles, was twice that of the nearest foreign bidder. Contrary to what many would like to believe, an additional $100 million in costs will cause most if not all oil companies to abandon even the best prospects for future development.

In addition, reduced offshore drilling and production would reduce employment directly in the oil and gas industry and indirectly in industries that supply inputs to petroleum drilling and production. According to a Battelle Pacific Northwest Laboratories study prepared for API in June 1985, up to 56,000 workers would be displaced by the year 2000 if "Buy American" requirements were imposed on OCS activities.

The ramifications of this provision are far reaching, not only affecting the worthy and necessary objectives of income and employment in other domestic industries, but also the U.S. exports of goods and technology and the national security objectives of offshore development of oil and gas resources.

To quote former Deputy Secretary of the Department of Energy, Kenneth Davis, at the recently held World Energy Conference in Cannes, France, "the oil outlook in the United States is bleak," the level of U.S. proved oil reserve additions is now just 600 million barrels a year, or roughly one-fifth of the country's annual production rate. Because of low oil prices, worldwide exploration investment is down considerably. Spending on development has dropped another 20 percent this year and the number of exploration engineers has been cut by 10 to 20 percent.

The new oil frontiers are offshore. We cannot afford greater reliance on foreign sources by cutting off access to our own reserves.

Where would our steel industry be if we were to impose this so-called Buy America on them? Let me tell the Senate. While the increased cost of domestically produced jackets and piles to the oil industry would amount to $400 million to $500 million from 1986 to 2000—this represents 20 new planned platforms times the additional average costs of $20 to $25 million per platform—the cost to steel companies would be an additional $7 billion for domestic ferroalloys that are now imported over the same period of time at 1985 prices. This does not include the cost of imported metallurgical coal or coke which steel companies now use to process steel.

I do not use this example to suggest that I would support such an imposition on the steel industry any more than I support the proposal before us today. But I ask you, Mr. President, why should we be less concerned with the impact of this provision on our oil industry and the future of our domestic oil supply?

I implore my colleagues to vote with me in opposition to this ill-conceived provision.

Mr. President, I ask unanimous consent to have a letter in connection with this subject, from Mr. Clayton Yeutter printed in the RECORD.

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

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, October 16, 1986.

Hon. JAMES A. McCLURE,
U.S. Senate,
Washington, DC

DEAR JIM: I am writing in regard to the Outer Continental Shelf "Buy America" amendment which is contained in the House-passed FY 1987 continuing resolution. This provision, if retained, would require that 50 percent of the materials and supplies on vessels and structures used for exploration and production activities on the Outer Continental Shelf be of domestic origin and these structures be built in the United States. I expressed opposition to this provision last year when it was offered as part of the fiscal year 1986 Interior Department Appropriations bill and the Omnibus Budget Reconciliation bill. My position has not changed.

First, It will result in significantly increased costs for exploration and development of offshore oil and gas resources. Drilling activity has already fallen to historic lows in the United States. This further negative factor will exacerbate the problem with implications for our energy supply security in the future. Furthermore, the waiver provision contained in section 6901 of Subtitle J appears to be an ineffective way to provide relief to the domestic petroleum industry. Moreover, I believe that existing U.S. trade laws provide effective recourse for domestic industries injured from unfair competition. In addition, as you know, the U.S. International Trade Commission rules in May that industries in the

United States are materially injured by imports from Korea and Japan of offshore jackets and piles. Consequently, the U.S. Department of Commerce imposed a dumping margin of 17.34 percent for Korea and 8.8–9.1 percent for Japan on these products.

Second, it is possible that the amendment, if adopted, could lead to foreign retaliation which could affect other sectors of the U.S. economy. U.S. oil producers already face potential "buy national" laws which are under consideration in the United Kingdom, Norway, the Netherlands and Denmark. If the United States were to adopt a "Buy America" provision, foreign governments would be less willing to resist similar provisions, and would be likely to retaliate against U.S. products. Such retaliation would hurt other sectors of the U.S. economy, since any retaliation would not be confined to the old equipment sector.

Third, this kind of "Buy America" legislation is contrary to United States obligations under the General Agreement on Tariffs and Trade (GATT). Under Article III.4, the United States is committed to maintaining national treatment for products covered by the agreement. Eliminating foreign access to the U.S. market for any product used by domestic oil companies in connection with exploration activities on the Outer Continental Shelf would violate this agreement and could ultimately require the United States to compensate injured parties in sectors not related to drilling. We cannot expect our trading partners to uphold their obligations in the face of blatant violations such as those represented by this amendent.

Finally, I am concerned that enactment of such legislation will undermine the U.S. position of leadership in expanding and strengthening the international trading system. We are currently engaged in an effort to renegotiate the Government Procurement Code, with the goal of improving the competitive process by which governments procure goods and expanding the coverage of the Code. If successful, these efforts will provide even greater access for American goods, and the jobs which support them, to foreign markets. However, our credibility would be sorely tested if we are put in the position of calling for greater access to foreign markets while, at the same time, placing new restrictions on access to our own markets.

In summary, the Administration believes the potential negative economic and employment consequences of this amendment are overwhelming and far outweigh the intended benefits of the amendment. For these reasons, the Administration is strongly opposed to this "Buy America" provision. I appreciate your taking the time to consider these concerns and urge that the "Buy America" provision be rejected.

Should this provision be included in the continuing resolution which reaches the President, I would strongly recommend a veto.

The Office of Management and Budget advises that, from the standpoint of the President's program, there is no objection to the submission of this report to the Congress.

Sincerely,

CLAYTON YEUTTER.

Mr. McCLURE. Mr. President, I support the motion, but I will make two points that have not been made. I hope I will not be repetitious.

The Senator from Ohio says that we are in a cruel dilemma of choosing between oil and steel, sacrificing steel in order to help oil. Unfortunately, that is not the choice, because if this provision is enacted, it kills both, not at the expense of one or the other. It hurts both because you do not get more jobs in this instance by increasing the cost of operation. You simply kill the economic activity that creates the jobs.

□ 2350

There will be no increase in jobs in the steel industry in this country, unfortunately, I would say.

So if you want to help the steel industry this is not the way to do it. It will not help the steel industry and it will hurt oil exploration.

If you want us to be more dependent upon foreign oil, adopt this amendment. I hope we will not.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, will the Senator yield me 1 minute?

Mr. METZENBAUM. Certainly.

Mr. HEINZ. I want to make three quick points.

The first is when we are talking about jobs here they do not involve just one region of the country. It is not just Ohio and Pennsylvania, but it is Indiana, Illinois, Louisiana, Alabama, California, Colordao, and Utah, and a lot of other States. Whether those are steel jobs or oil rig worker jobs, they are both important.

Second, there was an argument made about the cost of this amendment. The fact is that even if the argument of the Senator from Louisiana were accurate—and I dispute his figures—that this amendment would double the cost of oil rigs, even with that inflated assumption, the fact is that the cost of oil would rise a maximum of 6 cents a barrel, that is one-seventh of a cent of a gallon.

Finally, may I have 30 seconds?

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

Mr. HEINZ. May I have 30 seconds?

Mr. METZENBAUM. Yes.

Mr. HEINZ. Finally, the politics of this issue are fairly clear. People who are against this amendment are the oil companies. As has been referred to a moment ago, we only let U.S. corporations, U.S.-led joint ventures, and U.S. persons bid on oil leases. The oil companies have to buy America for their oil leases, and I do not think we should allow them to have their cake and eat it too.

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. METZENBAUM. The Senator from Pennsylvania may conclude if he wishes.

Mr. HEINZ. No, I have concluded.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, I yield myself 1 minute.

The statement was recently made by the Senator from Pennsylvania that those who are against this amendment represent the oil interests. I can assure everybody here, there is not a drop of oil to be found under the surface in the State of Rhode Island. We tried offshore. We have not succeeded in getting anything.

So any suggestion that this is oil versus fair trade or steel or whatever you want to call it is completely off the mark.

The point is those of us who are opposed to this are concerned about the trade situation in the United States and we are concerned about the trade situation in the world in which the United States is the leader.

We do not want to get started down that spiraling path of retaliation versus retaliation which surely legislation like this will incur.

We are for free trade. We are for open trade. If those who are opposed feel that the Koreans or the Japanese are bringing—30 seconds more, Mr. President—are bringing in steel, they can bring dumping cases and indeed they have brought them and in connection with this. But they cannot succeed in those measures so they are going around sideways and trying to come in through legislation like this.

Finally, I reiterate what the Senator from Louisiana said and the Senator from Oregon would say if he were here, the floor manager of this measure, that this is clearly veto bait.

The PRESIDING OFFICER. Fifty seconds remaining.

Mr. CHAFEE. If this amendment remains in the bill, the dangers of the President vetoing the whole measure are extreme.

So I would hope that we would join with the Senator from Oregon and table this amendment.

Mr. CRANSTON. Mr. President I reluctantly support this amendment.

I support it because I believe the Federal Government has an obligation to act in a meaningful and effective way once it has found that illegal and unfair foreign trading practices are devastating American industries.

I have always been, and will continue to be an advocate of the freest possible trade. But to be free, trade must be fair.

We must not unilaterally disarm in the face of blatantly unfair foreign trading practices. And we have an obligation to our citizens to act when an industry is being systematically cannibalized and destroyed.

I reject illogical and excessive retaliation. But I support a specific trade response that seeks to provide justice.

And that is precisely what the amendment before us seeks to accomplish.

Illegal dumping is a serious problem. The United States has yet to come to terms with an economic reality in which effective targeting strategies, often advanced by unfair trading practices by foreign countries, are the the primary industrial development strategy in the postwar period.

I believe we are now in danger of losing our domestic market for offshore production of rigs and platforms used for energy development because of blatantly illegal dumping. No U.S. company has built a mobile oil rig since 1982. In May 1986, the U.S. International Trade Commission ruled unanimously that Korean and Japanese dumping of offshore platform jackets had seriously injured the American offshore fabrication industry. The ITC also ruled that American industry had been injured by the dumping of platform pilings, and by Korean subsidies.

So our Government is clearly on record saying the foreign practices are unfair and illegal. The only question before us is whether we are going to do nothing, or whether we are going to prescribe specific and effective action to defend American businesses and workers who have come to us for relief. We have seen repeatedly that the penalties imposed in dumping rulings have proven to be too little, too late. I fear that unless Congress acts, this might now be the case with offshore oil rig production. In many cases, U.S. industry has been irreversibly injured before any action was taken by our Government.

I believe a better solution would be to address the problem of dumping in a broader way since many, many industries are being adversely effected by these illegal trade practices. To permit these unfair trading practices to continue without an effective response is unconscionable. That is why my colleague, Senator BAUCUS, and I introduced legislation earlier this year to deter this practice. We proposed dramatically increasing penalties for repeat offenders of dumping. Our measure would allow U.S. companies to seek compensation for damages they suffered due to illegal dumping practices.

The United States is a victim of foreign dumping practices time and time again. We either respond too late—or in some cases, we don't respond at all. The lack of an effective response to the escalating trade deficit and the lack of our ability to enforce and to strengthen our own trade laws to deal with blatantly unfair trade practices jeopardizes free trade around the world. It is becoming increasingly difficult to promote free trade when foreign countries flagrantly and defiantly violate our own laws. And we let them get away with it time and time and time again. We have sacrificed too many jobs already. We must act now.

Mr. HEINZ. Mr. President, this amendment addresses an issue that has significant implications for both our national security as well as significant benefits in terms of the domestic economy.

The issue is that of the development of offshore oil and gas deposits on the U.S. Outer Continental Shelf. This issue comes before us now as amendment 117 to the continuing resolution as passed by the House of Representatives.

It is no surprise, Mr. President, that the development of our offshore oil and gas deposits is a vital component of U.S. national security. In 1983, offshore production represented 13.7 percent of total U.S. crude petroleum production. The maintenance of the technology necessary for this development—a technology developed in the United States—is therefore critical to U.S. energy independence.

Since 1979, however, 13 of 14 fixed platform projects on the west coast have been awarded to Japan and Korea. No new mobile offshore drilling rigs have been constructed in this country since 1982. And again, Mr. President, as we have seen in countless other situations involving our basic industries, dumping and subsidization have played a major role in the flow of offshore projects overseas and in the subsequent erosion of the domestic jobs base.

In fact, in May of this year, the U.S. International Trade Commission, in a case filed by Kaiser Steel Corp., ruled unanimously that Japanese and Korean dumping of offshore platform jackets had seriously injured the American offshore fabrication industry. The ITC further ruled that American industry had been injured by dumping of offshore platform pilings and as a result of Korean subsidies. As a result, new duties on offshore platform jackets and pilings are being assessed on imported platforms in addition to a 6-percent duty required by existing trade law.

Despite the ITC decision, the dominance of Korean and Japanese producers of offshore oil equipment in the U.S. market is expected to continue, if not accelerate. Already, our Asian trading partners have made significant inroads into the gulf coast area in terms of the deck house portion of platforms—traditionally a domestic market stronghold—with two out of the last five decks having been awarded to Korea.

So again, we are faced with the prospect of losing another basic industry—one critical to this Nation's ability to effectively develop and produce the energy resources that lie within our territories. The sophisticated engineering skills and production techniques, along with the manufacturing capacity, are quickly being eroded. Further, the potential loss of our capability to design and construct structures to meet future challenges in offshore oil and gas exploration and production could seriously undermine our ability to respond to a national energy emergency.

In addition to exporting the offshore projects overseas, we are also exporting the OCS-related jobs so critical to the Offshore Leasing Program. The equipment necessary for OCS energy development can translate to roughly 1,000 to 1,300 jobs for a production platform and up to 1,500 jobs for a mobile drilling unit, with some $200 million in revenue generated for the domestic economy.

In closing, let me suggest to my distinguished colleagues that the Buy American amendment to the continuing resolution is no more protectionist than the OCS leasing program already approved and implemented by our Government. In fact, this provision is entirely consistent with the current national orientation of the policy governing the U.S. Outer Continental Shelf. The regulations for the OCS leasing program, as promulgated by the Minerals Management Service—30 CFR 256.35 [b] [2] and [4]—permit issuance of leases only to U.S. citizens and nationals, aliens with permanent resident status, and U.S. corporations.

Further, the Jones Act requires the use of U.S.-built ships and U.S. crews between coastwise points, and extends the crew requirement to include offshore platforms operating on the U.S. Outer Continental Shelf.

Further, the oil produced and developed in conjunction with the OCS leasing program can only be used domestically unless specifically stated by the President.

This amendment, then, merely represents a logical extension of the OCS leasing program into the manufacturing sector of this country. Our opponents charge that this is protectionist. So is the entire OCS leasing program. Perhaps our opposition would prefer that we seek an amendment opening the OCS leases to bids from foreign companies? I doubt they would.

I ask my colleagues to vote to maintain the same level of consistency in the OCS leasing program for the manufacturing sector as already enjoyed by other sectors involved in our offshore energy development and to please join me in supporting this amendment.

Mr. WILSON. Mr. President, the provision before us is one that has many facets to it. It is not a simple matter, for while superficially a question of protectionism versus free trade, we really are presented with an issue of national security.

We do not now allow and, presumably, will not allow foreign companies

to bid for offshore oil leases. This is a clear result of the decision that the control of our offshore oil deposits is a matter of national security, and we do not want foreign entities controlling any aspect of our national security.

Mr. President, it makes no sense to say that for purposes of national security we must control our offshore oil fields and yet put under foreign control our ability to get to the oil. Yet, the present situation is leading us to that very situation. If we do not maintain a domestic industry capable of building drilling rigs, not only will we have a blatant contradiction in our energy policy, we will have put our energy security at risk.

Mr. President, it may be in order to review our present energy security policy and its impact on our leasing policy. But, I believe that the restrictions on leasing tracts only to U.S. companies makes sense, and for the same reasons I support the House amendment.

Mr. BYRD. Mr. President, the question this amendment presents is very straightforward: do we want to rely solely on foreign oil rig production, or do we want at least half of each oil rig to be made in the United States? Do we want to maintain the capacity to assure that we can exploit our own energy resources, or are we content to rely on imported oil rigs?

The House amendment before us provides that our offshore oil rigs must be built in America from materials 50 percent of which, by cost, have been produced in this country. Let us be clear about what is happening to our capacity to produce oil rigs. In the past several years, Japanese and Korean firms have become the dominant force in oil rig production. Thirteen out of 14 west coast platform construction contracts have been issued to Japan and Korea since 1979. On our gulf coast, two of the last five contracts for equipment went to Korean firms.

This is part of a pattern of growing foreign dominance over our domestic steel market. It is a trend that has broad-ranging consequences for American security, and nowhere are those consequences more apparent than in the offshore oil rig area.

Why is the problem so serious? Mr. President, the Government has recognized the importance of a strong domestic capacity to develop our coastal resources in several ways. We have required that offshore oil leases be issued only to U.S. persons and corporations. We have, through the Jones Act, required the use of U.S.-built ships and of U.S. crews between coastwise points, and extended that crew requirement to include offshore oil rigs.

Why this concern? Because we recognize the importance of American independence in oil production. We are not alone in the world in doing so. Britain and Mexico both maintain "buy national" requirements for offshore development activity.

A nation needs to have its own capacity to develop its strategic resources. As it is, foreign producers are garnering a growing share of the U.S. oil rig market. If we wake up and find ourselves without the capacity to make these rigs, we have compromised our independence.

Now, what would the House amendment do to address this problem? It will require that any rig or structure used to develop resources on our continental shelf, pursuant to Federal leasing, must be built in the United States from materials 50 percent of which have been produced in this country. That is the meaning of "Buy America" here.

What will it mean for the American worker, and the American steel industry? Construction of each of these huge platforms would generate between 1,000 and 1,300 jobs. Each platform costs between $80 million and $300 million, and at least half of that amount would be kept in this country, giving our steel industry much-needed business.

What is this amendment going to cost? Based on figures that oil companies themselves have developed, it may add around 6 cents to the price of a barrel of oil. That is a small price to pay when he consider that we are talking about the very survival of this important segment of our steel industry. The price is small indeed when we look at the issue of how this domestic production capacity contributes to our energy independence.

If we fail enact this legislation, we not only suffer the immediate job loss, but we set ourselves up for a permanent loss of engineering skills, production techniques, and manufacturing capacity. If we put an industry or a segment of an industry out of business through reliance on imports, we no longer train people or teach those skills in this country. We—as a people—forget how to perform that job.

I support the House provision, and I urge my colleague to join with me. This is a clear question of national security. It has domestic employment benefits, to be sure. But the real benefit of the House provision is to be found in the fact that it offers an insurance policy for our future.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I yield myself the remainder of the time.

Mr. President, I am not going to get into this discussion of whether the President will or will not veto it. I have a lot of confidence that if we keep this measure in as the House passed it we provide for buying American steel that Ronald Reagan is about the last President I could possibly imagine who would veto a bill because it had a "Buy American" provision in it.

I am just not willing to concede that point. I think we ought to either adopt or defeat the amendment based on the merits but not on the concern of whether the President will or will not veto it.

I am prepared to yield back the time I have.

The PRESIDING OFFICER. The proponents have 35 seconds and opposition 29 seconds remaining.

Mr. CHAFEE. I yield back my time.

Mr. METZENBAUM. I yield back my remaining time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the motion to lay on the table the House amendment to Senate amendment numbered 117.

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

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. BROYHILL], the Senator from Utah [Mr. GARN], the Senator from Nevada [Mr. LAXALT], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Vermont [Mr. LEAHY] and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

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

The result was announced—yeas 63, nays 31, as follows:

[Rollcall Vote No. 351]

YEAS—63

Andrews	Gorton	McConnell
Armstrong	Gramm	Mitchell
Baucus	Grassley	Murkowski
Bentsen	Hart	Nickles
Bingaman	Hatch	Nunn
Boren	Hatfield	Packwood
Boschwitz	Hawkins	Pressler
Bradley	Hecht	Pryor
Bumpers	Heflin	Quayle
Chafee	Helms	Roth
Chiles	Humphrey	Rudman
Cochran	Inouye	Simpson
Cohen	Johnston	Stafford
Danforth	Kassebaum	Stennis
Denton	Kerry	Stevens
Dole	Lautenberg	Thurmond
Domenici	Long	Trible
Eagleton	Lugar	Wallop
Evans	Mathias	Warner
Exon	Mattingly	Weicker
Goldwater	McClure	Zorinsky

NAYS—31

Abdnor	Glenn	Moynihan
Biden	Gore	Proxmire
Burdick	Harkin	Riegle
Byrd	Heinz	Rockefeller
Cranston	Hollings	Sarbanes
D'Amato	Kasten	Sasser
DeConcini	Kennedy	Simon
Dixon	Levin	Specter
Dodd	Matsunaga	Wilson
Durenberger	Melcher	
Ford	Metzenbaum	

NOT VOTING—6

Broyhill	Laxalt	Pell
Garn	Leahy	Symms

So the motion to lay on the table the House amendment to Senate amendment No. 117 was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

SENATE AMENDMENT NO. 23

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Oregon to recede from the Senate amendment No. 23.

Mr. BUMPERS. addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Is the amendment No. 23 to put a cap on the farm——

The PRESIDING OFFICER. May we have order, please?

Mr. BUMPERS. Mr. President, I wanted to get into a discussion, if I may, with the chief opponent of this move to recede, the Senator from Iowa, and to find out in light of some of the Senators of farm States here as to exactly——

The PRESIDING OFFICER. The Senate is not in order.

Will staff please retire to the Chambers?

Mr. BUMPERS. Mr. President, the Senate is still not in order.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order. Will Senators please retire to the cloakroom? The Senate will not proceed until the Senators clear the aisle and are retired to the cloakrooms.

The Senator may proceed.

Mr. BUMPERS. Mr. President, you will recall that the Senate voted on an amendment of the Senator from Iowa when the continuing resolution was before the Senate, when we attempted to put a $500,000 cap on all governmental payments to any farm unit and the Senate on a germaneness question by a vote of about 54 to 40 rejected it and accepted the germaneness argument. So his amendment was ruled out of order.

The House in their continuing resolution had put a $250,000 limit on payments but as I understand it, either that amendment or the one that is now before us in this resolution did not include nonrecourse loans.

Could the Senator from Iowa verify that?

Mr. HARKIN. If the distinguished Senator will yield, I will respond by saying that the amendment, the House provision that the distinguished chairman of the Appropriations Committee wants us to recede to, does not include nonrecourse loans in the payment limitation of $250,000. It does not include nonrecourse loans.

Mr. BUMPERS. The amendment that the Senator offered here which was defeated on a germaneness ruling did include nonrecourse loans; is that correct?

Mr. HARKIN. That is correct.

Mr. BUMPERS. I want to go through a scenario with the Senator and ask him if he can tell us how it would apply to this particular provision because let me tell you something. I am very apprehensive about amending something as important as this on a continuing resolution at 12:15 a.m. without knowing more about it. I think most of the Senators here, particularly from farm States, had better be paying attention here.

No. 1, the Senator from Iowa is representing to this body that the Department of Agriculture says that if this amendment passes, the total savings to the Government is $20 million; is that correct?

Mr. HARKIN. If I remember right, they said something like over 4 years, about $23 million. That sticks in my mind, something like that, between $20 and $25 million over a 4-year period. Someone else may have a different figure.

Mr. BUMPERS. Are you talking about an annual savings?

Mr. HARKIN. No.

Mr. BUMPERS. You are talking about total cost of $23 million over a 4-year period.

Mr. HARKIN. I believe I am correct. I would yield, if anyone else has any different information. But I think it was over a 4-year period of time, somewhere between $20 and $25 million. I think the exact figure was $23 million for the 4 years.

Mr. BUMPERS. Could the Senator from Mississippi, Mr. COCHRAN, enlighten us on that? Is that his understanding?

Mr. COCHRAN. Mr. President, if the Senator would yield, I was distracted by my friend from Minnesota.

Mr. BUMPERS. My question of the Senator from Iowa was, and he has said yes—I would like to know if he could verify the total cost of savings this amendment would yield to the U.S. Treasury over a 4-year period is $23 million. Is that the Senator's understanding?

Mr. COCHRAN. Mr. President, if the Senator would yield, my understanding is the Department of Agriculture has estimated that it would run about $26 million. That is my recollection.

Mr. BUMPERS. Over a 4-year period?

Mr. COCHRAN. That is right. To put it in perspective, you calculate the cost of the entire farm program over that period of time and you are talking about maybe $50 billion, compared with $26 million savings. So you are really not making a major reform although I agree with the Senator from Arkansas. It is an unfortunate way to legislate change in the farm bill.

I, along with the Senator, have voted in the Appropriations Committee against it and here on the floor—that it was not germane. I still have that view. But the Senator is correct. The cost is minimal. It is a lot different in the way it will apply to the farm programs than the amendment that was offered here in the Senate by the distinguished Senators from Iowa and North Dakota when we first discussed this issue.

Mr. BUMPERS. The final question, I want to be sure of, and of course the answer is obviously no if these savings are correct, because you are talking about roughly $6 million to $7 million a year which, by the scale of the kind of expenditures we are putting out on the farm programs is not very much. I want to be sure that this is absolutely on the record and that everybody understands what we are voting or not voting on here this evening depending on whether we ask for a rollcall. And it is this: Let us take in the case of rice. The loan price of rice is $7.20 a hundred. The world market price right now is about $3.50.

□ 0020

That is the floor. It may be a little lower than that, but that is the floor on the world market price, as far as the Department of Agriculture is concerned. So the loan price is $7.20, and the world market price is $3.50, so there is $3.70 a hundredweight.

My question is, when a farmer takes his rice and puts it in the loan program, he gets $7.20. If he does not want to redeem it, and in 99 percent of the cases he will not, he will just forfeit it. In that case what he has gotten, that $3.70, will not apply toward the $250,000 cap. Is that correct?

Mr. HARKIN. Yes.

Mr. BUMPERS. Let us assume further that under the Loan Marketing Program he has a chance to sell his rice for a little more than the world price of $3.50. Let us assume he has a buyer overseas who will pay $4 per hundredweight for it. He can go down and redeem that rice at the world price of $3.50. Is that not correct?

Mr. HARKIN. It would be $2.40.

Mr. BUMPERS. No. I am saying that the world market price is $3.50. If he forfeits it, he keeps his $7.20 that he got for his loan, but if he wants to redeem it, he can redeem it at the world price of $3.50. Is that correct?

Mr. HARKIN. That is correct.

Mr. BUMPERS. My point is I do not want him to get caught in a technical-

ity. If he redeems it, that still would not count. The difference between what he got on loan and the redemption price, that difference will still not apply on this cap. Is that not correct?

Mr. COCHRAN. Mr. President, if the Senator would yield, I would argue in behalf of that producer that he had a nonrecourse loan, that the marketing loan is a nonrecourse loan. It may be subject to dispute, as to whether or not the $250,000 limitation or cap would apply to him.

I would argue that it should not, even under this amendment of the House. I do not think it is clear by the terms of the amendment itself what the answer would be. I think it is going to be subjected to litigation, to lawsuits.

The Senator has certainly pointed out what could be a technicality that adversely affects our effort to market aggressively and competitively rice in the international marketplace, and if we adopt this it will undermine our efforts to be competitive again.

If we adopt this, will it get us back into the world market? I don't like the amendment, but I do not think we can get a better deal out of the House.

Mr. BUMPERS. It occurs to me that the Department of Agriculture certainly does not intend that to be the case. Otherwise, this $26 million you can see is just peanuts compared to what I am talking about. It is my impression that the Department of Agriculture, if they say this cap of $250,000 will only save $26 million over a 4-year period, could not possibly be anticipating that if this farmer redeems that rice so that he can sell it in the world market for a little bit more, they certainly would not intend for him to be penalized on a technicality simply because he redeemed his rice. In addition to that, you would totally torpedo one of the major provisions of the farm bill that we passed just 1 year ago, which set up the world loan marketing arrangements in the first place.

Does the Senator agree with that?

Mr. COCHRAN. If the Senator will yield, I do agree with him. He makes a good point. I hope that those who will have to interpret and apply this amendment, if it becomes law, will listen to that kind of argument and interpret it that way, that a nonrecourse marketing loan should not be subject to that cap.

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

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, the hour is late and I will not speak over 60 seconds.

The worst thing about this amendment, I say, Mr. President, is that even though Senator COCHRAN of Mississippi knows as much about the agricultural program as any person in this body, none of us can say with any degree of certainty what this amendment sent from the House actually does. It is, in fact, an undoing of what we did in 1985.

All of us are sitting here at 12:30 at night trying to see how this is going to impact rice, cotton, wheat, or any other crops. Since we have no information about this item, I hope the House amendment will not prevail.

Mr. BOREN. Mr. President, I agree with what has been said by other Senators. I think we are not talking about the impact of this amendment. I have heard the discussion on the floor between the Senator from Mississippi and the senior Senator from Arkansas. I think it is not absolutely clear as to the impact of this amendment. I would agree with what the Senator from Mississippi has said. The likely anticipated saving would appear to be the intent. The language is not exactly clear. I think it is unwise to be legislating in this manner.

I would also point out that there is no fairness between the various commodity groups under this amendment. There are payment limitations that apply to certain commodities of wheat, cotton, and rice that do not apply to dairy, sugar, and tobacco. There is not the necessary equity here between the various commodities.

We also have to consider what happens to the price of commodities like cotton. We do not know what will happen, really, over the next few months in terms of what will develop in the cotton price. A lot of this depends on what goes on in China, for example,

If the cotton prices were to go down substantially, you are talking about impacting farms that are much smaller. If the price goes down significantly, deficiency payments will go up and that means that you are talking about cotton farms, for example, particularly like in areas in western Oklahoma where irrigation is practiced. You are talking about catching farmers that are very small and perhaps discouraging the Marketing Loan Program.

To put the loan program into effect, we told producers they would not have to bear the cost of seeing the loan rate fall further down to lower than whatever the world price is.

Now we are talking about putting on limitations that at least potentially could penalize the farmer if the Government makes the decision to further lower the rate under a marketing program.

So we are making significant changes in a farm program that was just passed this year. We are not applying the changes to all commodities across the board, to tobacco, for example, to dairy, or to other essential commodities.

I just think it is unwise for us to be doing that.

I have heard the debate among my colleagues on and off the floor about whether or not we should seek a rollcall of this matter. I was wondering about it. I think the Senator from Mississippi has pointed out that we do know how the House would react. It is possible that we could have an even more damaging provision or one that is even less clear than this provision in return if we send it back to the House.

I do want to go on record as saying that I think it is unwise for us to take the leap in the dark and not know the full impact or the full meaning of this provision at this time.

If we have a voice vote, I certainly intend to vote against it. I want to be on record at this point as being in opposition to it and thinking this is not the place to do it, this is not the hour to make this kind of change. It deserves careful study.

We need to know what size farms are impacted before we do it. I hope that we would not keep this provision in the bill.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I will be very brief. Very often I have heard it said on the floor that the Farm Program is making payments only to the very large farmers and we are not really helping the family farmers. I would point out to my colleagues that while I think the estimates by the Department of Agriculture are terribly low, the savings in 4 years of $23 million would indicate that indeed most payments do go to reasonably-sized family farms and that these large payments that are always hyped in the press really only occupy a very small portion of the overall Farm Program.

I say that because this figure is $23 million over a 4-year period. I think that is low.

But even if the figure were perhaps more realistic, and I have heard one of my colleagues say $200 million over 4 years, it still would not be 1 percent of the overall program. I just make that by way of observation and I yield the floor.

□ 2430

The PRESIDING OFFICER. Is there any further debate? If not, the question is on agreeing to the motion to recede.

The motion to recede was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

MORATORIUM ON PREPAYMENTS OF SECTION 515 MORTGAGES

Mr. DOLE. Mr. President, I would like to ask the distinguished Senator from Mississippi [Mr. COCHRAN] a question about a provision in the continuing resolution that provides for a moratorium on prepayments of section 515 Farmers Home Administration mortgages.

Mr. COCHRAN. I would be happy to respond to the majority leader.

Mr. DOLE. As I understand the provision, it is designed to give time to review the impact of prepayments of this type on the availability of low-cost housing intended to be encouraged by the 515 program. However, I am somewhat concerned that the effective date might be construed to adversely impact some transactions that are not abusive by any reasonable definition of the term.

For instance, I am concerned that this amendment might inadvertantly affect refinancings that have already occurred where there will be no resulting changes in rents or the policy for the running of a project. May I ask the distinguished Senator from Mississippi if a mortgage were refinanced, the closing on the mortgage to prepay the FmHA mortgage occurred today and the mortgagee had assured the Farmers Home Administration that, among other items, all existing leases would continue to be honored and the applicable rent subsidy agreement would remain in effect, would the new provision apply in the event that the actual discharge of the Farmers Home Administration mortgage does not occur until several days from today?

Mr. COCHRAN. It would seem to me that a refinancing under the facts presented by the majority leader would not be affected by the moratorium contained in the continuing resolution.

AMENDMENT NO. 3477

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Arizona, amendment No. 3477.

Mr. HATFIELD. Mr. President, let me describe for a moment the situation. I shall then ask unanimous consent to temporarily lay aside a certain matter.

We are now back to the one remaining amendment, amendment No. 59, relating to the funding for Federal buildings.

This amendment has been amended by the Senator from South Dakota [Mr. ABDNOR] in the first degree. It has been amended by the Senator from Arizona [Mr. GOLDWATER] in the second degree. We are now locked into a situation where no other amendment is possible—and I believe the Senator from Montana and the Senator from Ohio have other amendments that they wish to offer.

We are still in the process of trying to work out a compromise on the matter of the amendment relating to the subject of the amendment offered by the Senator from Arizona [Mr. GOLDWATER]. If we could get unanimous consent agreed to at this moment to lay aside temporarily the amendment in the second degree, the amendment of Mr. GOLDWATER, then the amendment pending by Mr. ABDNOR would be subject to another second-degree amendment, which would open up the opportunity for the Senators who wish to offer amendments on this continuing resolution.

I believe we could handle those two, and I am not aware of others. There may be, but I would hope to be able to handle those two amendments that are going to be presented by the Senators from Ohio and Montana and dispose of them. Then I would defer to the leadership as to what our decision would be after that. There is a possibility then, if we have not arrived at some kind of agreement on the compromise on the Goldwater amendment, there may be some possibility of setting that over until tomorrow morning. But I would certainly like to clear the deck tonight of all other amendments that may be offered in the second degree that would be possible after we set aside the Goldwater amendment.

If there are questions, I would like to respond to them. If not, I shall set the point into issue.

I ask unanimous consent to set aside temporarily the second-degree amendment by Senator GOLDWATER in order that other Senators may offer their amendments in the second degree to the pending Abdnor amendment.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I do not know of any objection. The distinguished Senator from Arizona is meeting right now with Senators D'AMATO, MOYNIHAN, DECONCINI, the Chief of Staff of the Air Force, the Air Force Secretary, several colonels, privates, to see if they can work out something. But this would expedite the matter. I just make that note that this would not prejudice the right of Senator GOLDWATER to reoffer the second-degree amendment.

Is that correct, Mr. President?

The PRESIDING OFFICER. The amendment would recur.

Mr. DOLE. Regardless of the disposition of the second-degree amendments.

The PRESIDING OFFICER. That is correct.

Mr. CHAFEE. Mr. President, I would like to ask what the amendments are that we can expect. The Senator mentioned one from the Senator from Montana and one from the Senator from Ohio. What are they?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, in a moment, I shall be prepared to offer the so-called compromise on the RICO amendment. If the Senator from Rhode Island needs further description, I shall be happy to provide it.

Mr. HATFIELD. Mr. President, I would like to pose a question to the Chair.

By temporarily laying aside the Goldwater amendment, that in no way prejudices any of the parties to that amendment, because it would automatically come back at the complete of any intervening amendments that might be offered. Is that correct?

The PRESIDING OFFICER. The Senator is correct. And the amendment would recur automatically as each amendment is disposed of unless a complete substitute were to be offered for the Abdnor amendment.

Mr. METZENBAUM. Mr. President, is the Senator from Utah [Mr. HATCH] on the floor? He has an interest in this amendment. I indicated I would make every effort to protect him so he might be called to the floor.

Will the Senator from Oregon yield for a question?

Mr. HATFIELD. Yes, Mr. President.

Mr. METZENBAUM. Is the floor now open and would he make his unanimous-consent request so I may offer the amendment?

Mr. HATFIELD. I say to the Senator from Ohio that we are delaying momentarily to make one final check before I propound that unanimous-consent request. Then I shall be very happy to yield the floor, and it will be open for the Senator from Ohio to offer an amendment.

Mr. METZENBAUM. Has the majority leader sent word to Senator HATCH?

Mr. DOLE. Yes.

Mr. METZENBAUM. I thank him.

Mr. DOMENICI. Mr. President, I wonder if the distinguished chairman would mind if I took a few minutes with reference to the budgetary effects of the 13 appropriations bills?

Mr. HATFIELD. I shall be happy to do that.

Mr. DOMENICI. Mr. President, I rise in support of the conference report on the continuing appropriations bill. As my colleagues know, this bill contains all 13 regular appropriation bills which the Congress has been unable to pass separately. It also funds the new bipartisan antidrug legislation.

This bill provides $559.6 billion in budget authority and $353.5 billion in outlays to fund all activities of the Federal Government for fiscal year 1987.

When outlays from prior-year budget authority and other adjustments are taken into account, the bill

is $4.9 billion in budget authority and $0.1 billion in outlays under the Senate Appropriations Committee's overall 302(a) allocation.

DRUG BILL FUNDING

Mr. President, it is important to note that these totals include funding for the bipartisan antidrug bill. The continuing resolution provides $1.7 billion in budget authority and $0.8 billion in outlays in fiscal year 1987 to combat the flow and use of drugs in the United States.

Although funding for the drug control initiative was not part of the budget resolution, the Appropriations Committee has brought back a conference report that is under the overall budget resolution levels. The distinguished chairman and members of the committee should be congratulated on this considerable achievement.

OTHER DOMESTIC APPROPRIATIONS

Mr. President, I also want to commend my colleagues for their work on the domestic side of the continuing appropriations resolution, other than the drug bill. The subcommittees has to make many hard choices on which programs to fund and which to cut.

Many of the nondefense subcommittees completed action consistent with their 302(b) allocation, and I congratulate them on their fine efforts. For the few subcommittees that will require a revised section 302(b) allocation, I know what difficult constraints they had to work under, and I am pleased that such adjustments can be accommodated within the overall budget totals for the Appropriations Committee.

Much of the credit for the overall budget reductions we are achieving belongs to Chairman HATFIELD and the Appropriations Committee. This continuing resolution continues to hold the line on spending for nondefense discretionary programs, which has declined by 25 percent under the able chairmanship of my good friend and distinguished colleague, Senator HATFIELD.

FOREIGN ASSISTANCE

The foreign assistance title is consistent with both the subcommittee 302(b) allocation and the budget resolution assumptions.

The conference agreement begins much needed reform of financing for foreign military sales by discontinuing treasury-rate loans in favor of increased grants and low-interest loans.

The conferees agreed to add $50 million for disaster and reconstruction assistance to victims of the recent earthquake in San Salvador; additional amounts may be requested later when damage assessments are completed.

I believe it should also be noted that economic assistance for Central America is expected to be no lower than the fiscal year 1986 level, and it is specifically exempted from the conference provision that no region may receive a greater percentage of global assistance totals in fiscal year 1987 than it did in fiscal year 1986.

Overall, funding for foreign aid in fiscal year 1987 is 6 percent less than the fiscal year 1986 level. I am concerned that congressional decisions to increasingly earmark amounts for individual countries and activities does more to hamper foreign policy than the scarcity of resources.

In this regard, I am pleased that the conferees accepted an amendment by Senator KASSEBAUM, requiring the administration to submit new legislation restructuring U.S. foreign aid programs to more effectively utilize diminishing resources.

DEFENSE

The conference agreement provides $268.8 billion in budget authority for the Department of Defense. When the other function 050 portions of the continuing resolution are included, the total appropriation for defense activities is approximately $284 billion in budget authority and $277 billion in outlays.

The funding levels for the overall defense function are under the targets in the budget resolution by $8 billion in budget authority and $2 billion in outlays. This makes defense a major "bill payer" in the continuing resolution.

I support the continuing resolution, but I would have preferred a higher level of funding for our nation's defenses.

CONCLUSION

Mr. President, this first year of complying with the mandates of the Balanced Budget Act has been challenging. But I am greatly encouraged by the final continuing resolution before us today. I sincerely congratulate the distinguished chairman and ranking member of the Appropriations Committee for the outstanding job they have done.

Mr. President, I ask unanimous consent that tables showing the relationship of the reported bill to the Appropriations Committee's section 302(a) allocation, the President's request, and the Senate-and House-passed levels, and summaries of total appropriations action to date and congressional action to date, be printed in the RECORD at the conclusion of my remarks.

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

APPROPRIATIONS COMMITTEE CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1987 SPENDING TOTALS—CONFERENCE AGREEMENT

[Dollars in billions]

	Fiscal year 1987	
	Budget authority	Outlays
Outlays from prior-year budget authority, permanent and advance appropriations, and other actions completed this session	12.7	205.5
H.J. Res. 738, conference report	559.6	353.5
Possible later requirements:		
Veterans Compensation COLA	[1]	0.2
ACIF/Net realized losses	0.7	
RHIF/Net realized losses	0.4	
RDIF/Net realized losses	0.1	
Civilian agency pay raises	0.4	0.4
Totals PLR's	1.6	0.5
Adjustment to conform mandatory programs to budget resolution assumptions and other adjustments [2]	−19.5	+0.8
Adjusted committee total	554.4	560.3
Senate appropriations 302(a) allocation	559.3	560.4
President's request [2]	574.9	577.6
House-passed level [2]	548.6	558.8
Senate-passed level	553.6	560.9
Adjusted committee total compared to:		
Senate appropriations 302(b) allocation	−4.9	−0.1
President's request	−20.4	−17.3
House-passed level	+5.9	+1.5
Senate-passed level	+0.8	−0.7

[1] Less than $50 million.
[2] Includes adjustment for CCC for comparability with Senate crosswalk.
Note.—Details may not add to totals due to rounding.

CONGRESSIONAL ACTION TO DATE—CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1987—HOUSE JOINT RESOLUTION 738, CONFERENCE REPORT

[In billions of dollars]

	Fiscal year 1987	
	Budget authority	Outlays
Congressional action to date [1]	567.2	670.7
House Joint Resolution 738, conference report	559.6	353.5
Offsetting receipts	−26.1	−26.1
Possible later requirements [2]: (see attached table for details)	1.2	1.0
Adjustment for CCC	−19.8	
Total	1,082.1	999.1
Budget Resolution (S. Con. Res. 120)	1,093.4	995.0
Over (+)/under (−) Budget resolution	−11.3	+4.1

[1] This figure reflects legislation enacted in previous sessions of Congress, legislation enacted this session, and conference reports agreed to by both Houses as of October 14, 1986.
[2] CBO estimates that entitlements and other rmandatory programs will need the additional funding shown here based on the assumptions contained in the fiscal year 1987 budget resolution (S. Con. Res. 120).
Note.—Details may not add to totals due to rounding.

CONGRESSIONAL ACTION TO DATE—CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1987—HOUSE JOINT RESOLUTION 738, CONFERENCE REPORT—POSSIBLE LATER REQUIREMENTS

[In billions of dollars]

	Fiscal year 1987	
	Budget authority	Outlays
Possible later requirements [2]:		
Claims, defense	[1]	[1]
Payments to air carriers, DOT	[1]	[1]
Retired Pay, Coast Guard	[1]	[1]
Guaranteed student loans	0.1	
Special milk	[1]	
Advances to unemployment trust fund [3]	[1]	[1]
Black lung trust fund	0.3	0.3
Special benefits for disabled coal miners	[1]	
Assistance payments	0.3	0.3
Readjustment benefits	[1]	[1]

CONGRESSIONAL ACTION TO DATE—CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1987—HOUSE JOINT RESOLUTION 738, CONFERENCE REPORT—POSSIBLE LATER REQUIREMENTS—Continued

[In billions of dollars]

	Fiscal year 1987	
	Budget authority	Outlays
Civilian agency pay raises	0.4	0.4

CONGRESSIONAL ACTION TO DATE—CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1987—HOUSE JOINT RESOLUTION 738, CONFERENCE REPORT—POSSIBLE LATER REQUIREMENTS—Continued

[In billions of dollars]

	Fiscal year 1987	
	Budget authority	Outlays
Total—possible later requirements	1.2	1.0

[1] Less than $50 million.
[2] CBO estimates that entitlements and other mandatory programs will need the additional funding shown here based on the assumptions contained in the fiscal year 1987 budget resolution (S. Con. Res. 120).
[3] This is an interfund transaction that does not add to budget totals.
Note.—Details may not add to totals due to rounding.

HOUSE JOINT RESOLUTION 738, CONTINUING RESOLUTION FOR FISCAL YEAR 1987—CONFERENCE AGREEMENT

[Dollars in billions]

Subcommittee	Senate appns. revised 302 (b) allocation		Adjusted subcommittee totals[2]		Subcommittee compared to allocation	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Agriculture	31.5	24.1	31.5	24.1	−[1]	+[1]
Commerce-Justice	12.2	12.3	12.1	12.3	−0.1	−[1]
Defense	268.8	262.6	268.8	262.5	−[1]	−0.1
District of Columbia	0.6	0.6	0.6	0.6	−[1]	−[1]
Energy-Water	15.0	15.2	15.0	15.2	−[1]	−[1]
Foreign Operations	13.0	10.8	12.9	10.8	−0.1	+[1]
HUD-Independent	56.2	56.5	56.2	56.5	−[1]	+[1]
Interior	8.1	9.1	8.1	9.1	−[1]	+[1]
Labor-HHS	113.7	117.9	113.6	117.9	−0.1	−[1]
Legislative Branch	1.6	1.6	1.6	1.6	+[1]	+[1]
Military Construction	8.2	7.9	8.2	7.9	−[1]	−[1]
Transportation	10.3	26.9	10.2	26.9	−0.1	−[1]
Treasury-Postal Service	13.6	13.7	13.6	13.7	+[1]	+[1]
Deficiencies and Supplementals	6.5	1.2	2.1	1.2	−4.4	−[1]
Total, Appropriations Committee	559.3	560.4	554.4	560.3	−4.9	−0.1

[1] Less than $50 million.
[2] In addition to the bill, includes outlays from budget authority enacted in prior years, possible later requirements, adjustments to conform mandatory items to budget resolution level, and other adjustments.
Note.—Details may not add to totals due to rounding.

Mr. COCHRAN. Mr. President, would the distinguished manager of the bill yield?

Mr. HATFIELD. I yield.

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES

Mr. COCHRAN. Mr. President, the Agriculture, Rural Development, and Related Agencies Act for fiscal year 1987 (H.R. 5177), is included in its entirely in amendment No. 1 in the conference report on the continuing resolution.

As chairman of the subcommittee with jurisdiction over that bill, I am proud to report to the Senate that the agriculture section of the conference agreement is within the subcommittee's original 302(b) allocation for outlays. This was a difficult task in this time of budget constraints, given the current economic conditions facing our farmers.

As Senators will recall, the House version of the continuing resolution included, by reference, the House-passed version of H.R. 5177. The Senate amended the continuing resolution to include, by reference, H.R. 5177, as reported to the Senate by the Appropriations Committee on September 11, 1986. When the continuing resolution was considered, there were a number of amendments adopted in both the House and the Senate which would alter H.R. 5177 or existing laws related to agriculture. The conferees included most of these provisions in the text of amendment No. 1 in order to consolidate the various agriculture amendments which were scattered throughout the continuing resolution. I will highlight some of the conference agreements on H.R. 5177 and related provisions of the continuing resolution.

The feeding program for women, infants, and children [WIC] will be funded at $1,663,497,000 for fiscal year 1987. This is an $8 million increase over the Senate bill and a $43 million increase over current services. Also included is a provision which prohibits the implementation of regulations which were proposed in September which would alter the WIC funding formula. The conference agreement does, however, require implementation of regulations concerning this issue in time for States to conform to the new regulations by the beginning of fiscal year 1988.

For Public Law 480 title II programs, the conferees agreed to increase the amount provided in the Senate bill by approximately $100 million. As a supporter of the Public Law 480 programs, I was pleased that we could provide this increase and remain within our 302(b) allocation.

For the Commodity Credit Corporation, the House insisted that we provide a direct appropriation for net realized losses, rather than a current, indefinite appropriation as proposed by the Senate. We provide a total of $19.8 billion, including $3 billion which shall be available only to the extent that an official budget request is transmitted to the Congress. This will allow reimbursement for any advance deficiency payments which the Secretary may choose to make in 1987.

The House bill included limitations on CCC spending for certain programs. The conferees agreed to those limitations with two exceptions upon which the Senate conferees insisted: First, the limitation on borrowing by the Federal Crop Insurance Corporation was increased from $100 million to $375 million; and second, the limitation on the Conservation Reserve Program was increased from $550 million to $700 million.

The conferees agreed to include a disaster provision in the bill. During the appropriations Committee's markup of the agriculture appropriations bill, the Senator from Georgia, Senator MATTINGLY, offered an amendment designed to alleviate the devastating effects of the drought which plagued the Southeast this past summer. During floor consideration of the continuing resolution, the Senator from Georgia expanded that amendment to include assistance for all farmers who suffered from not only the drought, but also floods and hail storms in other parts of the country. The conference agreement includes those amendments, as well as $20 million for emergency conservation measures, and other discretionary provisions related to the Farmers Home Administration.

The conference report on the continuing resolution includes the full text of the conference agreement on amendments to the Child Nutrition and School Lunch Acts, commonly known as H.R. 7. One adjustment to that conference report is an amendment which was in the House version of the continuing resolution and which will eliminate the cap on tuition which schools may charge and still participate in the School Lunch Program.

Mr. President, there is one provision upon which the conferees were not able to agree. This provision was a matter included in the House version of the continuing resolution and it was deleted by the Senate. It involved a limitation on payments which farmers may receive under the various programs authorized in the 1985 farm bill. The Senate conferees in the subconference on agricultural issues in the continuing resolution voted 7 to 2 to reject the House provision. Because the House conferees insisted on their position, the amendment was reported from the conference in true disagreement. The House further insisted on that position last night during consideration of the amendment in disagreement. Thus, we will be faced with that issue later.

Mr. President, I support the conference report on the continuing resolution and I recommend its immediate adoption.

Mr. President, in subconference and in the full conference, we prevailed in many of the positions that the Senate had taken in the markup of the bill.

□ 0040

Mr. DOLE. 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. HATFIELD. Mr. President, I ask unanimous consent further proceeding under the quorum call be dispensed with.

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

Mr. HATFIELD. Mr. President, I believe we have clearance from all parties on both sides of the aisle and therefore I would propound a unanimous-consent request that we temporarily lay aside the Goldwater amendment in the second degree to the Abdnor amendment in the first degree without prejudicing the rights of any parties thereto in order for other Senators to be free to offer amendments in the second degree.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, one comment. I want to say, without addressing the merits of any amendment—and I want to be very straightforward—the order of the business that we have before us is to complete the continuing resolution. We have disposed now of four of the five amendments. I will move to table any other business of the Senate that is attempted to be put on this continuing resolution, just as a matter of course, in order to get this appropriation completed. Again, I say that without any derogation of the merits of any issue that any Senator may wish and has every right to raise. But I also want to be very clear we are not here to do the legislative business of the past session. We are not here to try to pick up the unfinished agendas. We are not here to try to work out the final compromises.

I am saying this without any prejudice to any Senator or impinging upon the right of any Senator, but I will move to table any amendment that is offered.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am about to send to the desk an amendment which reforms the Racketeer Influence and Corrupt Organizations Act, more commonly known as RICO. RICO was originally enacted to fight organized crime but it has been used to attack legitimate business practices. The amendment I am offering is very similar to S. 2907, a measure I introduced on October 3 of this year. This amendment is identical to the bill passed by the House overwhelmingly 371 to 28.

Now, that has to do with the RICO portions of the bill. It is not identical in connection with two add-ons to my amendment which will be more fully described by the Senator from Utah, and I will not attempt to describe that portion of the amendment but will yield the floor to him in order that he may do so at an appropriate time.

The purpose of the RICO amendment, not including the Hatch add-ons, is to make sure RICO is still a powerful tool for attacking corporate abuse but that it is not used—may we have order in the Senate?

Mr. HATCH. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Let us not add the Hatch add-ons. I will be happy to speak in favor of the amendment for just a minute when the Senator finishes. We will not add on anything. I do have a great deal of sympathy with the distinguished Senator from Oregon about adding legislation on the bill. The RICO add-on would be a very good thing and I will speak to that, but let us not add the other two.

Mr. METZENBAUM. Whatever the Senator from Utah wants. As he well knows, I was adding it at his request. I will not add it also at his request.

Now, RICO has mushroomed into a litigation explosion and frankly we need to put some fair and sensible limits on it. The American business community is being harassed by RICO lawsuits and I am frank to say to my colleagues that originally there were those who proposed that we practically throw out the entire RICO legislation.

Mr. President, there is not order in the Senate.

Mr. HATFIELD. Mr. President, I move to table the amendment.

Mr. BUMPERS. Mr. President, will the Senator withhold for just a moment? I want to be added as a cosponsor to this amendment.

Mr. METZENBAUM. I am happy to have the Senator from Arkansas as a cosponsor.

Mr. HATFIELD. Mr. President, I will withhold the motion to table the amendment, but I would like to make that motion as soon as possible. The Senator from Utah and any other Senator who wishes to speak, I will not try to foreclose them.

Mr. METZENBAUM. I was still speaking but I asked for order in the Senate.

Mr. HATFIELD. I am sorry; I did not understand. I thought the Senator yielded the floor and I was given recognition.

Will the Senator indicate how much time he needs?

□ 0050

Mr. METZENBAUM. Three or four minutes. I do not intend to keep this body long on this issue.

In essence, all the amendment is all about is the fact that we are providing to this bill—the Senator from Oregon has some merit to his proposition as to whether this is the proper place to add it. The fact is that there are so many abuses occurring today under RICO that the American business community, major portions of it, is crying out for relief.

It is fair to point out that they would like more relief than is provided in this bill. But the fact is that the accounting profession, the securities profession, many of the largest corporations in America, have been around these halls saying "We need this bill."

I would not be totally frank with this body if I did not indicate that there is some objection, because some segments of the business community feel that it does not go far enough. But nobody says that it is not a major step in the right direction.

This amendment reforms the Racketeer Influenced and Corrupt Organizations Act, more commonly known as RICO.

The amendment I am offering is very similar to S. 2907, the measure I introduced on October 3 of this year. This amendment is identical to the bill

passed by the House overwhelmingly, 371 to 28.

The purpose of this amendment is to make sure RICO is still a powerful tool for attacking corporate abuse, but that it is not used against legitimate business practices.

RICO has mushroomed into a litigation explosion; we need to put some fair and sensible limits on it.

The amendment retains RICO as a strong tool for Government criminal and civil actions; it limits the use of RICO in business litigation cases where other remedies are available; and it retains the opportunity for consumers to obtain punitive damages in cases where the conduct has been particularly bad.

The amendment retains strong remedies for harm to individual consumers. And it reduces the incentives to use RICO for ordinary commercial disputes. In order to accomplish this objective, the bill divides RICO cases into three basic categories, each with different remedies.

First, in the case where the defendant has been convicted of criminal offenses, the current provisions for treble damages and attorneys fees to successful plaintiffs is retained. There is also no change in the case of civil or criminal actions by the Government.

Second, in the case where individual consumers have been harmed in the purchase or lease of a product, service, or investment, the purchase of real property, and the purchase of a contract, including an installment sales contract or other extension of credit, for their own use, the remedy would be actual damages, attorneys fees, and discretionary damages up to twice the level of actual damages, depending on the seriousness of the conduct. This approach means that in the case of the most egregious conduct by a defendant, treble damages could still be awarded. However, in the case where the conduct is less egregious, punitive damages would be much less.

Finally, for other cases, the remedy would only be actual damages plus attorneys fees. This last category of cases would include commercial disputes which now make up the great majority of RICO legislation. By reducing the remedy to actual damages, the incentive to use RICO would be greatly reduced.

A cause of action under RICO, whether brought under the civil or criminal provisions of the statue, is predicated on violations of other Federal or State statutes. RICO does not, however, allow a plaintiff to recover treble damages, attorney's fees, and costs if he successfully proves only a violation of these underlying Federal or State causes of action. Instead, a successful suit under RICO must prove the existence of a "pattern" of criminal violations committed in relation to an enterprise. It is thus inaccurate to state that the U.S. statute displaces or evades other Federal or State causes of action. RICO offers enhanced penalties because its provisions are violated by especially egregious behavior.

While the amendment does eliminate the award of automatic treble damages in certain cases, it does not alter current law concerning entitlement to costs and a reasonable attorney's fee in all cases. *See Aetna Cas. & Ins. Co.* v. *Liebowitz*, 730 F.2d 905 (2d Cir. 1984). This entitlement is mandatory, not discretionary.

The amendment divides civil RICO plaintiffs into four categories: Government plaintiffs, private plaintiffs who sue persons who have been convicted of an illicit activity or a violation of RICO, consumer plaintiffs, and nonconsumer plaintiffs.

The first two categories of plaintiffs are readily understandable. The last two categories need further explanation.

Recent statistics of the U.S. Department of Justice estimate that white-collar crime costs American citizens $200 billion annually. Civil RICO is currently consumers' best defense against this crime wave since it allows them to seek compensation for their losses. The amendments are designed to preserve the use of civil RICO for consumers who are victimized by ongoing criminal behavior, including criminal frauds. Thus, any person who suffers RICO cognizable injury in connection with a contract for personal or household use or investment, or the purchase or lease of a product, service, investment, or other property for personal or household use or investment may bring an action for damages, costs, attorney's fees, and punitive damages up to twice the level of actual damages. This remedy is available to all persons who meet the criteria in the amendments, whether or not they are unsuspecting and highly vulnerable or impoverished. The set of facts underlying *Gregory* v. *Atlantic Permanent Savings and Loan Ass'n.*, No. 84-620-N (E.D. Va. 1984) is just one example of the many circumstances in which a plaintiff would be able to maintain a civil action under RICO as a consumer. Other fact situations, for example, arising in connection with an extension of credit, refinancing, or any consumer transaction are meant to qualify for punitive damages under the amendment.

The provision that punitive damages are available if "neither State nor Federal securities laws make available an express or implied remedy for the type of behavior on which the claim of the plaintiff is based" is meant to preclude a plaintiff from recovering under the punitive damages section of the amendments if he or she is eligible to recover damages under the securities laws based on the facts underlying the civil RICO case and if the civil RICO case were filed under the securities laws instead. It is not designed to insure that no punitive damages are available as long as the securities laws regulate the conduct, whether or not the plaintiff himself or herself would have standing to press the claim.

Behavior is done in "wanton" disregard of the plaintiff's rights if it is done in reckless or callous disregard of the rights of the plaintiff. The term is intended to be applied as it is traditionally applied and is not intended to require a different standard of proof than in traditional cases involving other Federal and State courses of action.

A plaintiff who meets the requirements for eligibility to recover punitive damages need not prove viciousness or egregiousness in order to recover punitive damages. Nor is it the intent of the amendments that substantial punitive damages should be reserved only for the most extreme cases of misconduct because all wanton and willful conduct is extreme, vicious, and egregious. *See, e.g., Phillips* v. *Hunter Trails Community Ass'n.*, 685 F.2d 184 (7th Cir. 1982), *Meyer* v. *Nottger*, 241 N.W.2d 911 (Iowa 1976), *Stroud* v. *Denny's Restaurant, Inc.*, 271 Ore. 430, 532 P.2d 790 (1975), *General Motors Acceptance Corp.* v. *Froelich*, 273 F.2d 92 (D.C.Cir. 1959), *Woodard* v. *City Stores*, 334 A.2d 189 (D.C.App. 1975).

The factors which the trier of fact should consider in establishing the level of punitive damages are aggravating, not mitigating, factors. The purpose of listing solely aggravating factors is to make sure that the trier of fact has proper guidance on the kinds of factors that should be considered in the award of punitive damages. The second factor, the "degree of disparity of bargaining power" means that the trier should consider the difference in bargaining power between the plaintiff and the defendant. It does not mean that the punitive damage award should be affected only if the disparity was so great that the defendant's actions were unconscionable, although an unconscionable disparity is certainly a fact that the trier of fact should consider. The other factors should also be interpreted in light of common meaning and understanding and in the light most favorable to the award of double actual damages for the plaintiff.

The scope of suits for which punitive damages are available should be interpreted liberally in favor of the plaintiff.

The pattern definition in the amendment should be interpreted in light of footnote 14 in *Sedima, S.P.R.L.* v. *Imrex Co., Inc.*, 105 S.Ct. 3275 (1985). The word "episode" in the statute was specifically selected and should not be

confused with "scheme" or "transaction." *United States* v. *Buscaro*, 742 F.2d 1335 (11th Cir. 1984), *cert. denied*, 105 S.Ct. 3476 (1985), and *Holmberg* v. *Morrisette*, 2 Civil RICO Rptr. No. 15, p. 4 (8th Cir. 1986), for example, are rejected. The reasoning of *United States* v. *Moeller*, 402 F.Supp. 49 (D.C.Conn. 1975) is adopted.

The statute of limitations starts to run from when the "cause of action accrues," "the conduct causing injury to the plaintiff terminates," or the date of the criminal conviction. The "conduct" refers to the pattern of illicit activity. The result of *Bowling* v. *Founders Title Co.*, 773 F.2d 1175 (11th Cir. 1985) is not possible under the amendment. The running of the statute of limitations is tolled during the pendency of a governmental civil or criminal action. It also includes the usual rules about bars, such as tolling for fraud and duress.

The requirement of pleading with particularity should be interpreted in light of rule 9 of the Federal Rules of Civil Procedure. Probable cause pleading is not required.

The amendment does not address the issue of respondeat superior or derivative liability nor is it intended to affect current law on this issue.

The amendment I am offering is the result of extensive discussions with business groups, labor, consumer representatives, and many others. It is supported by a wide spectrum of groups and individuals who have a strong interest in how RICO is reformed. A number of provisions were adopted in a spirit of compromise in order to bring all sides closer to consensus. I believe it represents a fair and sensible compromise, and I urge its adoption.

I particularly appreciate the cooperation of Senator LEAHY, who contributed substantially to the final drafting and who played a major role in helping achieve consensus, Congressman RODINO, chairman of the House Judiciary Committee; Congressman BOUCHER, who introduced legislation on this subject, and others who cooperated in these discussions.

This identical bill passed overwhelmingly in the House. I strongly urge the Senate to pass it as well.

I hope that at this late hour the U.S. Senate will see fit to adopt this amendment. It may not be all that some would like it to be, but I believe that it is good legislation and would help the American business community, would help many segments of it. I think we would be remiss if we did not take advantage of this opportunity.

Mr. HATCH. Mr. President, I will take very little time on this, because I understand the ordeal that the Senator from Oregon is under; and I hope my colleagues will start to recognize that ordeal.

Since the distinguished Senator from Ohio has brought this up, as to the RICO bill—which is what this amendment is—it would be better had we had a broad-based bill that would take care of all the injustices that are going on under civil RICO in this country today.

This bill basically takes care of accountants and securities dealers. It does not take care of bankers. It does not take care of insurers. It does not take care of a whole raft of others who nobody ever contemplated would be sued under the racketeering laws of this country. We all know that these laws have been used to extort throughout this country. Banks are sued, and they pay settlements because they do not want to be called racketeers. Nobody ever thought this was going to happen.

Whether this passes tonight or not, I intend to do everything I can to resolve the civil RICO problem next year. I mean that we need to resolve it across the board, not just in specialized cases, as this will be.

The distinguished Senator from Ohio knows that the people in the House will not take anything else. This is the best we can do this year. Therefore, I recommend that we vote for this bill, and I hope it will be the last legislative amendment offered to this continuing resolution. I feel duty bound to support it.

I have sympathy for the Senator from Oregon. I understand what the distinguished Senator from South Carolina is going to say: If they take the word "security" out, it would be broad-based and would take care of everybody. But I understand that the House will not take it.

I support the Senator from Ohio. I hope we will vote this bill through in this form, and I hope everybody will consider helping us to do it next year on a fair basis, for all businesses.

Mr. BIDEN. Mr. President, No. 1, the Senator from Ohio is being much too modest. This is not just an OK bill. This is a significant bill. This is a very good bill.

I know that most of my colleagues, unless they serve on the Judiciary Committee, probably do not know RICO from "SHMICO," any more than I would know some of the farm programs or some of the programs in the tax bill.

RICO is in fact a significant weapon that the Justice Department has available to it, and the civil application of RICO is important, notwithstanding the criticisms that have been made of it.

We have been trying to negotiate this proposal for two years. It was not until the Senator from Ohio decided that he would take it on essentially full time, along with the Senator from Utah, that we got this far. It is a very significant piece of legislation.

Those of you who are concerned about whether or not the American business community is being unfairly treated should understand that although they may not have called you on it, you will be called if you vote to table, because this is a big, big, big deal to a big segment of the American business community, as it should be. There is nothing wrong with that.

The reason why the Senator from Ohio—and I do not deign to speak for him—but I suspect, being able to read his mind, as I always am able to do, that the reason he wants to do it tonight is that this is something that is without controversy on the House side. If you all had a chance to look at it in detail, it probably would be without controversy here.

This is not an inappropriate vehicle to put it on. It will go through like a hot knife through butter if you let it. Just keep in mind that if you do not, there will be a lot of people upset, with good reason, who have worked a long time.

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

Mr. BIDEN. I yield.

Mr. CHILES. Will the Senator tell the Senator from Florida, if this bill is so noncontroversial and everybody wants it and the House has passed the measure and sent it over here, what is to prevent the Senate, on a unanimous-consent agreement, from taking up the House measure and passing that?

We are dealing now with a conference report. A conference report, the Senator from Florida always felt, you voted yes or no. The only reason to hold a conference is to bring the parties together and to force some resolution.

We had the continuing resolution here, and we worked on it for days. Anybody who had an amendment had a shot at putting it on. The Senator from Florida had some; the Senator from Delaware had some.

Mr. BIDEN. The Senator from Delaware is probably the only person here in 14 years who not one time had an amendment to a continuing resolution, and I will tell the Senator why now. The reason why now is that a few Senators just saw the light a half hour ago.

Mr. CHILES. If they saw the light a half hour ago, why do not those same Senators that the Senator from Delaware is talking about, with the power of the Judiciary Committee—why does not somebody from the Judiciary Committee stand up and say: "I have a unanimous-consent agreement; I want to take the House bill off the calendar; and let's take it up and pass it as a freestanding bill"?

Mr. BIDEN. Mr. President, do I have the floor?

The PRESIDING OFFICER (Mr. WILSON). The Senator from Delaware has the floor.

Mr. BIDEN. Mr. President, I ask unanimous consent that we temporarily set aside the continuing resolution, and I ask unanimous consent that we take the RICO bill off the desk and that we pass it. That is my unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. D'AMATO. Mr. President, reserving the right to object——

Mr. HATFIELD. Mr. President, reserving the right to object, under what time limitation?

Mr. BIDEN. Twenty seconds.

Mr. D'AMATO. Mr. President, will the Senator yield for an inquiry?

Mr. BIDEN. I yield.

Mr. D'AMATO. I share the Senator's thought with respect to RICO and its misapplication. We have a great deal of concern in the city of New York, and that relates to whether or not they would be precluded—they being the city or any other municipalities—from bringing an action where there is no conviction, a civil action where there is no conviction.

I believe that is the case in the House bill. If it is, I would suggest that it would be appropriate to amend that to give those municipalities a 2-year grace period so that they could obtain legal authority from their legislatures and not be precluded from actions they are contemplating or undertaking at the present time. I hope we can deal with that deficiency.

Mr. BIDEN. I will answer the question by suggesting that I do not think we begin to amend any of this. I respectfully suggest that if the unanimous-consent request cannot be agreed to, we withhold that until immediately when we get back here.

□ 0100

The Senator from Utah or the Senator from South Carolina or the Senator from Massachusetts will be chairman of the Judiciary Committee next year, and I can assure you that they will likely bring that up. So I would not want to do that.

Mr. CHAFEE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The distinguished manager, the Senator from Oregon.

Mr. HATFIELD. I move to table the Metzenbaum amendment.

Mr. THURMOND. Give me one-half minute.

The PRESIDING OFFICER. The amendment has not yet been offered.

Mr. HATFIELD. Mr. President, the Senator asked for 1 minute.

Mr. METZENBAUM. A slight detail.

The PRESIDING OFFICER. The Senator will suspend.

Mr. HATFIELD. I believe the Senator has not even submitted the amendment.

Mr. METZENBAUM. I believe that is right, a slight detail.

Mr. HATFIELD. Does the Senator intend to submit the amendment?

Mr. METZENBAUM. Yes; I do. I have every intention to.

AMENDMENT NO. 3479

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

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 3479.

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

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

The amendment is as follows:

Add at the end of the pending amendment:

SECTION 1. PATTERN OF ILLICIT ACTIVITY.

(a) CHAPTER 96 HEADING.—The heading for chapter 96 of title 18, United States Code, is amended by striking out "RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS" and inserting in lieu thereof "PATTERN OF ILLICIT ACTIVITY."

(b) SECTION 1961.—Section 1961 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking our "racketeering" the first place it appears and inserting "illicit" in lieu thereof;

(2) in paragraph (5), by striking out "racketeering" each place it appears and inserting "illicit" in lieu thereof;

(3) in paragraph (7) by striking out "racketeering" each place it appears and inserting "criminal" in lieu thereof; and

(4) in paragraph (8)—

(A) by striking out "racketeering" the first place it appears and inserting "illicit activity" in lieu thereof; and

(B) by striking out "racketeering" the second place it appears and inserting" criminal" in lieu thereof.

(c) SECTION 1962.—Section 1962 of title 18. United States Code, is amended by striking out "racketeering" each place it appears and inserting "illicit" in lieu thereof.

(d) SECTION 1963.—Paragraph (3) of section 1983(a) of title 18, United States Code. is amended by striking out "racketeering" and inserting "illicit" in lieu thereof.

(e) SECTION 1968.—Section 1968 of title 18, United States Code, is amended—

(1) in subsection (a), by striking out "a racketeering investigation" and inserting "an illicit activity investigation" in lieu thereof;

(2) in subsection (b), by striking out "racketeering" each place it appears and inserting "illicit activity" in lieu thereof;

(3) in subsection (c), by striking out "racketeering" each place it appears and inserting "illicit activity" in lieu thereof; and

(4) in subsection (f)—

(A) by striking out "racketeering" the first, second, and fifth places it appears and inserting "criminal" in lieu thereof;

(B) by striking out "racketeering" each other place it appears and inserting "illicit activity" in lieu therof; and

(C) by striking out "racketeer" and inserting "illicit activity" in lieu thereof.

Subsection (c) of section 1964 of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) A governmental entity whose business or property is injured by conduct in violation of section 1962 of this title may bring in any appropriate United States district court, a civil action against the person who engaged in such conduct to recover threefold the actual damages that the governmental entity sustained by reason of such injury, and the costs of the civil action, including a reasonable attorney's fee.

"(B) A civil action under subparagraph (A) of this paragraph must be brought by—

"(i) the Attorney General, if the injury is to the business or property of a governmental entity of the United States;

"(ii) the chief legal officer of the State, if the injury is to the business or property of a governmental entity of the State; or

"(iii) the chief legal officer of a subdivision of a State, if the injury is to the business or property of the subdivision and if such officer is specifically authorized by statute of the State to bring actions under this subsection.

"(2) A person, other than a governmental entity, whose business or property is injured by conduct in violation of section 1962 of this title may bring, in any appropriate United States district court, a civil action against the person who engaged in the conduct and shall recover—

"(A) threefold the actual damages that such person whose property or business is injured sustained by reason of such injury, and the costs of the civil action, including a reasonable attorney's fee, if the person who engaged in the conduct was, with respect to such conduct, convicted of an illicit activity or of a violation of section 1962 of this title; or

"(B)(i) the actual damages that such person whose property or business is injured sustained by reason of such injury, and the costs of the civil action including a reasonable attorney's fee, and

"(ii) punitive damages of up to twice the actual damages if—

"(I) the person whose business or property is injured is a natural person and the injury occurred in connection with a purchase or lease, for personal or household use or investment of a product, service, investment, or other property; or a contract for personal or household use or investment;

"(II) neither State nor Federal securities laws make available an express or implied remedy for the type of behavior on which the claim of the plaintiff is based; and

"(III) the defendant acted in wanton disregard of plaintiff's rights (but conduct of the defendant in good faith and in reliance upon a directly applicable regulatory action, approval, or interpretation of law by an authorized State agency is not in wanton disregard of plaintiff's rights for the purposes of this subclause).

(3) In a civil action involving a claim for punitive damages under paragraph (2)(B) of this subsection, the trier of fact, in determining the amount of punitive damages, shall consider—

"(I) the degree of culpability of the defendant;

"(II) the vulnerability of the victim;

"(III) any history of similar conduct by the defendant;

(IV) the benefits derived from the unlawful conduct by the defendant;

(V) the number of persons victimized;

"(VI) any prior decision by a court or State or Federal agency as to whether the defendant violated applicable law or acted in bad faith; and

"(VII) any other factor the court deems to be an equitable consideration bearing on the appropriate amount of punitive damages.

"(4) For a civil action under paragraph (2) of this subsection seeking damages under subparagraph (B) of such paragraph (2), the term "pattern of illicit activity" requires at least two acts of illicit activity—

"(A) one of which occurred not more than five years after the prior act of illicit activity;

"(A) one of which occurred not more than five years after the prior act of illicit activity;

"(B) that are not so closely related in time and place that together the acts constitute a single episode; and

"(C) (for actions based on a violation of section 1962(c) of this title) each of which is related to the affairs of the enterprise.

"(5)(A) A civil aciton under this subsection may not be commenced after the latest of—

"(i) three years after the date the cause of action accrues;

"(ii) three years after the conduct causing injury to the plaintiff terminates; or

"(iii) two years after the date of the criminal conviction required for an action under paragraph (2)(A) of this subsection.

"(B) The period of limitation provided in subparagraph (A) of this paragraph on a cause of action does not run during the pendency of a government civil action or criminal case relating to the conduct upon which such cause of action is based.

"(6) As used in this subsection, the term 'governmental entity' means the United States or a State, and includes any department, agency, or government corporation of the United States or a State, any political subdivision of a State, and any enterprise for which a trustee has been appointed by a United States district court under section 1964(a) of this title (but only during the tenure of such trustee).

"(7) The court shall award a reasonable attorney's fee to a prevailing plaintiff in a cause of action under paragraph (2)(B) of this subsection."

SEC. 3. FEDERAL RULES OF CIVIL PROCEDURES AMENDMENTS.

Rule 9(b) of the Federal Rules of Civil Procedure is amended—

(1) in the caption, by inserting, and Suits under 18 U.S.C. 1964(c)" after "Mind"; and

(2) by inserting after the first sentence the following: "In an action under 18 U.S.C. 1964(c), facts supporting the claim against each defendant shall be averred with particularity.".

SEC. 4. EFFECTIVE DATE.

(a) GENERAL RULE.—The amendments made by this Act shall apply to any civil action commenced after the date of enactment.

(b) EXCEPTION.—In any pending action under section 1964(c) of title 18, United States Code, in which a person would be eligible to recover only under paragraph (2)(B)(ii) of section 1964(c) as amended by this Act, if this Act had been enacted before the commencement of that action, the recovery of that person shall be limited to the recovery provided under such paragraph (2)(B)(ii), unless in the pending action—

(1) there has been a jury verdict or district court judgment, establishing the defendant's liability, or settlement has occurred; or

(2) the court determines that, in light of all the circumstances, such limitation of recovery would be clearly unjust.

LEGISLATION TO REFORM CIVIL RICO

● Mr. LEAHY. Mr. President, in 1970, Congress enacted the Racketeering Influenced Corrupt Organizations [RICO] statute. It contained criminal sanctions which included enhanced penalties and asset forfeiture where the Government could show a pattern of criminal activities associated with a group or organization. The law also established a civil RICO cause of action, the purpose of which was to create "private attorneys general" who would supplement criminal RICO prosecutions by suing organized crime elements. Use of civil RICO is attractive because it provides for treble damages and attorneys fees.

Problems have arisen because the statute contains very broad language as to what constitutes a civil RICO violation. The Justice Department has adopted guidelines to avoid abusive and excessive use of the broad language in the criminal context. But no similar mechanism exists to confine private civil suits to cases involving the activities of "organized crime."

Last summer, the Supreme Court in the Sedima case gave a very broad interpretation as to what constitutes a civil RICO cause of action. There have been a flood of civil RICO claims filed before, and especially since, the Sedima decision, in cases which were never contemplated by Congress back when the law was passed. Most of these involve commercial disputes where the plaintiff adds a count alleging mail, wire or securities fraud. Most of these cases are not decided on the RICO claim, but the plaintiff gets a substantial litigation advantage because he threatens the defendant with treble damages and attorneys fees and gets the public relations advantage of claiming his opponent is a racketeer. These suits are not limited to cross business claims. Many have been filed against labor unions for what are really National Labor Relations Act violations. Claims have even been filed in domestic relations cases, and one was filed by a dissident group of a church parish that sought control of the church.

Recently, the House passed a bill sponsored by Congressman BOUCHER to reform civil RICO.

This bill was the product of extensive negotiations between Senators METZENBAUM, BIDEN, and myself, Congressmen BOUCHER and RODINO, and representatives of business, labor, and consumer groups, as well as representatives of State and local governments. These negotiations were spearheaded by Senator METZENBAUM, and I compliment him for his efforts. These negotiations have produced a compromise bill which deserves the support of all Senators.

I believe that RICO reform is needed now. While the compromise legislation does not deal with all of my concerns. I believe it is a fair compromise, and one that we should act on before Congress adjourns.

In particular, the following elements of the bill are critical to the widespread support that this measure has received:

First, automatic treble damages only in actions for injuries to Government entities and cases in which the defendent against whom the damages are sought has been convicted previously of certain criminal charges;

Second, single damages in most other civil RICO actions;

Third, a limited discretionary additional award in one narrow group of cases, in which an individual has suffered damages to his or her business or property in connection with certain consumer transactions;

Fourth, the limitation to single damages of any civil RICO case in which Federal or State securities laws provide a remedy for the type of behavior on which the plaintiff's claims are based, whether or not the securities laws provide that particular plaintiff with the remedy and whether or not the plaintiff's remedy has lapsed or otherwise been lost;

Fifth, a 3-year statute of limitations that runs, in most cases, from when the plaintiff's claim accrued or the injury to him or her ended, not from the last act in any alleged "pattern" when the injury to the plaintiff had already ended and the plaintiff's RICO cause of action had already accrued;

Sixth, a requirement that a plaintiff plead every element of a civil RICO claim with particularity as to each defendant;

Seventh, the addition of certain specific minimum requirements for allegations of a "pattern" of illicit activity for certain civil RICO actions, requirements which are not intended to limit the development of the judicial interpretation of the "pattern" requirement that has occurred in the response to the Supreme Court's discussion of "pattern" in the Sedima decision; and

Eighth, the immediate effectiveness of the detrebling provisions of the bill, with exceptions only where there has been a jury verdict or court judgment assessing liability against the defendant or in the extraordinary case in which, because of special circumstances, it would be clearly or manifestly unjust to deprive the plaintiff of treble damages.

This legislation will refocus civil RICO on Congress' original intent—suits against parties engaged in a wide-scale pattern of fraudulent or other criminal activity. At the same time, claimants would retain all of the other

statutory and common law remedies for the various forms of alleged misconduct.

It's a good compromise. I compliment Senators METZENBAUM and BIDEN and Congressman BOUCHER and RODINO. I was pleased to participate in the development of this legislation and urge all Senators to support it.●

Mr. SIMON. Mr. President, this bill responds to a distress flag raised by numerous Federal courts across the country. These courts are warning us that civil actions under RICO, created as a part of the Organized Crime Control Act of 1970 to combat infiltration by organized crime into legitimate businesses, are being stretched far beyond that purpose.

Instead, treble damage civil RICO claims are being routinely asserted in business and commercial lawsuits, regardless of whether the defendants have any connection to what is commonly considered organized crime. The threat of treble damage liability gives plaintiffs an unfair advantage because it often forces defendants into early settlement of cases they might otherwise take to trial or settle at a later stage of the litigation.

Judge Abner Mikva, an old friend and former House colleague of mine, has described RICO as a small cottage industry for Federal prosecutors that has become a commonplace weapon in the civil litigator's arsenal. As Judge Mikva stated in his testimony before the House Subcommittee on Criminal Justice last year, "RICO makes an appearance in everthing from divorce suits to religious disputes to suits against one of the national candidates and a major political party, to garden variety contractual suits between businessmen, to corporate raids, to defenses against corporate raids, to State efforts to collect taxes from local businessmen."

While there are few who disagree that civil RICO is being abused, consumer groups and others were concerned that Congress would go too far in changing the statute. They felt that some of the reform proposals would reduce the deterrent effect of the statute and deprive victims of genuinely criminal conduct of a powerful means of obtaining redress for their injuries.

I think this bill represents a carefully crafted response to these concerns. The bill preserves a civil cause of action for treble damages for governmental entities and for private plaintiffs where a defendant has been convicted of criminal acts. Individual consumers suing in connection with a personal or household transaction would retain the opportunity to obtain punitive damages in an amount up to twice the amount of their actual damages if the conduct of the defendant is deemed to be flagrant in nature.

The bill eliminates automatic treble damages in that category of cases where the threat of such liability has been used in harmful and unjust ways—suits involving only commercial entities. Both businesses and consumers would still be able to recover actual damages and attorneys fees for civil RICO violations. The bill also provides sensible relief for businesses now defending suits involving billions of dollars in liability under civil RICO.

Unlike many of the so-called tort reform proposals that have come before the Senate, this bill limits lawsuits in ways that protect the rights of all litigants, not solely those of defendants. It preserves civil RICO as a weapon against both organized crime and all types of business fraud, especially that which victimizes ordinary American consumers.

Finally, I commend Senator METZENBAUM, Senator LEAHY, and Senator HATCH for all their hard work on this difficult and important issue.

Mr. MURKOWSKI. Mr. President, one of the primary purposes of the civil RICO bill (H.R. 5445) is to restrict the inappropriate uses made of present Federal racketeering laws in private civil litigation.

I wholeheartedly support that purpose, but I fear that in pursuit of that purpose, local governments will be needlessly restricted in their ability to pursue legitimate claims under present Federal racketeering laws.

Mr. President, there is a particular provision in sec. 2 of the bill that requires modification. Under sec. 2 a civil RICO action cannot be brought by a municipality unless specifically authorized by State statute. Alaska has no such specific statute it is not now needed because under the current law a municipality can file a civil RICO action under its own authority.

If the proposed bill is left unchanged it will have a devastating effect on several communities in Alaska. Take for example, the North Slope Borough, where the U.S. Department of Justice and the attorney general of Alaska are in the process of investigating criminal RICO violations. The investigation has been going on for more than 2 years, and it is considered the largest and most complicated RICO case in the Nation.

The North Slope Borough should be allowed to pursue its own civil remedies against those who have wrongfully diverted borough revenues. It can now do so under present law, but not under the proposed civil RICO bill. While such actions under the bill could be brought on behalf of the borough by the attorney general, the borough's hands should not be tied in this manner.

It is doubtful that a State would be inclined to engage in expensive prolonged complex civil litigation when any cash recoveries would go to a different political entity. In fact, there is a serious question whether Alaska law would enable the State to turn over recovered civil RICO money to a municipality in such cases.

Mr. President, I request that the bill be amended to allow local governments to pursue their own legal actions. To do so will not only enhance the sovereignty and integrity of local governments, but acknowledge a basic confidence and faith in local government.

There is no reasonable basis to deny local government this right. It is being denied out of a fear or speculation that a local government will abuse the right. I suggest Mr. President that local government will no more abuse this right any more than any other Government entity—be it a Federal or State entity.

With this in mind Mr. President, I just cannot support the civil RICO bill now before this body.

Mr. DENTON. Mr. President, I believe that reform of the civil recovery provisions of the Racketeer Influenced and Corrupt Organizations Act [RICO] is long overdue. However, I am concerned that S. 2907, as the bill was introduced, would not curb sufficiently abuse of civil RICO, and might even exacerbate the problem.

Furthermore, S. 2907 has not yet been reviewed by the Judiciary Committee, which has been working for some time on the issue of civil RICO reform. I believe that it is unwise to consider the bill until its provisions have undergone critical examination in the committee process.

The civil recovery provisions of RICO are greatly in need of reform. The extraordinary remedy provided by RICO has been abused in an ever-increasing number of civil suits based on claims that were never intended to be actionable under RICO, such as small time fraud and simple breach of contract. Armed with the treble damages remedy, plaintiffs in such cases are frequently able to coerce settlements from defendants who are concerned not only about the potential for treble damages but also about the negative publicity attendant to being labeled a "racketeer" in a RICO suit.

This scenario has prompted the Supreme Court Justice Thurgood Marshall to note that "it is not surprising that civil RICO has been used for extensive purposes, giving rise to the very evils that it was designed to combat."

To curb such abuse, a bipartisan effort has been conducted in the Judiciary Committee to focus the RICO civil remedy on its originally intended target: criminal racketeering. A proposed bipartisan amendment to RICO is being discussed by committee members which would require that, before a RICO civil suit may be brought in most cases, the defendant first must have been convicted of a criminal

RICO offense. The amendment would preserve the ability of Federal and State governmental units to sue for treble damages under RICO without the requirement of a prior criminal conviction. Such an amendment has not yet been considered by the full Judiciary Committee and is still being studied.

I believe that the prior conviction prerequisite to civil RICO suits would restore the original intent of the Congress in providing a civil remedy under RICO as an additional weapon in the fight against organized crime.

However, I am concerned that S. 2907 would not reduce significantly the number of civil suits filed under RICO which are more properly actionable under State law. In fact, by merely replacing the treble damages remedy with a punitive damages scheme for consumer actions, the bill would continue to encourage plaintiffs to sue under RICO when a State court would be the more appropriate forum. This problem could be alleviated somewhat by an amendment which would permit the recovery of such punitive damages only where the plaintiff has no other remedy available under State or Federal law.

Mr. President, although S. 2907 is a step in the right direction, it does not attack the root of the problem: The availability of civil RICO for a broad range of causes of action not related to criminal racketeering. Furthermore, the bill contains new civil remedy provisions, the advisability of which has not been considered by the Judiciary Committee. As with other bills introduced to reform RICO, S. 2907 should undergo strict scrutiny by the Judiciary Committee before being considered on the Senate floor.

Thank you, Mr. President.

Mr. THURMOND. Mr. President, I rise in opposition to this RICO amendment.

The original purpose of title 18, section 1964(c) was to provide government and private parties a mechanism against the infiltration of legitimate businesses by corrupt forces. Organized crime was a prime target of this legislation.

The problem has arisen by virtue of innovative private plaintiffs who have brought actions against legitimate businesses, not those influenced or infiltrated by organized crime. These legitimate businesses are being abused by private actions that turn ordinary commercial disputes, securities litigation, banking transactions, insurance claims, and landlord-tenant disputes into RICO actions. Settlements are being extorted by some private actions because legitimate businesses have no choice but to settle out of court to avoid public disclosure of baseless racketeering allegations. I have no doubt that there is a need for reform. But the need demands that the reform be appropriate.

The amendment before this body is seriously flawed in several respects:

First. It does not solve the problem. Consumers can still bring RICO actions and recover actual damages plus punitive damages up to twice the actual damages. This is nothing more than treble damages, which are recoverable under current law, in disguise.

Second. Local municipalities may not bring RICO actions unless their State legislature gives them legislative authority to do so, or the State attorney general is willing to bring the RICO action on behalf of the municipality. This means that large cities across this country—that is, New York—could not bring a RICO action to fight organized crime and corruption.

Third. There is a loophole which does not allow Federal action to recover punitive damages against RICO defendants for securities claims. It is manifestly unfair to protect only securities related businesses and no others from RICO abuse.

Fourth. This proposal unnecessarily federalizes broad areas of State common law and State statutory causes of action.

Fifth. There have been several proposals throughout the 99th session of Congress to deal with the RICO problem. H.R. 2943, the original Boucher bill, required a prior conviction for a predicate act before a private action could be brought. S. 1521, the Hatch bill, required that one of the predicate acts be an act other than fraud and swindling, wire, radio, television, or securities fraud. RICO is a difficult problem. As this Congress nears end, the last proposal on the table should not be rushed through until all affected parties have had the opportunity to examine and respond to it.

I must point out that the Department of Justice opposes this proposal. Their position is that this amendment does not go far enough to solve the RICO abuse problem.

In conclusion, this amendment is not the solution to the RICO problem. Any measure considered by the Senate must be carefully worked out after all affected parties have had the full and fair opportunity to participate in the process. I urge my colleagues to vote against this amendment.

Mr. President, I ask unanimous consent that a copy of a letter sent to me which voices the Department of Justice's objection to this proposal be printed in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,

Washington, DC, October 14, 1986.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is to express the opposition of the Department of Justice to H.R. 5445, a bill to amend Chapter 96 of title 18, United States Code. The subject bill seeks to curb the widespread abuses of 18 U.S.C. 1964(c), the so-called private civil RICO statute.

Our objection to current law springs from basic principles of federalism: most suits now being filed under the civil RICO statute should be brought in state court rather than federal court. To the extent that the poorly drafted civil RICO law inadvertently makes windfall remedies available to plaintiffs, it overrides the considered action of state legislatures and courts. While H.R. 5445 would to some extent curb abuses of the civil RICO law, we believe that it fails to achieve the degree of reform needed and is thus unacceptable. More specifically, H.R. 5445 positively encourages litigants to sue in federal court even where a state remedy is clearly available to them. As presently drafted, therefore, there is considerable sentiment to recommend Executive disapproval of H.R. 5445 if it is approved by the Senate.

Should it be determined to act on this issue this year, we believe that, at a minimum the bill should be amended to strike the word "securities" in proposed new 18 U.S.C. 1964(c)(2)(B)(ii)(II). Such an amendment would clarify that the special federal punitive damages remedy would be available only where there is no state legal remedy available. Such an amendment would significantly strengthen the bill and overcome our serious reservations about H.R. 5445 as presently drafted.

Sincerely,

——— ———,
(For John R. Bolton,
Assistant Attorney General).

Mr. MOYNIHAN. Although I recognize the need for the reform of RICO laws as embodied in the amendment offered by my distinguished colleague from Ohio, I am concerned over the requirement that State legislatures give authority to municipalities before they may bring civil RICO actions.

I look to my colleagues for assurance that consideration will be given to delaying the effective date of this requirement for 2 years, or until such time as the State legislature can act.

Mr. METZENBAUM. This provision was the result of lengthy investigations and was reached in the spirit of compromise in order to achieve as sound a consensus as possible. I support future congressional review of this provision in order to ensure that municipalities can bring RICO actions in appropriate cases.

Mr. SPECTER. Mr. President, when Congress passed the Racketeer Influenced and Corrupt Organizations Act [RICO] in 1970, it intended to provide a powerful new weapon in the war against organized crime. In the hands of Government prosecutors, RICO has, indeed, been such a weapon. As the Supreme Court noted 2 years ago, however, private—civil—RICO actions against racketeers for alleged damages

have evolved "into something quite different from the original conception of its enactors."

In short, because of the extremely loose language with which Congress enacted the private RICO provisions 16 years ago, private plaintiffs have—quite understandably—attempted to convert ordinary fraud cases into racketeering claims. The availability of treble damages under the RICO statute provides more than adequate incentive for plaintiffs to append RICO claims to what frequently are ordinary civil actions—actions for breach of contract, securities violations, antitrust and commodities disputes, labor-management grievences, landlord-tenant disputes, even family, or marital squabbles.

As a result of this misuse, there have been thousands of civil RICO suits brought in the already overcrowded Federal courts. Even a casual reading of the cases makes clear, however, that very few actually involve organized crime or racketeers in the sense that the Congress understood those terms. So abused have been the civil RICO provisions that the Federal courts adopted limitations on the statute. In rejecting these judicially imposed standing and evidentiary requirements in the Sedima and Haroco cases, the Supreme Court did not reject the underlying premise that the civil RICO statute has been greatly abused and is desperately in need of reform. The Court simply stated that it is for Congress, not the courts, to reform the RICO statute.

Mr. President, we need to preserve the true purpose of the civil RICO statute—aggressive actions, both civil and criminal, against organized criminals. It is essential, however, that Congress act to end the destructive and unfair use of the RICO provisions, in garden variety disputes, where the most upright of defendants is likely to be branded as a racketeer.

The opinions of the courts of appeals set forth lengthy and scholarly analyses of the manifest defects of the current RICO statute. The Supreme Court did nothing to question those conclusions; indeed, it virtually invited Congress to amend the statute. I urge my colleagues to support the compromise proposal as an urgently needed, albeit imperfect, reform of a much abused statute.

Mr. HATFIELD. Mr. President, I yield a minute to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, this amendment has no place here.

If this amendment is accepted, I am going to offer my amendment on lobbying. That is a very important amendment. I have not been able to get it up.

If you are going to take up a lot of things here that have not been taken up heretofore and have not gotten through, then let us open it up and continue to take matters.

This amendment is discriminatory. It singles out certain things and leaves out others.

For instance, it takes care of the security people. It does not take care of the insurance people; it does not take care of the city of New York as mentioned there, and other reasons.

It is purely discriminatory and should not pass.

If a motion to table does not carry, I am going into more detail and explain further why it should not pass.

Mr. HATFIELD. Mr. President, I want to say in my motion to table I will ask initially for a voice vote only.

I move to table the Metzenbaum amendment.

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.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio. 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. BROYHILL], the Senator from Utah [Mr. GARN], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Nevada [Mr. LAXALT], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Idaho [Mr. SYMMS], are necessarily absent.

Mr. BYRD. I announce that the Senator from California [Mr. CRANSTON], the Senator from Vermont [Mr. LEAHY], and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Vermont [Mr. LEAHY] would vote "nay."

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

The result was announced—yeas 47, nays 44, as follows:

[Rollcall Vote No. 352 Leg.]

YEAS—47

Armstrong	Hatfield	Pressler
Boschwitz	Hawkins	Quayle
Chafee	Hecht	Roth
Cochran	Heflin	Rudman
Cohen	Helms	Simpson
D'Amato	Hollings	Stafford
Danforth	Humphrey	Stennis
Denton	Kassebaum	Stevens
Dodd	Kasten	Thurmond
Dole	Lugar	Trible
Domenici	Mathias	Wallop
Evans	Mattingly	Warner
Exon	McClure	Weicker
Goldwater	McConnell	Wilson
Gramm	Murkowski	Zorinsky
Grassley	Nickles	

NAYS—44

Abdnor	Eagleton	Matsunaga
Andrews	Ford	Melcher
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mitchell
Biden	Gorton	Moynihan
Bingaman	Harkin	Nunn
Boren	Hart	Proxmire
Bradley	Hatch	Pryor
Bumpers	Inouye	Riegle
Burdick	Johnston	Rockefeller
Byrd	Kennedy	Sarbanes
Chiles	Kerry	Sasser
DeConcini	Lautenberg	Simon
Dixon	Levin	Specter
Durenberger	Long	

NOT VOTING—9

Broyhill	Heinz	Packwood
Cranston	Laxalt	Pell
Garn	Leahy	Symms

So the motion to lay on the table amendment No. 3479 was agreed to.

□ 2320

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

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

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

The Senator will suspend. There will be order in the Senate. Senators desiring to converse will take their conversations off the floor.

Senators will please take their seats. Senators desiring to converse will do so off the floor. The Senator from Oregon.

Mr. HATFIELD. Mr. President, may I make an inquiry of the Chair? Does the unanimous consent request that I made prior to the consideration of this amendment, still stand so that other amendments may be offered or does that have to be made for each amendment?

The PRESIDING OFFICER. It must be renewed at each amendment.

Mr. HATFIELD. I now renew that unanimous consent to temporarily lay aside the Goldwater amendment in order that other amendments may be considered.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 3480

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I will be very brief on this. This is an amendment that I hope will be accepted. It deals with $50 million increase in the so-called TEFAA Program. That is the Temporary Emergency Food Assistance Act. That program takes surplus commodities such as dried powdered milk or flour, corn meal, cheese, and distributes it to the poor through the Community Action Program,

through the Salvation Army, or through church food banks.

A few weeks ago, if I had known what I know now, I would have attempted to get the committee itself when it was working on the agricultural appropriations to take note of this and to make the increase there. But it was only a few weeks ago when I was in Montana at a time when we had wheat piled on the ground out in the countryside that I learned to my dismay that in the Community Action Program, commodity distribution program, there simply was no flour available for distribution.

I draw that to your attention, my colleagues, because the contrast of wheat laying on the ground and yet there is no flour to be distributed to poor families or to the Salvation Army or to the church food banks seems morally wrong. Why was there no flour? Because the Department of Agriculture explained to me that under the $50 million that is available during this past fiscal year they simply did not have sufficient money to process it; in other words, to mill it into flour, and to put it in the pipeline.

The same I am afraid will be true this coming year. We make one improvement as a result of the Farm Act. The transportation costs beginning January 1, will be borne half by the States. That helps. But there is not sufficient funds in the program under the $50 million to cover all the needs that arise during the course of the year.

The commodities themselves, whether it is corn meal or dairy products or the wheat are not charged. They are out of surplus, and they are provided without charge. The money that is required is for the processing and the transportation. I will repeat half of that transportation costs will be borne by the States.

It is that simple. I hope the amendment can be accepted. It is budget neutral. I am glad to yield to my friend from Illinois.

Mr. SIMON. The Senator just answered the one question I was going to ask. It is budget neutral.

The second question, this legislative day, though not this calendar day, since we are 1:30 a.m., I believe is also coincidentally World Food Day when we try and remember that there are less fortunate people here in our country and around the world. It seems to me this is the small modest step that we can take to use this huge surplus that we have that we are going to have to pay storage on if we do not distribute it; get it to people who need it. I commend my colleague.

Mr. MELCHER. I thank my friend from Illinois. The point about storage is true. We do have to pay storage on these commodities. It is a $50 million outlay leveraged into providing for the poor through these various mechanisms. Every State of this land has the opportunity to have a little better nutrition. The storage from the reduction and disposal of this for a very worthy need reduces the storage cost.

The money that is used to offset this is derived by authorizing the Secretary to sell some notes and obligations held in the Rural Development Insurance Fund established under section 309(a) of the Consolidated Farm and Rural Development Act; $50 million is a small amount of sales out of that $8 billion portfolio.

I would hope that there is no vote necessary on this. I would hope that the amendment can be accepted. It is a very modest step and a very worthy one to help the nutrition of the poor here in our own country. Charity does belong at home. This is a very basic charity from funds, $50 million that is leveraged into a great amount of food because, after all, the $50 million is for the processing, and part of the transportation. And it leverages into a great amount of food.

□ 0130

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

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

Will the Senator send his amendment to the desk?

The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. MELCHER], for himself and Mr. BURDICK, proposes an amendment numbered 3480.

At the end of the amendment, insert the following new section:

"SEC. . Notwithstanding any other provisions of this act, in addition to any sales required under any other act, the Secretary of Agriculture, under such terms as the Secretary may prescribe, shall sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act in such amounts as to realize net proceeds to the Government of not less than $50,000,000, and funds for necessary expenses to carry out the Temporary Emergency Food Assistance Act of 1983, as amended, shall be $100,000,000.".

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I can only say we have been through the appropriations process and this matter has been considered carefully. The amendment would exceed the authorization for this program. Therefore, I move to table the amendment of the Senator from Montana.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Montana.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Montana. 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. BROYHILL], the Senator from Utah [Mr. GARN], the Senator from Nevada [Mr. LAXALT], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

Mr. BYRD. I announce that the Senator from California [Mr. CRANSTON], the Senator from Vermont [Mr. LEAHY], and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

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

The result was announced—yeas 47, nays 45, as follows:

[Rollcall Vote No. 353 Leg.]

YEAS—47

Armstrong	Gramm	Proxmire
Boschwitz	Grassley	Quayle
Chafee	Hatch	Roth
Chiles	Hatfield	Rudman
Cochran	Hawkins	Simpson
Cohen	Hecht	Stafford
D'Amato	Helms	Stennis
Danforth	Humphrey	Stevens
Denton	Kassebaum	Thurmond
Dole	Kasten	Trible
Domenici	Lugar	Wallop
Durenberger	Mathias	Warner
Evans	Mattingly	Weicker
Glenn	McClure	Wilson
Goldwater	McConnell	Zorinsky
Gorton	Murkowski	

NAYS—45

Abdnor	Exon	Matsunaga
Andrews	Ford	Melcher
Baucus	Gore	Metzenbaum
Bentsen	Harkin	Mitchell
Biden	Hart	Moynihan
Bingaman	Heflin	Nickles
Boren	Heinz	Nunn
Bradley	Hollings	Pressler
Bumpers	Inouye	Pryor
Burdick	Johnston	Riegle
Byrd	Kennedy	Rockefeller
DeConcini	Kerry	Sarbanes
Dixon	Lautenberg	Sasser
Dodd	Levin	Simon
Eagleton	Long	Specter

NOT VOTING—8

Broyhill	Laxalt	Pell
Cranston	Leahy	Symms
Garn	Packwood	

So the motion to lay on the table amendment No. 3480 was agreed to.

□ 0140

Mr. HATFIELD. I move to reconsider the vote by which the motion was agreed to.

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

Mr. HATFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. The point is well taken. There is no order in the Senate. Senators will please

take their conversations off the floor and take their seats.

The Senator from Oregon.

Mr. HATFIELD. Mr. President, I would like to make an inquiry. I inquire as to whether or not any other Senator is expecting to present an amendment that would be presented in the second degree to the Abdnor amendment after we ask unanimous consent to set aside temporarily the Goldwater amendment.

Mr. President, I assume that there are no other amendments.

We are now in a unanimous consent situation, where the floor will revert to the Senator from Arizona [Mr. DECONCINI] under a unanimous-consent agreement that was entered into.

I ask if the Senator from Arizona will yield to me without losing his right to the floor in order to propound a motion.

Mr. DECONCINI. Mr. President, before I yield, I wonder if the Senator wants to tell us what that is going to be. What is he going to move to?

Mr. HATFIELD. I shall explain the motion before I make it in order to make sure all Senators know.

Mr. DECONCINI. I yield the floor, Mr. President, with the understanding that I do not lose my right to the floor after the vote if there is a vote and after the Senator has made his motion.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, this is the situation we are in. At 4:03 this afternoon, an amendment was offered by the Senator from Arizona [Mr. GOLDWATER] in the second degree to an amendment that has been offered by the Senator from South Dakota relating to Federal buildings. The amendment that was offered by Senator GOLDWATER related to one of the planes, the T-46, which is being discussed and has been discussed since 4:03.

Approximately 5 hours ago, there was a beginning effort to resolve this conflict by staff. We had, as the majority leader indicated, the Secretary of the Air Force, a number of generals, sergeants, colonels, members of the Armed Services Committee, many interested parties, all huddled together to try to solve this problem. As of about some hour or so ago, that process broke down. There is no apparent agreement that has been reached or is in the process of being reached.

In addition to that, the amendment in the first degree offered by the Senator from South Dakota [Mr. ABDNOR], relating to public buildings, would exclude from the continuing resolution that is before us, the House portion of that, some 25 or 30 public buildings. Because the amendment would require that these buildings be authorized by both Chambers before construction money would be released, a number of Senators have indicated great concern about that for different reasons.

□ 0150

A number of Senators have indicated great concern about that for different reasons, the Senator from Alabama, and other Senators, and it looks as though, even if we resolve the Goldwater amendment at this moment by some miracle, we still have an unresolved amendment in the first degree that will have to be fought out and ultimately resolved.

Now, again, this is not a position I like, but it is in order to move this continuing resolution. I am informed that we are going to inform the public employees that by noon tomorrow they will have to stay home; we will not have the money to pay them. Therefore, there would be action to shut down the Government, in that sense shutting down the Government. I do not think that reflects well on the political institution in general or the Senate in particular or the Appropriations Committee in specific. I think the public expects us to conduct the Nation's business in an orderly fashion, and these all-night sessions and other things that we engage in I do not think is befitting to the dignity of the Senate and to the expectations of the public.

Having explained that, I will move to table the underlying amendment.

Now, what that in effect would do, when I make that motion—and I am sure there would be a rollcall on that—would be to address the Abdnor amendment in the first degree relating to public buildings. And if that motion should prevail, then that would automatically bring down as well the Goldwater amendment in the second degree. So that the vote would be on basically the issue of the Abdnor amendment but in voting that, one would have to be aware that one is in effect voting for two at one time; you are going to determine the outcome of the Goldwater amendment as well as the Abdnor amendment. I know no other way out. We could adjourn and go home. The floor belongs to one of the parties to this dispute, and they have talked and developed their case over a period of time. There have been some responses in a lesser timeframe. But it seems to me that there would be no possibility at this time to get a unanimous consent on a time agreement of laying this over until tomorrow with a time certain to vote or limited time, that we would be rested, revived by a portion of the night for sleep and back where we are now.

That is the background, that is the reason, that is the logic that I feel prevails at this time that requires me as the comanager of the bill with the assent of my colleague, the Senator from Mississippi, and that is why I asked the Senator from Arizona to yield the floor, to move to table the Abdnor amendment.

The PRESIDING OFFICER. Is the Senator presently making the motion to table?

Mr. HATFIELD. I have made the motion to table.

Mr. ABDNOR. Will the Senator yield?

Mr. HATFIELD. I would be happy to yield.

Mr. ABDNOR. I would like to ask a parliamentary inquiry. If the Senator made that motion, I cannot repeat a couple little pieces of information I think this body should know before they make that vote. As I understand it, if the Senator makes the motion to table, that precludes me from doing so; is that correct?

Mr. HATFIELD. I certainly, Mr. President, would be willing to ask unanimous consent for 5 minutes to a side to discuss the Abdnor amendment, since we have been far removed from that amendment in the time, if I withheld my motion to table.

Mr. DIXON. I would object to a time agreement without having some conversations about this, Mr. President.

Mr. HATFIELD. I see. Well, Mr. President, I think that answers the question. I make the motion to table the Abdnor amendment

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

Mr. STEVENS. Yeas and nays.

The PRESIDING OFFICER. All those in favor——

Mr. STEVENS. Yeas and nays.

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

The PRESIDING OFFICER. Is there a sufficient second? A sufficient second exists.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. BROYHILL], the Senator from Utah [Mr. GARN], the Senator from Nevada [Mr. LAXALT], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

Mr. BYRD. I announce that the Senator from California [Mr. CRANSTON], the Senator from Missouri [Mr. EAGLETON], the Senator from Vermont [Mr. LEAHY], and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

The PRESIDING OFFICER (Mr. DURENBERGER). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 29, nays 62, as follows:

[Rollcall Vote No. 354 Leg.]

YEAS—29

Biden	Hatfield	Moynihan
Bradley	Hawkins	Murkowski
Chiles	Heflin	Sarbanes
Cochran	Inouye	Sasser
D'Amato	Johnston	Simon
DeConcini	Lautenberg	Specter
Dixon	Long	Stennis
Dodd	Mathias	Stevens
Gore	Matsunaga	Weicker
Hart	McClure	

NAYS—62

Abdnor	Glenn	Metzenbaum
Andrews	Goldwater	Mitchell
Armstrong	Gorton	Nickles
Baucus	Gramm	Nunn
Bentsen	Grassley	Pressler
Bingaman	Harkin	Proxmire
Boren	Hatch	Pryor
Boschwitz	Hecht	Quayle
Bumpers	Heinz	Riegle
Burdick	Helms	Rockefeller
Byrd	Hollings	Roth
Chafee	Humphrey	Rudman
Cohen	Kassebaum	Simpson
Danforth	Kasten	Stafford
Denton	Kennedy	Thurmond
Dole	Kerry	Trible
Domenici	Levin	Wallop
Durenberger	Lugar	Warner
Evans	Mattingly	Wilson
Exon	McConnell	Zorinsky
Ford	Melcher	

NOT VOTING—9

Broyhill	Garn	Packwood
Cranston	Laxalt	Pell
Eagleton	Leahy	Symms

So the motion to table the amendment (No. 3477) was rejected.

□ 0210

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona (Mr. DECONCINI) is recognized.

Mr. DECONCINI. Mr. President, I would like to talk at some length. I wish to have the attention of the majority leader and ask him a question.

I ask unanimous consent that I can do that without losing my right to the floor.

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

Mr. DECONCINI. I thank the Chair.

My question to the majority leader is, Would it not be wise for us to fold up this morning and come back tomorrow at a civilized hour and continue this debate on this issue? Because it is 2 o'clock now and we have seen the damage that these all-night sessions do to the health of people, to the temperament of people, and the quality of life around here has been slipping a great deal, I say the last week or two, and I do not want the majority leader to go down as the majority leader that is not really interested in the welfare of all Members and the quality of life, and I would hope that the majority leader would ask for unanimous consent that we go out tonight and come back tomorrow morning and it sure would make me feel much better.

Mr. DOLE. That is important to me.

Mr. DECONCINI. Thank you.

I think we will come back tomorrow morning.

Mr. DOLE. He is one of the key players in this little trio here. I think it has just been suggested by the manager if we get some agreement that no other amendments be in order so we come back in the morning and we would have this issue before us and give some of us a little time between now and 9 o'clock to try to work out. If we could get unanimous consent that there be no further amendment in order I think the manager might be willing to do that.

Mr. HATFIELD. Mr. President, I ask unanimous consent that no other amendments be in order.

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

Mr. DOLE. Mr. President, there will be no more votes tonight. We will be in at 9:30.

Mr. LAUTENBERG. Mr. President, will the majority leader yield for a unanimous consent request?

Mr. DOLE. I yield.

CHANGE OF VOTE

Mr. LAUTENBERG. I ask unanimous consent that a vote that I cast on the Melcher amendment be changed from "yes" to "no". It would not change the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, I would like to ask a question. I thought we were trying to work out and I thought we did have some kind of agreement last year—I confess I am not sure whatever it was—about changing votes. It is nothing obviously personal with people involved.

I think changing votes afterward is not good, and I just hate to see it done. I thought we had some kind of agreement last year. I do not remember exactly what it was dealing with this matter. Some will have a better memory than I.

Mr. BYRD. Mr. President, reserving the right to object, and I will not object, there is simple precedents for changing a vote by unanimous consent as long as it does not change the outcome of the vote.

If a Senator has not voted, of course, he cannot vote and the Chair cannot even entertain a unanimous-consent request that the Senator be allowed to vote after the Chair has announced the vote.

But even though the Chair has announced the vote, I do not think I have heard any objections to a Senator wanting to change his vote. After all, he represents his people. He wants to vote in a way that he thinks best represents his people, and as long as it does not change the outcome of the vote I would hope we would not object.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Let me say, Mr. President, that I will not object, but I am going to review. I thought we had some kind of announcement. Actually, it was more than last year. I think Senator Baker was involved with it.

I just hope this does not occur too often.

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

Mr. BYRD. Mr. President, I thank the distinguished Senator for not objecting.

(The foregoing vote has been changed in accordance with the above order.)

Mr. DOLE. Mr. President, there is a cloture vote to occur tomorrow at 1 hour after we come in.

I ask unanimous consent that that cloture vote occur at 1 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, and I will not object, obviously at this time in the evening we cannot run the Cloakroom wires, but in view of the fact if there were an objection the majority leader would have to do one of two things. One, he would have to bring the Senate in at noon in order to have a vote at 1 o'clock or a little past 1, or he would have to come in and if the cloture motion carried that would mean that the Senate would have to continue with that business to the exclusion of all other business which would mean the continuing resolution would have to await the final outcome on the immigration bill and, thus, the closing down of the Government would be accelerated. So I am going to take the liberty on this side, having stated that for the Record, that we have not objection.

□ 0220

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

Mr. DOLE. Mr. President, let me thank the distinguished minority leader. He is correct. If cloture was obtained, and I think it would be, on the immigration bill, I assume we would get unanimous consent to pass the short continuing resolution. We may not have a short continuing resolution. I am not certain the House will send us one. They want to go home tomorrow. They believe the best way to do that is to keep our nose to the grindstone on the big continuing resolution.

As I understand it, nonessential Government employees will be notified at noon unless there is some resolution of the pending Goldwater amendment. Unless there is some temporary relief, they will not work until we fix it up.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS FISCAL YEAR 1987

Mr. McCLURE. Mr. President, the conference on the fiscal year 1987 Department of the Interior and Related Agencies appropriations bill has concluded work and has reached agreement on all items.

The Senate Budget Committee scores the conference report on this bill with $8,079,000,000 in budget authority and $9,109,000,000 in outlays. This represents a decrease of nearly $200 million in budget authority below the adjusted fiscal year 1986 level. In addition, the revenues this budget authority generates is estimated to be over $10 billion.

The conference agreement on House Joint Resolution 738 incorporates some of the provisions of both the House and Senate versions of the Department of the Interior and Related Agencies Appropriations Act, 1987, and has the effect of enacting the act into law. The departments and agencies funded by this act shall comply with the language and allocations set forth in the House Report 99-714 and Senate Report 99-397 unless specifically addressed to the contrary in the joint resolution and accompanying statement of the managers.

In the Bureau of Indian Affairs, the managers have agreed to reprogram some of the remaining balances in the irrigation construction account which were originally appropriated in the Emergency Jobs bill. The two projects from which funds are to be reprogrammed are the Colorado River power project and the Uintah and Ouray irrigation project.

The conference report also provides funds in the Bureau of Indian Affairs, Forest Service, and the Bureau of Land Management for forest firefighting. In the past, these funds were provided in the supplemental but were provided now because of the probability that an offset would be required in the fiscal year 1987 supplemental appropriations bill.

Details of the agreements are listed in the conference report and I ask unanimous consent that the accompanying detail table be inserted in the RECORD.

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

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
TITLE I - DEPARTMENT OF THE INTERIOR									
BUREAU OF LAND MANAGEMENT									
Management of Lands and Resources									
Onshore Energy and Minerals Management									
Energy Resources									
Coal Leasing	19,338	13,695	13,695	13,695	13,695	-5,643	---	---	---
Oil & Gas Leasing	44,545	46,519	46,519	45,049	46,019	+1,474	-500	-500	+970
Geothermal leasing	2,758	2,475	2,475	2,475	2,475	-283	---	---	---
Oil Shale and Tar Sands leasing	2,098	---	---	---	---	-2,098	---	---	---
Subtotal, Energy Resources	68,739	62,689	62,689	61,219	62,189	-6,550	-500	-500	+970
Non-Energy Minerals									
Mineral Material Sales	2,184	2,184	2,184	2,184	2,184	---	---	---	---
Mining Law Administration	8,151	8,210	8,810	8,710	9,010	+859	+800	+200	+300
Mineral Leasing	4,208	3,868	3,868	3,868	3,868	-340	---	---	---
Uranium operations	621	621	621	621	621	---	---	---	---
Subtotal, Non-Energy Minerals	15,164	14,883	15,483	15,383	15,683	+519	+800	+200	+300
Subtotal, Energy and Minerals Management	83,903	77,572	78,172	76,602	77,872	-6,031	+300	-300	+1,270
nds and Realty Management									
Realty Operations									
Energy Realty	7,776	8,063	8,063	8,063	8,063	+287	---	---	---
Non-Energy Realty	16,799	16,725	16,725	16,725	16,725	-74	---	---	---
Alaska Lands program	13,398	10,434	10,434	14,054	13,684	+286	+3,250	+3,250	-370
Subtotal, Realty operations	37,973	35,222	35,222	38,842	38,472	+499	+3,250	+3,250	-370
Withdrawal Processing and Review	3,744	3,732	3,732	3,732	3,732	-12	---	---	---
Subtotal, Lands and Realty Management	41,717	38,954	38,954	42,574	42,204	+487	+3,250	+3,250	-370
newable Resources Management									
Forest Management									
Public Domain	6,814	5,106	5,106	6,796	6,106	-708	+1,000	+1,000	-690
Western Oregon	914	---	914	914	914	---	+914	---	---
Subtotal, Forest Management	7,728	5,106	6,020	7,710	7,020	-708	+1,914	+1,000	-690
Range Management									
Wild Horse & Burro Management	16,964	15,200	12,777	18,100	17,777	+813	+2,577	+5,000	-323
Grazing Management	30,636	30,860	30,860	36,360	36,360	+5,724	+5,500	+5,500	---
Subtotal, Range Management	47,600	46,060	43,637	54,460	54,137	+6,537	+8,077	+10,500	-323
Soil, Water, & Air Management	16,391	14,469	15,119	14,469	15,119	-1,272	+650	---	+650
Wildlife Habitat Management	16,054	13,801	15,961	16,261	16,111	+57	+2,310	+150	-150
Recreation Management									
Cultural Resources Management	6,043	5,078	6,018	6,618	6,618	+575	+1,540	+600	---
Wilderness Management	7,280	7,254	7,254	7,254	7,254	-26	---	---	---
Recreation Resources Management	8,074	7,198	8,042	8,898	9,092	+1,018	+1,894	+1,050	+194
Subtotal, Recreation Management	21,397	19,530	21,314	22,770	22,964	+1,567	+3,434	+1,650	+194

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Fire Management	8,824	8,847	8,847	8,847	8,847	+23	---	---	---
Subtotal, Renewable Resources Management	117,994	107,813	110,898	124,517	124,198	+6,204	+16,385	+13,300	-319
Planning and Data Management									
Planning	9,453	9,525	9,525	9,525	9,525	+72	---	---	---
Data Management	13,695	14,888	14,888	14,888	14,888	+1,193	---	---	---
Subtotal, Planning and Data Management	23,148	24,413	24,413	24,413	24,413	+1,265	---	---	---
Cadastral Survey									
Alaska	15,083	11,069	11,069	15,059	15,059	-24	+3,990	+3,990	---
Other States	11,673	11,622	11,622	11,622	11,622	-51	---	---	---
Subtotal, Cadastral Survey	26,756	22,691	22,691	26,681	26,681	-75	+3,990	+3,990	---
Fire control									
Firefighting & Presuppression	3,492	3,492	3,492	78,492	86,492	+83,000	+83,000	+83,000	+8,000
Rehabilitation	584	584	584	584	584	---	---	---	---
Subtotal, Fire Control	4,076	4,076	4,076	79,076	87,076	+83,000	+83,000	+83,000	+8,000
chnical Services									
Resource Protection	3,320	3,320	3,320	3,320	3,320	---	---	---	---
Maintenance and engineeering services									
Buildings	3,421	3,421	3,421	3,421	3,421	---	---	---	---
Recreation	4,096	3,681	3,681	3,681	3,681	-415	---	---	---
Transportation	3,483	3,483	3,483	3,483	3,483	---	---	---	---
Maintenance improvement	---	---	1,000	---	1,000	+1,000	+1,000	---	+1,000
Engineering services	1,160	1,160	1,160	1,160	1,160	---	---	---	---
Subtotal, Maintenance and engineering services	12,160	11,745	12,745	11,745	12,745	+585	+1,000	---	+1,000
Subtotal, Technical Services	15,480	15,065	16,065	15,065	16,065	+585	+1,000	---	+1,000
neral Administration									
Executive and managerial direction	5,567	5,525	5,525	5,525	5,525	-42	---	---	---
Equal employment opportunity	2,064	2,056	2,056	2,056	2,056	-8	---	---	---
Administrative services support	31,894	30,680	30,680	30,680	30,680	-1,214	---	---	---
Bureauwide fixed costs	43,576	46,840	46,840	46,840	46,840	+3,264	---	---	---
Subtotal, General Administration	83,101	85,101	85,101	85,101	85,101	+2,000	---	---	---
M/FS interchange	---	3,400	---	---	---	---	-3,400	---	---
Total, Management of Lands and Resources	396,175	379,085	380,370	474,029	483,610	+87,435	+104,525	+103,240	+9,581
Construction and Access									
cess	1,395	1,200	1,200	1,200	1,200	-195	---	---	---
nstruction	---	---	---	1,600	1,600	+1,600	+1,600	+1,600	---
Total, Construction and Access	1,395	1,200	1,200	2,800	2,800	+1,405	+1,600	+1,600	---
Payments in Lieu of Taxes									
yments to Local Governments	104,370	105,000	105,000	105,000	105,000	+630	---	---	---

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Land Acquisition									
Bureau of Land Management:									
Acquisitions	1,988	---	3,550	500	5,920	+3,932	+5,920	+2,370	+5,420
Acquisition Management	298	---	300	300	300	+2	+300	---	---
Prior year deferral	---	---	-3,000	---	---	---	---	+3,000	---
Subtotal, Land Acquisition	2,286	---	850	800	6,220	+3,934	+6,220	+5,370	+5,420
Rescission	---	---	---	---	-3,200	-3,200	-3,200	-3,200	-3,200
Total, Land Acquisition	2,286	---	850	800	3,020	+734	+3,020	+2,170	+2,220
Oregon & California Grant Lands									
Construction and Acquisition	528	528	528	528	528	---	---	---	---
Maintenance	3,981	3,620	4,120	4,120	4,120	+139	+500	---	---
Renewable Resource Management	50,873	46,617	47,567	50,599	48,931	-1,942	+2,314	+1,364	-1,668
anning and Data Management	395	395	945	395	945	+550	+550	---	+550
obligated balance adjustment	---	---	1,100	---	---	---	---	-1,100	---
Total, Oregon & California Grant Lands	55,777	51,160	54,260	55,642	54,524	-1,253	+3,364	+264	-1,118
Range Improvement Fund									
provement to Public Lands	8,000	6,956	6,956	8,450	7,703	-297	+747	+747	-747
rm Tenant Act Lands	1,400	950	950	950	950	-450	---	---	---
ministrative expenses	600	600	600	600	600	---	---	---	---
Total, Range Improvements	10,000	8,506	8,506	10,000	9,253	-747	+747	+747	-747
Service Charges, Deposits, and Forfeitures									
ghts-of-way Processing	1,690	2,695	2,695	2,695	2,695	+1,005	---	---	---
opt-a-horse program	865	500	500	500	500	-365	---	---	---
pair of Damaged Lands	1,342	1,650	1,650	1,650	1,650	+308	---	---	---
st recoverable realty cases	350	350	350	350	350	---	---	---	---
Total, Service Charges, Deposits, and Forfeitures	4,247	5,195	5,195	5,195	5,195	+948	---	---	---
Miscellaneous Trust Funds									
se Program	100	100	100	100	100	---	---	---	---
Total, Bureau of Land Management	574,350	550,246	555,481	653,566	663,502	+89,152	+113,256	+108,021	+9,936
U.S. FISH AND WILDLIFE SERVICE									
Resource Management									
bitat Resources									
Field Operations	22,315	23,167	23,167	23,167	23,467	+1,152	+300	+300	+300
National Wetlands Inventory	5,355	5,313	5,313	5,313	5,313	-42	---	---	---
Research and Development	15,477	16,028	18,028	18,528	18,028	+2,551	+2,000	---	-500
Cooperative units	4,665	4,564	4,564	4,564	4,564	-101	---	---	---
Subtotal, Habitat Resources	47,812	49,072	51,072	51,572	51,372	+3,560	+2,300	+300	-200

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Wildlife Resources									
Refuge operations and maintenance	106,737	96,275	107,573	109,217	108,975	+2,238	+12,700	+1,402	-242
Law enforcement and protection	10,004	9,708	9,708	9,908	9,908	-96	+200	+200	---
Population management	7,237	9,180	9,289	9,389	8,789	+1,552	-391	-500	-600
Research and Development	10,156	13,060	13,380	12,410	13,960	+3,804	+900	+580	+1,550
Alaska subsistance	974	---	---	974	974	---	+974	+974	---
Subtotal, Wildlife Resources	135,108	128,223	139,950	141,898	142,606	+7,498	+14,383	+2,656	+708
Fishery Resources									
Hatcheries operations and maintenance	26,373	23,861	25,422	25,197	25,457	-916	+1,596	+35	+260
Lower Snake River Compensation Fund	5,631	6,411	6,411	6,411	6,411	+780	---	---	---
Refuge operations and maintenance	2,164	2,148	2,148	2,148	2,148	-16	---	---	---
Law enforcement and protection	2,153	2,075	2,075	2,075	2,075	-78	---	---	---
Population management	2,149	2,285	2,285	2,071	2,171	+22	-114	-114	+100
Research and Development	12,127	11,259	11,409	12,009	12,149	+22	+890	+740	+140
Subtotal, Fishery Resources	50,597	48,039	49,750	49,911	50,411	-186	+2,372	+661	+500
ıdangered Species									
Listing	3,225	2,937	3,187	3,437	3,437	+212	+500	+250	---
Law enforcment and protection	8,648	7,240	7,990	7,590	7,890	-758	+650	-100	+300
Consultation	2,614	2,588	2,888	2,588	2,888	+274	+300	---	+300
Recovery	6,884	6,030	6,165	6,605	6,740	-144	+710	+575	+135
Research and Development	4,545	4,365	4,565	4,565	4,565	+20	+200	---	---
Cooperation with states	4,393	---	4,300	4,300	4,300	-93	+4,300	---	---
Subtotal, Endangered Species	30,309	23,160	29,095	29,085	29,820	-489	+6,660	+725	+735
neral Administration									
Executive Direction	7,306	7,306	7,306	7,306	7,306	---	---	---	---
Administrative services	10,251	10,217	10,217	12,117	11,964	+1,713	+1,747	+1,747	-153
Related support services	16,839	19,110	19,110	20,963	20,963	+4,124	+1,853	+1,853	---
Unemployment Compensation	1,193	---	---	---	---	-1,193	---	---	---
Fish and Wildlife Foundation Matching grants	---	---	---	500	250	+250	+250	+250	-250
Subtotal, General Administration	35,589	36,633	36,633	40,886	40,483	+4,894	+3,850	+3,850	-403
Total, Resource Management	299,415	285,127	306,500	313,352	314,692	+15,277	+29,565	+8,192	+1,340
Construction and Anadromous Fish									
ıstruction and rehabilitation									
Refuges	5,622	---	3,720	3,600	7,320	+1,698	+7,320	+3,600	+3,720
Hatcheries	10,354	---	9,300	6,800	7,213	-3,141	+7,213	-2,087	+413
Fishery research facilities	125	---	953	6,340	4,840	+4,715	+4,840	+3,887	-1,500
Dam safety	2,017	2,790	2,790	2,790	2,790	+773	---	---	---
Wildlife research facility	75	---	---	1,750	1,750	+1,675	+1,750	+1,750	---
Endangered species facility	---	---	1,750	---	---	---	---	-1,750	---
Anadromous fish grants	1,988	---	2,000	2,000	2,000	+12	+2,000	---	---
Capital development & maintenance management	987	323	600	323	600	-387	+277	---	+277
Total, Construction and Anadromous Fish	21,168	3,113	21,113	23,603	26,513	+5,345	+23,400	+5,400	+2,910
Migratory Bird Conservation Account									
ance Appropriation	14,910	---	3,000	10,561	7,000	-7,910	+7,000	+4,000	-3,561

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Land Acquisition									
Fish and Wildlife Service:									
Acquisitions - Federal refuge lands	41,209	---	31,475	40,175	40,675	-534	+40,675	+9,200	+500
Acquisition Management	1,590	1,500	1,750	1,600	1,750	+160	+250	---	+150
Total, Land Acquisition	42,799	1,500	33,225	41,775	42,425	-374	+40,925	+9,200	+650
National Wildlife Refuge Fund									
Payments in Lieu of Taxes	5,611	5,645	5,645	5,645	5,645	+34	---	---	---
Total, Fish and Wildlife Service	383,903	295,385	369,483	394,936	396,275	+12,372	+100,890	+26,792	+1,339
NATIONAL PARK SERVICE									
Operation of the National Park System									
Park Management									
Management of park areas	61,544	62,518	62,705	62,518	62,705	+1,161	+187	---	+187
Concessions management	3,548	3,548	3,548	3,548	3,548	---	---	---	---
Interpretation and Visitor Services	65,119	57,413	67,717	67,704	68,019	+2,900	+10,606	+302	+315
Visitor protection and safety	81,990	76,361	83,222	85,017	83,307	+1,317	+6,946	+85	-1,710
Maintenance	239,070	233,826	242,580	243,360	243,360	+4,290	+9,534	+780	---
Resources management	98,841	86,437	100,491	99,053	100,943	+2,102	+14,506	+452	+1,890
Information publications	2,890	---	3,400	2,890	3,400	+510	+3,400	---	+510
International Park Affairs	771	403	771	771	771	---	+368	---	---
Volunteers-in-parks	487	---	1,000	500	500	+13	+500	-500	---
Enhanced park operation	---	---	---	---	15,000	+15,000	+15,000	+15,000	+15,000
Subtotal, Park Management	554,260	520,506	565,434	565,361	581,553	+27,293	+61,047	+16,119	+16,192
rest Fire Suppression and Presuppression	10,669	1,319	1,319	1,319	1,319	-9,350	---	---	---
rk Recreation and Wilderness Planning									
Water resources	1,909	2,909	2,909	2,909	2,909	+1,000	---	---	---
General management plans	2,332	2,332	2,332	2,332	2,332	---	---	---	---
Subtotal, Park Recreation & Wilderness Planning.	4,241	5,241	5,241	5,241	5,241	+1,000	---	---	---
atutory or Contractual Aid for Other Activities									
Roosevelt Campobello International Park Commission	408	408	408	408	408	---	---	---	---
Ice Age National Scientific Reserve	573	573	573	573	573	---	---	---	---
Lowell Historic Preservation Canal Commission	537	537	537	537	537	---	---	---	---
Folger Theater	174	---	---	---	---	-174	---	---	---
Corcoran Gallery	174	---	---	---	---	-174	---	---	---
Mary McLeod Bethune NHS	99	99	199	199	199	+100	+100	---	---
Martin Luther King, Jr. Center	199	199	199	199	199	---	---	---	---
Phillips Gallery	174	---	---	---	---	-174	---	---	---
Arena Stage	174	---	---	---	---	-174	---	---	---
National Building Museum	174	---	---	---	---	-174	---	---	---
National Capital Children's Museum	174	---	---	---	---	-174	---	---	---
William McKinley Tomb	447	---	---	---	---	-447	---	---	---
Fisk University, Jubilee Hall	168	---	168	168	168	---	+168	---	---
James Garfield NHS	---	---	468	---	468	+468	+468	---	+468
Johnstown Flood Museum	---	---	398	---	398	+398	+398	---	+398
Harding Home and Tomb State Memorial	---	---	538	538	538	+538	+538	---	---
Steamtown USA NHS	---	---	---	---	8,000	+8,000	+8,000	+8,000	+8,000
Subtotal, Statutory or Contractual Aid	3,475	1,816	3,488	2,622	11,488	+8,013	+9,672	+8,000	+8,866

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
General Administration									
Central office	5,820	5,820	5,820	5,820	5,820	---	---	---	---
Regional offices	14,993	14,993	14,993	14,993	14,993	---	---	---	---
Automatic data processing	4,827	4,827	4,827	4,827	4,827	---	---	---	---
Service wide administrative support	6,561	7,161	7,605	8,010	7,935	+1,374	+774	+330	-75
General services	390	390	390	390	390	---	---	---	---
Employee compensation payment	4,345	5,355	5,355	5,381	5,381	+1,036	+26	+26	---
Unemployment compensation for federal employees	7,892	7,892	7,892	7,892	7,892	---	---	---	---
GSA space rental	11,696	12,865	13,500	14,135	14,135	+2,439	+1,270	+635	---
Executive direction	6,544	6,544	6,544	6,544	6,544	---	---	---	---
Public Affairs	1,753	1,753	1,678	1,678	1,753	---	---	+75	+75
Alaska Land Use Council	---	---	-53	---	---	---	---	+53	---
Enhanced fee colleciton	---	---	---	---	3,500	+3,500	+3,500	+3,500	+3,500
Subtotal, General Administration	64,821	67,600	68,551	69,670	73,170	+8,349	+5,570	+4,619	+3,500
Recreation fee programs (propsd for later trans)	---	59,000	---	---	---	---	-59,000	---	---
Temporary Fee Legislation	---	---	---	-50,000	-54,000	-54,000	-54,000	-54,000	-4,000
Transfer from Planning, Development and Operation of Facilities	---	---	-15,158	-15,158	-15,158	-15,158	-15,158	---	---
Total, Operation of the National Park System	637,466	655,482	628,875	579,055	603,613	-33,853	-51,869	-25,262	+24,558
National Recreation and Preservation									
creation Programs	627	284	600	284	600	-27	+316	---	+316
tural Programs	1,653	541	1,582	1,582	1,582	-71	+1,041	---	---
tional Register	6,843	6,843	6,843	6,549	6,584	-259	-259	-259	+35
vironmental and Compliance Review	400	400	400	383	383	-17	-17	-17	---
ant administration	1,506	1,479	1,479	1,479	1,479	-27	---	---	---
Total, National Recreation and Preservation	11,029	9,547	10,904	10,277	10,628	-401	+1,081	-276	+351
Historic Preservation Fund									
ants-in-aid	20,411	---	20,000	20,000	20,000	-411	+20,000	---	---
tional Trust for Historic Preservation	4,384	---	4,200	4,300	4,250	-134	+4,250	+50	-50
Total, Historic Preservation Fund	24,795	---	24,200	24,300	24,250	-545	+24,250	+50	-50
Construction									
ildings and Utilities									
Emergency and Unscheduled (Lump Sum) Projects	2,981	2,000	3,000	3,000	3,000	+19	+1,000	---	---
Advance Planning	5,798	2,800	4,600	4,600	4,600	-1,198	+1,800	---	---
Project Planning	9,294	4,996	8,500	8,500	8,500	-794	+3,504	---	---
Line Item Construction Projects	99,213	19,318	59,889	60,418	71,995	-27,218	+52,677	+12,106	+11,577
Total, Construction	117,286	29,114	75,989	76,518	88,095	-29,191	+58,981	+12,106	+11,577
Federal Highway Administration									
deral-aid highways (liquidation of contract authority) (trust fund)	(10,300)	---	(12,500)	(10,000)	(12,500)	(+2,200)	(+12,500)	---	(+2,500)
Land Acquisition and State Assistance									
sistance to States									
Matching grants	48,060	---	47,730	40,200	32,700	-15,360	+32,700	-15,030	-7,500
Administrative expenses	1,640	2,270	2,270	2,300	2,270	+630	---	---	-30
tional Park Service									
Acquisitions	43,140	8,000	44,900	25,900	47,250	+4,110	+39,250	+2,350	+21,350
Acquisition management	4,970	5,000	6,200	5,000	5,000	+30	---	-1,200	---
Total, Land acquisition and state assistance	97,810	15,270	101,100	73,400	87,220	-10,590	+71,950	-13,880	+13,820

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
John F. Kennedy Center for the Performing Arts									
Base program	4,771	4,771	4,771	4,771	4,771	---	---	---	---
Illinois and Michigan Canal National Heritage Corridor Commission									
Base program	248	---	250	---	250	+2	+250	---	+250
Jefferson National Expansion Memorial Commission									
Base program	75	---	75	---	75	---	+75	---	+75
Total, National Park Service	893,480	714,184	846,164	768,321	818,902	-74,578	+104,718	-27,262	+50,581
GEOLOGICAL SURVEY									
Surveys, Investigations, and Research									
"ıtional Mapping, Geography and Surveys									
Primary mapping and revision	37,636	33,266	33,266	33,266	33,266	-4,370	---	---	---
Digital cartography	13,449	13,499	13,499	13,499	13,499	+50	---	---	---
Receipts for printing and distribution	9,500	---	---	---	---	-9,500	---	---	---
Small intermediate and special mapping	14,528	11,948	13,798	11,948	13,798	-730	+1,850	---	+1,850
Advanced cartographic systems	7,406	12,206	12,206	12,206	12,206	+4,800	---	---	---
Earth resources observation system	9,368	8,888	8,888	8,888	8,888	-480	---	---	---
Cartographic and geographic Information	3,522	3,620	3,620	3,371	3,371	-151	-249	-249	---
Side looking airborne radar	1,988	---	1,500	---	1,500	-488	+1,500	---	+1,500
Subtotal, National Mapping, Geography & Surveys	97,397	83,427	86,777	83,178	86,528	-10,869	+3,101	-249	+3,350
ːologic and Mineral Resource Surveys and Mapping									
Earthquake hazards reduction	35,875	33,275	35,275	33,275	34,775	-1,100	+1,500	-500	+1,500
Volcano Hazards	10,618	10,667	10,667	10,667	10,667	+49	---	---	---
Landslide hazards	2,982	2,058	2,958	2,058	2,058	-924	---	-900	---
Geologic framework	19,472	18,862	19,362	20,362	20,862	+1,390	+2,000	+1,500	+500
Geomagnetism	2,146	1,629	2,129	1,629	2,129	-17	+500	---	+500
Climate change	988	992	992	992	992	+4	---	---	---
Mineral resource surveys	46,578	42,033	44,033	44,033	44,033	-2,545	+2,000	---	---
Energy geologic surveys	27,926	25,072	26,772	25,072	25,772	-2,154	+700	-1,000	+700
Offshore geologic surveys	26,429	24,428	24,428	24,428	24,428	-2,001	---	---	---
Subtotal, Geologic & Mineral Surveys & Mapping	173,014	159,016	166,616	162,516	165,716	-7,298	+6,700	-900	+3,200
ter Resources Investigations									
Federal Program	73,665	64,015	67,765	64,015	65,765	-7,900	+1,750	-2,000	+1,750
Water resources research institutes	12,699	7,164	9,664	12,150	11,258	-1,441	+4,094	+1,594	-892
Federal-State program	52,010	50,499	52,835	50,195	52,835	+825	+2,336	---	+2,640
National water quality assessment	2,485	3,000	10,000	2,500	7,000	+4,515	+4,000	-3,000	+4,500
Subtotal, Water Resources Investigations	140,859	124,678	140,264	128,860	136,858	-4,001	+12,180	-3,406	+7,998
ıeral Administration	13,422	13,356	14,540	13,356	14,540	+1,118	+1,184	---	+1,184
ːilities	14,177	15,023	15,023	15,023	15,023	+846	---	---	---
› sales receipts	-9,500	---	---	---	---	+9,500	---	---	---
ŧA payments	1,400	---	---	---	---	-1,400	---	---	---
Total, Geological Survey	430,769	395,500	423,220	402,933	418,665	-12,104	+23,165	-4,555	+15,732

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
MINERALS MANAGEMENT SERVICE									
Leasing and Royalty Management									
OCS Lands									
Leasing Outer Continental Shelf Lands and environmental program	43,660	39,132	39,132	37,545	38,632	-5,028	-500	-500	+1,087
Resource evaluation	24,004	23,459	23,459	23,895	23,459	-545	---	---	-436
Regulatory program	31,902	30,938	30,938	29,748	30,748	-1,154	-190	-190	+1,000
Subtotal, OCS Lands	99,566	93,529	93,529	91,188	92,839	-6,727	-690	-690	+1,651
Royalty Management									
Mineral Revenue Collection (onshore royalty) 2/	15,279	14,893	15,238	14,370	14,788	-491	-105	-450	+418
Mineral Revenue Compliance (offshore royalty)	10,463	10,382	12,882	10,013	12,882	+2,419	+2,500	---	+2,869
Systems development and maintenance	19,448	17,234	17,234	17,234	17,234	-2,214	---	---	---
Subtotal, Royalty Management	45,190	42,509	45,354	41,617	44,904	-286	+2,395	-450	+3,287
General Administration									
Executive direction	3,259	3,223	3,223	3,119	3,119	-140	-104	-104	---
Administration operations 2/	9,408	9,392	9,392	9,064	9,064	-344	-328	-328	---
General support services	9,787	11,447	11,395	10,199	10,771	+984	-676	-624	+572
Subtotal, General Administration	22,454	24,062	24,010	22,382	22,954	+500	-1,108	-1,056	+572
nterest on refunds (propsd for later trans)	---	200	---	---	---	---	-200	---	---
Total, Leasing and Royalty Management 1/	167,210	160,300	162,893	155,187	160,697	-6,513	+397	-2,196	+5,510
ayments to States from receipts under Mineral Leasing	---	800	---	---	---	---	-800	---	---
Total, Minerals Management Service	167,210	161,100	162,893	155,187	160,697	-6,513	-403	-2,196	+5,510
BUREAU OF MINES									
Mines and Minerals									
nerals Research									
Health and Safety Technology	33,602	26,121	35,371	29,621	34,921	+1,319	+8,800	-450	+5,300
Mining Technology									
Advanced Mining Technology	10,106	8,189	9,689	10,689	11,189	+1,083	+3,000	+1,500	+500
Resource Conservation Technology	3,039	1,555	5,430	3,955	6,355	+3,316	+4,800	+925	+2,400
Subtotal, Mining Technology	13,145	9,744	15,119	14,644	17,544	+4,399	+7,800	+2,425	+2,900
Minerals and Materials Research	32,515	25,315	27,015	30,815	30,665	-1,850	+5,350	+3,650	-150
Subtotal, Minerals Research	79,262	61,180	77,505	75,080	83,130	+3,868	+21,950	+5,625	+8,050
nerals Information and Analysis									
Minerals Information	10,554	9,856	9,856	9,856	9,856	-698	---	---	---
Mineral Data Analysis	18,431	16,714	16,714	18,214	18,214	-217	+1,500	+1,500	---
Subtotal, Minerals Information and Analysis	28,985	26,570	26,570	28,070	28,070	-915	+1,500	+1,500	---
neral Institutes	7,950	---	3,004	10,000	7,612	-338	+7,612	+4,608	-2,388
neral Administration	18,607	19,350	19,350	17,815	19,350	+743	---	---	+1,535
ogram offset	-1,355	---	---	---	---	+1,355	---	---	---
Total, Bureau of Mines	133,449	107,100	126,429	130,965	138,162	+4,713	+31,062	+11,733	+7,197

Reflects transfer of 15 FTEs, $922,000 to U.S.G.S. FY86 Adjusted amount is reflection of realignment of an ADP security function ($63,000)

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INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT									
Regulation and Technology									
State Regulatory Program Grants	36,977	45,110	45,110	42,110	45,110	+8,133	---	---	+3,000
Federal Regulatory Programs									
Regulatory program operations	19,018	17,578	20,171	17,578	19,221	+203	+1,643	-950	+1,643
Technical services, training and research	13,210	15,931	12,706	14,181	13,681	+471	-2,250	+975	-500
Assessments and collections	7,250	7,929	7,929	7,929	7,929	+679	---	---	---
Subtotal, Federal Regulatory Programs	39,478	41,438	40,806	39,688	40,831	+1,353	-607	+25	+1,143
General Administration									
Executive direction	1,430	1,734	1,614	1,734	1,664	+234	-70	+50	-70
Administrative support	3,579	6,297	6,297	6,297	6,297	+2,718	---	---	---
General services	3,468	6,301	5,251	6,301	6,101	+2,633	-200	+850	-200
Subtotal, General Administration	8,477	14,332	13,162	14,332	14,062	+5,585	-270	+900	-270
Total, Regulation and Technology 1/	84,932	100,880	99,078	96,130	100,003	+15,071	-877	+925	+3,873
Abandoned Mine Reclamation Fund									
tate Reclamation Program Grants 2/	156,156	150,600	186,100	150,600	160,600	+4,444	+10,000	-25,500	+10,000
ederal Reclamation Programs									
Fee compliance 1/2/	2,800	3,482	3,482	3,482	3,482	+682	---	---	---
Reclamation program operations 1/2/	30,005	29,992	28,092	26,492	24,592	-5,413	-5,400	-3,500	-1,900
Rural lands reclamation program	9,424	800	9,400	800	9,400	-24	+8,600	---	+8,600
Subtotal, Federal Reclamation Programs	42,229	34,274	40,974	30,774	37,474	-4,755	+3,200	-3,500	+6,700
mall Operator Assistance	3,082	---	---	---	---	-3,082	---	---	---
neral Administration									
Executive direction 2/	830	825	825	825	825	-5	---	---	---
Administrative support 2/	1,998	1,992	1,992	1,992	1,992	-6	---	---	---
General services 2/	1,846	2,829	2,829	2,829	2,829	+983	---	---	---
Subtotal, General Administration	4,674	5,646	5,646	5,646	5,646	+972	---	---	---
distributed reduction 2/	(-4)	---	---	---	---	(+4)	---	---	---
y restoration	---	---	---	---	---	---	---	---	---
ogram offset 2/	(-3,233)	---	---	---	---	(+3,233)	---	---	---
Total, Abandoned Mine Reclamation Fund	206,141	190,520	232,720	187,020	203,720	-2,421	+13,200	-29,000	+16,700
Total, Office of Surface Mining Reclamation and Enforcement	291,073	291,400	331,798	283,150	303,723	+12,650	+12,323	-28,075	+20,573

FY86 Accounts reflect new budget structure

FY86 Accounts reflect reduction of $2,900 in State Reclamation Program Grants and reduction of $50 from fee compliance, $225 from reclamation program grants, $10 executive direction, $15 from administrative support and $37 from general services.

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
BUREAU OF INDIAN AFFAIRS									
Operation of Indian Programs									
Education									
School Operations	189,378	185,596	186,596	181,661	185,471	-3,907	-125	-1,125	+3,810
Johnson O'Malley Educational Assistance	23,044	---	23,500	22,000	22,750	-294	+22,750	-750	+750
Continuing Education	56,438	20,212	23,212	57,559	58,559	+2,121	+38,347	+35,347	+1,000
Transfer from Department of Education	---	11,500	---	---	---	---	-11,500	---	---
Subtotal, Education	268,860	217,308	233,308	261,220	266,780	-2,080	+49,472	+33,472	+5,560
Indian Services									
Tribal Government Services	32,233	5,604	5,554	31,479	31,429	-804	+25,825	+25,875	-50
Social Services	115,903	93,103	95,713	109,701	111,601	-4,302	+18,498	+15,888	+1,900
Law Enforcement	48,570	3,101	4,016	49,148	49,813	+1,243	+46,712	+45,797	+665
Self-Determination Services	21,337	12,262	12,162	16,986	21,624	+287	+9,362	+9,462	+4,638
Navajo-Hopi Settlement Program	2,931	2,931	2,931	2,431	2,431	-500	-500	-500	---
Subtotal, Indian Services	220,974	117,001	120,376	209,745	216,898	-4,076	+99,897	+96,522	+7,153
onomic Development and Employment Programs									
Employment Development	26,698	2,593	2,593	26,182	26,182	-516	+23,589	+23,589	---
Business Enterprise Development	13,775	11,643	10,643	14,296	14,296	+521	+2,653	+3,653	---
Road Maintenance	23,069	314	747	22,949	23,157	+88	+22,843	+22,410	+208
Subtotal, Economic Development & Employment	63,542	14,550	13,983	63,427	63,635	+93	+49,085	+49,652	+208
tural Resources Development									
Natural Resources, General	2,407	1,570	1,570	2,630	2,630	+223	+1,060	+1,060	---
Agriculture	23,259	2,819	2,819	22,820	22,820	-439	+20,001	+20,001	---
Forestry	33,382	6,061	12,211	32,554	33,304	-78	+27,243	+21,093	+750
Water Resources	10,783	465	9,465	2,012	11,012	+229	+10,547	+1,547	+9,000
Wildlife & Parks	27,283	8,797	10,413	28,019	29,582	+2,299	+20,785	+19,169	+1,563
Fire Suppression	25,419	---	415	20,000	25,200	-219	+25,200	+24,785	+5,200
Minerals and Mining	9,589	7,741	8,701	9,459	10,259	+670	+2,518	+1,558	+800
Irrigation and Power	7,940	7,587	7,587	7,587	7,587	-353	---	---	---
Subtotal, Natural Resources Development	140,062	35,040	53,181	125,081	142,394	+2,332	+107,354	+89,213	+17,313
ist Responsibilities									
Rights Protection	21,408	17,408	11,408	24,515	17,815	-3,593	+407	+6,407	-6,700
Real Estate and Financial Trust Services	29,852	12,851	12,351	32,312	32,312	+2,460	+19,461	+19,961	---
Subtotal, Trust Responsibilities	51,260	30,259	23,759	56,827	50,127	-1,133	+19,868	+26,368	-6,700
ilities Management	91,298	88,597	88,786	89,845	89,845	-1,453	+1,248	+1,059	---
eral Administration									
anagement and Administration	49,240	31,530	31,480	49,726	49,726	+486	+18,196	+18,246	---
DP Services	17,934	17,651	17,551	17,651	17,551	-383	-100	---	-100
rogram management	4,520	6,148	6,148	5,648	5,848	+1,328	-300	-300	+200
mployee compensation payments	7,478	7,538	7,538	7,538	7,538	+60	---	---	---
onsolidated training program	---	1,350	990	1,000	840	+840	-510	-150	-160
Subtotal, General Administration	79,172	64,217	63,707	81,563	81,503	+2,331	+17,286	+17,796	-60
be/Agency operations	---	295,088	295,228	---	---	---	-295,088	-295,228	---
gency hay relief	5,964	---	---	---	---	-5,964	---	---	---
Total, Operation of Indian Programs	921,132	862,060	892,328	887,708	911,182	-9,950	+49,122	+18,854	+23,474

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Construction									
Buildings and Utilities	40,865	28,960	39,760	31,460	35,610	-5,255	+6,650	-4,150	+4,150
Irrigation Systems	18,221	13,900	23,700	13,885	17,885	-336	+3,985	-5,815	+4,000
Housing	44,476	16,295	22,606	22,606	22,606	-21,870	+6,311	---	---
Land acquisition	2,386	---	---	---	---	-2,386	---	---	---
Program offset	-3,000	---	---	---	---	+3,000	---	---	---
Total, Construction	102,948	59,155	86,066	67,951	76,101	-26,847	+16,946	-9,965	+8,150
Road Construction									
Base Program	---	---	2,500	---	---	---	---	-2,500	---
Alaska Native Escrow Account	7,830	---	---	---	---	-7,830	---	---	---
White Earth Trust Fund	---	---	---	6,600	6,600	+6,600	+6,600	+6,600	---
Trust Funds									
Definite	4,000	1,000	1,000	1,000	1,000	-3,000	---	---	---
Revolving Fund for Loans									
mitation on direct loans	(16,300)	(16,320)	(16,320)	(16,320)	(16,320)	(+20)	---	---	---
Indian Loan Guaranty and Insurance Fund									
se program	2,197	2,485	2,652	2,485	2,452	+255	-33	-200	-33
mitation on guaranteed loans	---	(30,000)	---	---	---	---	(-30,000)	---	---
Total, Bureau of Indian Affairs	1,038,107	924,700	984,546	965,744	997,335	-40,772	+72,635	+12,789	+31,591
TERRITORIAL AFFAIRS									
Administration of Territories									
am									
Construction grants	4,556	3,500	6,400	5,500	5,500	+944	+2,000	-900	---
erican Samoa									
Operations grants	20,651	20,776	20,776	19,763	20,776	+125	---	---	+1,013
Construction grants	5,886	2,730	4,313	3,730	4,313	-1,573	+1,583	---	+583
Subtotal, American Samoa	26,537	23,506	25,089	23,493	25,089	-1,448	+1,583	---	+1,596
rthern Marianas									
Covenant grants	27,726	35,344	35,344	35,344	35,344	+7,618	---	---	---
Construction grants, other	3,330	---	---	---	---	-3,330	---	---	---
Subtotal, Northern Marianas	31,056	35,344	35,344	35,344	35,344	+4,288	---	---	---
rgin Islands									
Loan	1,988	---	---	---	---	-1,988	---	---	---
Construction grants	---	2,900	2,900	2,900	2,900	+2,900	---	---	---
Subtotal, Virgin Islands	1,988	2,900	2,900	2,900	2,900	+912	---	---	---
rritorial Administration									
Office of Territorial Affairs	2,458	2,473	2,473	2,473	2,723	+265	+250	+250	+250
Technical Assistance	4,871	2,200	4,700	4,700	4,700	-171	+2,500	---	---
Guam Power Authority Loan Assistance	8,428	1,606	1,968	1,606	1,968	-6,460	+362	---	+362
Subtotal, Territorial Administration	15,757	6,279	9,141	8,779	9,391	-6,366	+3,112	+250	+612
Total, Administration of Territories	79,894	71,529	78,874	76,016	78,224	-1,670	+6,695	-650	+2,208

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Trust Territory of the Pacific Islands									
Trust Territory operations	4,457	2,450	2,740	5,200	5,200	+743	+2,750	+2,460	---
Federated States of Micronesia	1,742	---	---	38,763	38,763	+37,021	+38,763	+38,763	---
Republic of the Marshall Islands	492	---	---	10,940	10,940	+10,448	+10,940	+10,940	---
Republic of Palau Operations	453	10,600	10,600	10,084	10,084	+9,631	-516	-516	---
Subtotal, Operations	7,144	13,050	13,340	64,987	64,987	+57,843	+51,937	+51,647	---
Construction									
Capital Improvements	9,393	---	---	2,000	---	-9,393	---	---	-2,000
Capitol Relocations	---	---	---	---	---	---	---	---	---
Subtotal, Construction	9,393	---	---	2,000	---	-9,393	---	---	-2,000
Enewetak support	895	---	---	---	900	+5	+900	+900	+900
Bikini resettlement	1,739	---	1,000	---	1,500	-239	+1,500	+500	+1,500
Total, Trust Territory of the Pacific Islands	19,171	13,050	14,340	66,987	67,387	+48,216	+54,337	+53,047	+400
Compact of Free Association									
mpact of Free Association	208,090	27,920	27,320	27,920	---	-208,090	-27,920	-27,320	-27,920
ewetak support	---	---	1,100	---	---	---	---	-1,100	---
jebi Trust Fund	2,750	---	7,250	---	2,250	-500	+2,250	-5,000	+2,250
kini	---	---	500	---	---	---	---	-500	---
Subtotal, Compact of Free Association	210,840	27,920	36,170	27,920	2,250	-208,590	-25,670	-33,920	-25,670
Total, Territorial Affairs	309,905	112,499	129,384	170,923	147,861	-162,044	+35,362	+18,477	-23,062
DEPARTMENTAL OFFICES									
Office of the Secretary									
partmental Direction									
Secretary's immediate Office	1,426	1,426	1,365	1,776	1,586	+160	+160	+221	-190
Executive Secretariat	210	210	201	374	374	+164	+164	+173	---
Cong. & Legis. Affairs	1,093	1,093	1,046	1,046	1,046	-47	-47	---	---
Equal Opportunity	1,292	1,197	1,197	1,267	1,274	-18	+77	+77	+7
Public Affairs	696	696	666	784	784	+88	+88	+118	---
Small & Disadvantaged Business Utilization	398	398	381	381	381	-17	-17	---	---
Subtotal, Departmental Direction	5,115	5,020	4,856	5,628	5,445	+330	+425	+589	-183
ogram Direction and Coordination									
A/S Water and Science	745	691	691	625	625	-120	-66	-66	---
A/S Land and Minerals Management	785	729	729	840	840	+55	+111	+111	---
A/S Fish and Wildlife and Parks	766	711	564	650	600	-166	-111	+36	-50
A/S Indian Affairs	739	686	686	575	600	-139	-86	-86	+25
A/S Territorial and International Affairs	548	508	508	508	508	-40	---	---	---
A/S Policy, Budget & Administration	790	733	660	825	825	+35	+92	+165	---
Subtotal, Program Direction and Coordination	4,373	4,058	3,838	4,023	3,998	-375	-60	+160	-25

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Administration									
Environmental Project Review	1,491	1,404	1,404	1,404	1,404	-87	---	---	---
Acquisition & Property Management	1,342	1,264	1,264	1,264	1,264	-78	---	---	---
Office of personnel	1,610	1,517	1,617	1,517	1,617	+7	+100	---	+100
Administrative Services	3,230	1,032	982	1,032	1,032	-2,198	---	+50	---
Information Resources Management	4,672	4,397	4,397	4,397	4,450	-222	+53	+53	+53
Policy Analysis	2,286	2,151	2,151	1,901	1,950	-336	-201	-201	+49
Office of Budget	1,516	1,426	1,426	1,404	1,404	-112	-22	-22	---
Financial management	1,014	954	954	954	954	-60	---	---	---
Subtotal, Administration	17,161	14,145	14,195	13,873	14,075	-3,086	-70	-120	+202
Hearings and Appeals	5,766	5,339	5,339	5,200	5,200	-566	-139	-139	---
Aircraft Services	1,889	1,814	1,814	1,658	1,658	-231	-156	-156	---
ıtral Services	8,847	12,440	12,440	12,440	12,440	+3,593	---	---	---
Total, Office of the Secretary	43,151	42,816	42,482	42,822	42,816	-335	---	+334	-6
Office of the Solicitor									
ɡal Services	17,210	17,646	18,301	16,470	17,930	+720	+284	-371	+1,460
ıeral Administration	3,046	3,154	2,954	2,915	2,950	-96	-204	-4	+35
Total, Office of the Solicitor	20,256	20,800	21,255	19,385	20,880	+624	+80	-375	+1,495
Office of the Inspector General									
ıit	12,922	10,916	10,916	10,304	10,916	-2,006	---	---	+612
ʼestigations	2,260	2,430	2,430	2,296	2,430	+170	---	---	+134
ıinistration	935	2,954	2,954	2,824	2,954	+2,019	---	---	+130
Total, Office of the Inspector General	16,117	16,300	16,300	15,424	16,300	+183	---	---	+876
Construction Management									
aries and Expenses	775	684	684	684	684	-91	---	---	---
Special Foreign Currency Program									
aries and Expenses	994	---	---	---	---	-994	---	---	---
Total, Secretarial Offices	81,293	80,600	80,721	78,315	80,680	-613	+80	-41	+2,365
Grand Total, Department of the Interior	4,303,539	3,632,714	4,010,119	4,004,040	4,125,802	-177,737	+493,088	+115,683	+121,762

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
TITLE II - RELATED AGENCIES									
DEPARTMENT OF AGRICULTURE									
FOREST SERVICE									
Forest Research									
Fire and atmospheric science	8,063	7,546	8,246	7,546	8,046	-17	+500	-200	+500
Forest insect and disease	21,093	20,178	22,178	20,178	21,500	+407	+1,322	-678	+1,322
Forest inventory and analysis	17,049	14,222	17,222	17,316	17,322	+273	+3,100	+100	+6
Renewable resource economics	4,566	4,456	4,856	4,370	4,370	-196	-86	-486	---
Trees and timber management	22,467	21,339	24,289	21,501	23,302	+835	+1,963	-987	+1,801
Forest watershed managment and rehabilitation	15,517	14,858	16,110	15,108	16,110	+593	+1,252	---	+1,002
Wildlife, range and fish habitat	9,480	9,291	11,891	10,672	11,491	+2,011	+2,200	-400	+819
Forest recreation	2,141	2,077	2,377	2,077	2,377	+236	+300	---	+300
Forest products and harvesting	18,349	17,514	18,614	18,014	18,364	+15	+850	-250	+350
Competitive grants	6,800	---	3,400	6,500	6,000	-800	+6,000	+2,600	-500
Total, Forest Research	125,525	111,481	129,183	123,282	128,882	+3,357	+17,401	-301	+5,600
State and Private Forestry									
orest Pest Management									
Federal lands	20,710	17,995	20,695	20,645	20,645	-65	+2,650	-50	---
Cooperative lands	8,884	676	8,776	10,376	10,376	+1,492	+9,700	+1,600	---
Subtotal, Forest pest management	29,594	18,671	29,471	31,021	31,021	+1,427	+12,350	+1,550	---
ire protection	13,618	3,400	13,600	13,600	13,600	-18	+10,200	---	---
orest Management and Utilization									
Forest resource management	5,205	---	5,200	5,200	5,200	-5	+5,200	---	---
Wood utilization	954	---	1,000	5,950	1,000	+46	+1,000	---	-4,950
Seedlings, nursery and tree improvement	1,798	---	1,800	1,800	1,800	+2	+1,800	---	---
Urban forestry	1,988	---	2,000	---	1,925	-63	+1,925	-75	+1,925
Subtotal, Forest Management and Utilization	9,945	---	10,000	12,950	9,925	-20	+9,925	-75	-3,025
pecial Projects									
Boundary Waters Canoe Area	2,982	2,800	3,000	2,800	2,800	-182	---	-200	---
Gifford Pinchot Institute	199	---	200	---	200	+1	+200	---	+200
Lake Tahoe	1,461	---	1,400	1,400	1,400	-61	+1,400	---	---
Subtotal, Special Projects	4,642	2,800	4,600	4,200	4,400	-242	+1,600	-200	+200
Total, State and Private Forestry	57,799	24,871	57,671	61,771	58,946	+1,147	+34,075	+1,275	-2,825
National Forest System									
.nerals and General Land Activities									
Minerals	28,341	26,025	26,025	26,025	26,025	-2,316	---	---	---
Real estate management	20,844	19,845	19,845	19,845	19,845	-999	---	---	---
Land Line Location	28,586	23,011	26,411	23,011	24,711	-3,875	+1,700	-1,700	+1,700
Maintenance of Facilities	14,736	14,735	14,735	14,735	14,735	-1	---	---	---
Subtotal, Minerals & General Land Activities	92,507	83,616	87,016	83,616	85,316	-7,191	+1,700	-1,700	+1,700

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Resource Protection and Maintenance									
Fire protection	158,240	147,225	151,225	155,991	153,725	-4,515	+6,500	+2,500	-2,266
Fighting forest fires	166,694	1,000	1,000	101,000	125,000	-41,694	+124,000	+124,000	+24,000
Cooperative law enforcement	6,959	2,450	2,450	7,000	6,660	-299	+4,210	+4,210	-340
Road maintenance	64,647	49,270	61,770	64,270	61,770	-2,877	+12,500	---	-2,500
Trail maintenance	9,968	8,365	12,000	8,365	11,000	+1,032	+2,635	-1,000	+2,635
Subtotal, Resource Protection & Maintenance	406,508	208,310	228,445	336,626	358,155	-48,353	+149,845	+129,710	+21,529
Timber Sales									
Timber resource inventory	12,544	13,280	13,280	13,280	13,280	+736	---	---	---
Silvicultural examination	20,445	20,870	20,870	20,870	20,870	+425	---	---	---
Sales preparation and harvest administration	148,556	136,942	140,319	165,242	156,850	+8,294	+19,908	+16,531	-8,392
Subtotal, Timber Sales	181,545	171,092	174,469	199,392	191,000	+9,455	+19,908	+16,531	-8,392
Reforestation and Stand Improvement									
Reforestation	53,877	28,393	32,511	51,561	47,511	-6,366	+19,118	+15,000	-4,050
(Reforestation trust fund)	---	---	---	---	---	---	---	---	---
Stand improvement	30,340	15,938	21,833	29,035	26,833	-3,507	+10,895	+5,000	-2,202
(Reforestation trust fund)	---	---	---	---	---	---	---	---	---
Nurseries	15,203	13,617	14,203	14,549	14,549	-654	+932	+346	---
Subtotal, Reforestation & Stand Improvement	99,420	57,948	68,547	95,145	88,893	-10,527	+30,945	+20,346	-6,252
ecreation Use									
Recreation management	85,779	33,742	93,742	82,090	89,242	+3,463	+55,500	-4,500	+7,152
Wilderness	7,845	8,030	10,030	8,030	10,030	+2,185	+2,000	---	+2,000
Cultural resources	9,683	9,368	9,368	9,368	9,368	-315	---	---	---
Subtotal, Recreation Use	103,307	51,140	113,140	99,488	108,640	+5,333	+57,500	-4,500	+9,152
ldlife and Fish Habitat Management									
Wildlife and fisheries support	23,682	23,360	24,360	23,360	24,360	+678	+1,000	---	+1,000
Habitat improvement	15,012	10,420	14,765	16,665	16,265	+1,253	+5,845	+1,500	-400
Subtotal, Wildlife & Fish Habitat Management	38,694	33,780	39,125	40,025	40,625	+1,931	+6,845	+1,500	+600
nge Management									
Grazing	24,238	25,595	24,238	25,375	24,238	---	-1,357	---	-1,137
Range improvements	2,182	769	769	769	769	-1,413	---	---	---
Wild horse and burro management	274	275	275	275	275	+1	---	---	---
Noxious weed control	1,366	1,180	1,180	1,400	1,400	+34	+220	+220	---
Subtotal, Range Management	28,060	27,819	26,462	27,819	26,682	-1,378	-1,137	+220	-1,137
il, Water and Air Management									
Soil, water and air administration	22,157	22,797	22,797	22,797	22,797	+640	---	---	---
Soil and water resource improvements	3,117	1,225	3,125	1,225	3,125	+8	+1,900	---	+1,900
Soil and water resource inventories	6,572	4,765	6,565	4,765	6,065	-507	+1,300	-500	+1,300
Subtotal, Soil, Water and Air Management	31,846	28,787	32,487	28,787	31,987	+141	+3,200	-500	+3,200
ieral Administration	262,114	256,996	256,996	256,996	256,996	-5,118	---	---	---
est level information processing system	(-2,500)	---	---	---	---	---	---	---	---
BLM Interchange	---	5,000	---	---	---	---	-5,000	---	---
orestation trust fund transfer	-30,000	-30,000	-30,000	-30,000	-30,000	---	---	---	---
Total, National Forest System	1,214,001	894,488	996,687	1,137,894	1,158,294	-55,707	+263,806	+161,607	+20,400

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Construction									
Facilities	28,984	11,736	36,736	15,476	25,632	-3,352	+13,896	-11,104	+10,156
Roads and trails									
Direct road construction	188,205	178,485	148,072	245,923	228,803	+40,598	+50,318	+80,731	-17,120
Trail construction	7,033	4,976	7,601	6,731	7,301	+268	+2,325	-300	+570
Subtotal, Construction	224,222	195,197	192,409	268,130	261,736	+37,514	+66,539	+69,327	-6,394
Timber Receipts Transfer (transfer to General Fund)	(-55,491)	(-86,815)	(-86,815)	(-86,815)	(-86,815)	(-31,324)	---	---	---
Timber Purchaser Credits	---	(154,321)	---	(154,321)	---	---	(-154,321)	---	(-154,321)
Total, Construction	224,222	195,197	192,409	268,130	261,736	+37,514	+66,539	+69,327	-6,394
Land Acquisition									
Forest Service									
Acquisitions	29,087	---	39,730	36,700	49,030	+19,943	+49,030	+9,300	+12,330
Acquisition Management	3,479	3,206	3,206	3,206	3,206	-273	---	---	---
Total, Land Acquisition	32,566	3,206	42,936	39,906	52,236	+19,670	+49,030	+9,300	+12,330
Youth Conservation Corps									
se program	---	---	---	---	---	---	---	---	---
Operation and Maintenance of Recreation Facilities									
se program	---	52,000	---	---	---	---	-52,000	---	---
Acquisition of Lands for National Forests, Special Acts									
se Program	777	966	966	966	966	+189	---	---	---
Acquisition of Lands to Complete Land Exchanges									
se Program	20	895	895	895	895	+875	---	---	---
Range Betterment									
se program	3,798	3,800	3,800	3,800	3,800	+2	---	---	---
Miscellaneous Trust Funds									
scellaneous trust fund	89	90	90	90	90	+1	---	---	---
Total, Forest Service	1,658,797	1,286,994	1,424,637	1,636,734	1,665,845	+7,048	+378,851	+241,208	+29,111
DEPARTMENT OF THE TREASURY									
rgy Security Reserve (rescission) 1/	(-6,900,000)	---	---	---	---	(+6,900,000)	---	---	---

FY86 amount is an est. of an indefinite rescission.

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
DEPARTMENT OF ENERGY									
Clean Coal Technology Reserve									
Base program FY 1986 1/	(99,400)	---	---	---	---	(-99,400)	---	---	---
Base program FY 1987 1/	(149,100)	---	---	---	---	(-149,100)	---	---	---
Base program FY 1988 1/	(149,100)	---	---	---	---	(-149,100)	---	---	---
Total, Clean Coal Technology Reserve 1/	(397,600)	---	---	---	---	(-397,600)	---	---	---
Fossil Energy Research and Development									
Coal									
Control Technology and Coal Preparation									
Coal preparation and analysis	13,236	6,443	11,932	7,443	11,182	-2,054	+4,739	-750	+3,739
Flue gas cleanup	11,400	7,541	12,673	11,541	13,144	+1,744	+5,603	+471	+1,603
Gas stream cleanup	7,395	3,839	8,916	12,125	13,215	+5,820	+9,376	+4,299	+1,090
Waste management technology	1,225	324	1,200	324	858	-367	+534	-342	+534
Subtotal, Control Technology & Coal Preparation	33,256	18,147	34,721	31,433	38,399	+5,143	+20,252	+3,678	+6,966
Advanced Research & Technology Development	35,233	27,224	31,807	29,724	32,114	-3,119	+4,890	+307	+2,390
Coal Liquefaction									
Advanced research	5,368	2,620	5,000	2,620	4,475	-893	+1,855	-525	+1,855
Direct Liquefaction	13,330	2,996	13,790	4,696	11,790	-1,540	+8,794	-2,000	+7,094
Indirect liquefaction	9,706	2,539	8,100	2,539	6,300	-3,406	+3,761	-1,800	+3,761
Support studies and engineering evaluations	4,508	992	1,392	992	1,392	-3,116	+400	---	+400
Subtotal, Coal Liquefaction	32,912	9,147	28,282	10,847	23,957	-8,955	+14,810	-4,325	+13,110
Combustion Systems									
Atmospheric fluidized beds	17,249	1,590	4,008	1,590	3,308	-13,941	+1,718	-700	+1,718
Pressurized fluidized beds	5,268	3,686	5,662	5,286	5,923	+655	+2,237	+261	+637
Advanced combustion technology	3,548	1,882	3,059	2,882	2,882	-666	+1,000	-177	---
Alternate fuel utilization	4,237	2,011	4,069	2,011	3,358	-879	+1,347	-711	+1,347
Subtotal, Combustion Systems	30,302	9,169	16,798	11,769	15,471	-14,831	+6,302	-1,327	+3,702
Fuel Cells									
Phosphoric acid systems	21,187	---	19,000	11,900	15,500	-5,687	+15,500	-3,500	+3,600
Molten carbonate systems	10,338	3,400	7,700	7,200	7,700	-2,638	+4,300	---	+500
Advanced concepts	3,924	1,600	6,000	4,600	5,000	+1,076	+3,400	-1,000	+400
Subtotal, Fuel Cells	35,449	5,000	32,700	23,700	28,200	-7,249	+23,200	-4,500	+4,500
Heat engines	12,817	7,942	13,900	10,000	12,300	-517	+4,358	-1,600	+2,300
Underground coal gasification	4,238	---	4,070	---	2,370	-1,868	+2,370	-1,700	+2,370
Magnetohydrodynamics	28,850	---	30,000	23,500	26,500	-2,350	+26,500	-3,500	+3,000
Surface Coal Gasification									
Advanced research	3,517	968	3,000	2,568	2,786	-731	+1,818	-214	+218
Advanced Process Development	5,443	1,689	4,577	4,689	5,077	-366	+3,388	+500	+388
Systems engineering concepts	29,091	1,373	13,537	5,173	14,567	-14,524	+13,194	+1,030	+9,394
Environmental and engineering analyses	2,199	1,131	1,683	1,131	1,683	-516	+552	---	+552
Great Plains gasification project	2,761	437	437	437	437	-2,324	---	---	---
Subtotal, Surface Coal Gasification	43,011	5,598	23,234	13,998	24,550	-18,461	+18,952	+1,316	+10,552
Subtotal, Coal	256,068	82,227	215,512	154,971	203,861	-52,207	+121,634	-11,651	+48,890

Proposed in Energy Security Reserve (Synthetic Fuels Corporation).

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Petroleum									
Advanced Process Technology									
Advanced exploratory research	4,669	1,576	3,834	1,576	3,290	-1,379	+1,714	-544	+1,714
Arctic and offshore research	1,079	235	500	1,235	500	-579	+265	---	-735
Subtotal, Advanced Process Technology	5,748	1,811	4,334	2,811	3,790	-1,958	+1,979	-544	+979
Enhanced Oil Recovery									
Heavy oil	2,869	608	2,800	1,900	2,350	-519	+1,742	-450	+450
Light oil	7,683	3,876	7,100	7,000	7,100	-583	+3,224	---	+100
Tar sands	1,371	---	1,650	1,100	1,650	+279	+1,650	---	+550
Subtotal, Enhanced Oil Recovery	11,923	4,484	11,550	10,000	11,100	-823	+6,616	-450	+1,100
Oil shale	12,632	3,595	12,000	7,500	11,000	-1,632	+7,405	-1,000	+3,500
Subtotal, Petroleum	30,303	9,890	27,884	20,311	25,890	-4,413	+16,000	-1,994	+5,579
ıs									
Unconventional gas recovery	8,850	5,252	8,932	6,752	8,092	-758	+2,840	-840	+1,340
ɹuipment not related to construction	2,982	---	3,000	---	1,500	-1,482	+1,500	-1,500	+1,500
ıssil Energy Construction									
General plant projects	3,469	---	3,500	---	1,750	-1,719	+1,750	-1,750	+1,750
ıoperative Agreements									
UNDERC	---	---	---	5,300	---	---	---	---	-5,300
WRI	---	---	---	5,751	---	---	---	---	-5,751
adquarters program direction	13,927	11,260	12,575	11,960	12,575	-1,352	+1,315	---	+615
ergy Technology Center program direction	40,870	28,740	38,447	33,740	38,447	-2,423	+9,707	---	+4,707
e of prior year deferrals - OE	-18,015	-64,812	-2,607	-3,107	-3,107	+14,908	+61,705	-500	---
vance appropriation made in FY 1984	-15,000	---	---	---	---	+15,000	---	---	---
transfer	-10,240	-2,074	-2,074	-2,074	-2,485	+7,755	-411	-411	-411
ansfer from Energy Security Reserve	-2,775	-437	-437	-437	-437	+2,338	---	---	---
deral Inspector for the Alaska Gas Pipeline	532	221	221	221	221	-311	---	---	---
operative R&D venture pool	---	12,500	---	---	---	---	-12,500	---	---
ployment floor costs	---	---	9,559	9,559	9,559	+9,559	+9,559	---	---
Total, Fossil Energy Research and Development	310,971	82,767	314,512	242,947	295,866	-15,105	+213,099	-18,646	+52,919
Naval Petroleum and Oil Shale Reserves									
l Reserves									
Naval petroleum reserves Nos. 1 & 2	130,736	130,340	130,340	130,340	130,340	-396	---	---	---
Naval petroleum reserve No. 3	29,170	22,614	22,614	22,614	22,614	-6,556	---	---	---
Program direction (headquarters)	5,665	5,374	5,374	5,374	5,374	-291	---	---	---
Subtotal, Oil Reserves	165,571	158,328	158,328	158,328	158,328	-7,243	---	---	---
ıle oil development program									
ɜhale reserves development	3,863	5,241	310	310	310	-3,553	-4,931	---	---
ɜ of prior year balance	-155,848	-36,461	-36,461	-36,461	-36,461	+119,387	---	---	---
Total, Naval Petroleum and Oil Shale Reserves	13,586	127,108	122,177	122,177	122,177	+108,591	-4,931	---	---

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Energy Conservation									
Buildings & Community Systems									
Building systems	12,922	3,500	9,350	6,850	8,950	-3,972	+5,450	-400	+2,100
Community systems	3,980	---	2,900	900	2,900	-1,080	+2,900	---	+2,000
Technology and consumer products	10,737	5,000	10,000	5,000	9,250	-1,487	+4,250	-750	+4,250
Analysis & technology transfer	2,733	1,000	2,500	1,000	2,000	-733	+1,000	-500	+1,000
Appliance standards	1,990	1,200	2,000	1,200	2,000	+10	+800	---	+800
Federal energy management program	1,267	1,050	1,050	950	950	-317	-100	-100	---
Residential conservation service	398	---	---	---	---	-398	---	---	---
Capital equipment	1,990	---	1,500	---	750	-1,240	+750	-750	+750
Program direction	3,799	2,400	3,650	3,500	3,650	-149	+1,250	---	+150
Subtotal, Buildings & Community Systems	39,816	14,150	32,950	19,400	30,450	-9,366	+16,300	-2,500	+11,050
Industrial									
Waste energy reduction	11,934	6,300	12,656	9,200	12,256	+322	+5,956	-400	+3,056
Process efficiency	20,881	5,479	14,979	10,979	13,300	-7,581	+7,821	-1,679	+2,321
Cogeneration	4,675	1,500	5,000	5,000	5,000	+325	+3,500	---	---
Implementation and deployment	3,181	500	2,400	1,900	2,400	-781	+1,900	---	+500
Capital equipment	---	---	---	---	---	---	---	---	---
Program direction	2,153	1,844	2,070	2,070	2,070	-83	+226	---	---
Subtotal, Industrial	42,824	15,623	37,105	29,149	35,026	-7,798	+19,403	-2,079	+5,877
Transportation									
Vehicle Propulsion R&D	34,268	6,500	24,000	23,500	23,500	-10,768	+17,000	-500	---
Alternative fuels utilization	1,590	1,260	1,750	1,460	1,260	-330	---	-490	-200
Electric/hybrid vehicle program	9,170	4,140	12,475	11,815	13,400	+4,230	+9,260	+925	+1,585
Transportation systems utilization	947	---	840	700	700	-247	+700	-140	---
Advanced materials development	9,234	6,500	13,000	6,500	13,000	+3,766	+6,500	---	+6,500
High temperature materials lab	2,995	---	1,000	---	1,000	-1,995	+1,000	---	+1,000
Capital equipment	---	---	---	1,000	1,000	+1,000	+1,000	+1,000	---
Program direction	2,286	1,400	2,195	2,195	2,195	-91	+795	---	---
Subtotal, Transportation	60,490	19,800	55,260	47,170	56,055	-4,435	+36,255	+795	+8,885
ate/Local Programs									
Energy policy and conservation grants (EPCA)	18,689	---	---	---	---	-18,689	---	---	---
Energy extension service	7,794	---	---	---	---	-7,794	---	---	---
Schools & hospitals	46,859	---	2,250	6,000	2,250	-44,609	+2,250	---	-3,750
Grant monitoring	---	---	3,000	---	---	---	---	-3,000	---
Weatherization	190,080	---	110,200	110,000	110,200	-79,880	+110,200	---	+200
Territories assistance	497	---	---	---	---	-497	---	---	---
Program Direction	10,173	5,000	10,700	13,500	13,500	+3,327	+8,500	+2,800	---
Subtotal, State/Local Programs	274,092	5,000	126,150	129,500	125,950	-148,142	+120,950	-200	-3,550
lti Sector									
Energy Conversion and Utilization Technology	19,328	15,200	20,808	18,900	20,358	+1,030	+5,158	-450	+1,458
Inventors program	4,970	3,300	5,300	5,000	5,000	+30	+1,700	-300	---
National Appropriate Technology Assistance Service	1,491	750	1,400	1,400	1,400	-91	+650	---	---
Capital equipment	994	100	1,000	1,000	1,000	+6	+900	---	---
Program direction	532	500	546	550	546	+14	+46	---	-4
Subtotal, Multi Sector	27,315	19,850	29,054	26,850	28,304	+989	+8,454	-750	+1,454
icy and Management									
olicy analysis	---	---	---	---	---	---	---	---	---
rogram direction	1,802	1,792	1,862	1,862	1,862	+60	+70	---	---
Subtotal, Policy and Management	1,802	1,792	1,862	1,862	1,862	+60	+70	---	---
ilities	10,262	---	10,000	---	10,000	-262	+10,000	---	+10,000
e of prior year deferrals)	-9,880	-36,782	-6,556	-7,518	-7,518	+2,362	+29,264	-962	---
Total, Energy Conservation	446,721	39,433	285,825	246,413	280,129	-166,592	+240,696	-5,696	+33,716

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Economic Regulation									
Compliance	14,922	13,685	13,685	13,685	13,685	-1,237	---	---	---
Fuels Conversion	1,193	---	2,000	2,000	2,000	+807	+2,000	---	---
Natural gas and electricity operations	2,173	2,060	2,060	2,060	2,060	-113	---	---	---
Program administration	675	1,105	655	655	655	-20	-450	---	---
Office of Hearings and Appeals	5,512	5,000	5,000	5,000	5,000	-512	---	---	---
Total, Economic Regulation	24,475	21,850	23,400	23,400	23,400	-1,075	+1,550	---	---
Emergency Preparedness									
Emergency preparedness	6,008	6,044	6,044	6,044	6,044	+36	---	---	---
Strategic Petroleum Reserve									
Planning	4,544	---	---	---	---	-4,544	---	---	---
Storage facilities development	366,779	136,521	196,996	134,021	134,021	-232,758	-2,500	-62,975	---
Management	11,726	13,423	15,406	13,412	13,412	+1,686	-11	-1,994	---
Use of prior year funds	-270,684	-149,944	-64,969	---	---	+270,684	+149,944	+64,969	---
Total, Strategic Petroleum Reserve	112,365	---	147,433	147,433	147,433	+35,068	+147,433	---	---
SPR Petroleum Account									
troleum acquisition and transportation	---	---	220,000	---	---	---	---	-220,000	---
Energy Information Administration									
tional Energy Information System	52,248	49,128	49,838	49,128	49,778	-2,470	+650	-60	+650
licy and management	8,070	10,523	10,523	10,523	10,523	+2,453	---	---	---
Total, Energy Information Administration	60,318	59,651	60,361	59,651	60,301	-17	+650	-60	+650
Total, Department of Energy	974,444	336,853	1,179,752	848,065	935,350	-39,094	+598,497	-244,402	+87,285
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
HEALTH RESOURCES AND SERVICES ADMINISTRATION									
Indian Health Services									
inical services									
IHS and tribal health delivery									
Hospital and health clinic programs	443,098	409,614	466,649	459,807	463,567	+20,469	+53,953	-3,082	+3,760
Dental health program	25,879	25,692	26,099	25,756	25,849	-30	+157	-250	+93
Mental health program	11,449	11,399	11,462	11,307	11,362	-87	-37	-100	+55
Alcoholism program	24,627	26,263	27,705	26,405	27,705	+3,078	+1,442	---	+1,300
Maintenance and repair	8,621	9,025	9,025	9,025	9,025	+404	---	---	---
Contract care	174,040	138,000	176,531	183,713	183,713	+9,673	+45,713	+7,182	---
Subtotal, Clinical services	687,714	619,993	717,471	716,013	721,221	+33,507	+101,228	+3,750	+5,208
eventive health									
Sanitation	20,804	21,334	22,260	22,307	22,307	+1,503	+973	+47	---
Public health nursing	12,441	12,851	12,802	12,887	12,887	+446	+36	+85	---
Health education	3,614	3,742	3,792	3,883	3,883	+269	+141	+91	---
Community health representative program	25,844	---	26,500	24,000	26,000	+156	+26,000	-500	+2,000
Immunization	2,705	395	395	395	395	-2,310	---	---	---
Subtotal, Preventative health	65,408	38,322	65,749	63,472	65,472	+64	+27,150	-277	+2,000

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Urban health projects	9,741	---	10,000	8,800	9,000	-741	+9,000	-1,000	+200
Indian health manpower	6,460	5,418	7,018	5,418	7,018	+558	+1,600	---	+1,600
Tribal management	1,988	---	2,688	2,688	2,688	+700	+2,688	---	---
Direct operations	60,383	56,195	33,410	36,715	36,410	-23,973	-19,785	+3,000	-305
Indian health facilities	---	2,450	---	---	---	---	-2,450	---	---
Medicare/Medicaid Reimbursements									
Hospital and clinic accreditation	(44,100)	(43,860)	(43,860)	(43,860)	(43,860)	(-240)	---	---	---
Offset to appropriations	---	(17,240)	---	---	---	---	(-17,240)	---	---
Subtotal	(44,100)	(61,100)	(43,860)	(43,860)	(43,860)	(-240)	(-17,240)	---	---
Total, Indian Health Services	831,694	722,378	836,336	833,106	841,809	+10,115	+119,431	+5,473	+8,703
Indian Health Facilities									
Hospitals									
New and Replacement	12,386	---	21,383	34,660	34,560	+22,174	+34,560	+13,177	-100
Modernization and repair	3,081	---	2,450	3,950	2,450	-631	+2,450	---	-1,500
Subtotal, Hospitals	15,467	---	23,833	38,610	37,010	+21,543	+37,010	+13,177	-1,600
ıtpatient Care Facilities	722	---	828	850	2,085	+1,363	+2,085	+1,257	+1,235
ınitation Facilities	24,850	---	25,000	15,000	20,000	-4,850	+20,000	-5,000	+5,000
Hospital and health clinic programs									
ırsonnel Quarters	5,626	---	6,760	6,460	6,460	+834	+6,460	-300	---
·ogram offset	---	---	-1,500	---	---	---	---	+1,500	---
Total, Indian Health Facilities	46,665	---	54,921	60,920	65,555	+18,890	+65,555	+10,634	+4,635
Total, Health Services Administration	878,359	722,378	891,257	894,026	907,364	+29,005	+184,986	+16,107	+13,338
DEPARTMENT OF EDUCATION									
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION									
Indian Education									
rt A-Payments to School Districts	50,021	---	50,021	46,832	47,200	-2,821	+47,200	-2,821	+368
ate Grants	---	70,323	---	---	---	---	-70,323	---	---
rt B-Special Projects for Indian Students	11,809	---	11,809	9,900	11,568	-241	+11,568	-241	+1,668
rt C-Special Projects for Indian Adults	2,922	2,940	2,940	3,000	3,000	+78	+60	+60	---
ministration	2,319	2,466	2,466	2,268	2,268	-51	-198	-198	---
Total, Indian Education	67,071	75,729	67,236	62,000	64,036	-3,035	-11,693	-3,200	+2,036
OTHER RELATED AGENCIES									
NAVAJO/HOPI INDIAN RELOCATION COMMISSION									
Salaries and Expenses									
ɜration of the Commission	22,356	22,335	22,289	22,335	22,335	-21	---	+46	---

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
SMITHSONIAN INSTITUTION									
Salaries and Expenses									
Science									
Assistant Secretary for Science	589	497	497	494	495	-94	-2	-2	+1
National Museum of Natural History	21,179	21,888	21,868	21,541	21,696	+517	-192	-172	+155
Astrophysical Observatory	8,724	9,291	9,441	8,980	9,181	+457	-110	-260	+201
Tropical Research Institute	3,807	4,243	4,235	3,858	4,072	+265	-171	-163	+214
Environmental Research Center	3,535	3,614	3,614	3,266	2,570	-965	-1,044	-1,044	-696
National Air and Space Museum	8,538	8,712	8,712	8,635	8,662	+124	-50	-50	+27
National Zoological Park	11,539	11,747	11,897	12,068	12,045	+506	+298	+148	-23
Equipment	(-250)	---	---	---	---	(+250)	---	---	---
Subtotal, Science	57,911	59,992	60,264	58,842	58,721	+810	-1,271	-1,543	-121
History and Art									
Assistant Secretary for History and Art	443	370	370	370	370	-73	---	---	---
National Museum of American History	11,852	12,357	12,357	12,124	12,795	+943	+438	+438	+671
National Museum of American Art	4,807	4,959	4,959	4,579	4,865	+58	-94	-94	+286
National Portrait Gallery	3,601	3,770	3,770	3,359	3,738	+137	-32	-32	+379
Hirshhorn Museum and Sculpture Garden	3,119	3,233	3,233	3,043	3,207	+88	-26	-26	+164
Center for Asian Art	3,078	4,106	4,031	3,930	4,076	+998	-30	+45	+146
Archives of American Art	897	931	931	924	926	+29	-5	-5	+2
Cooper-Hewitt Museum	943	1,011	986	955	957	+14	-54	-29	+2
Museum of African Art	2,626	3,342	3,336	3,165	3,302	+676	-40	-34	+137
Anacostia Neighborhood Museum	890	910	910	898	902	+12	-8	-8	+4
Automation	(-217)	---	---	---	---	(+217)	---	---	---
Subtotal, History and Art	32,256	34,989	34,883	33,347	35,138	+2,882	+149	+255	+1,791
blic Service									
Assistant Secretary for Public Service	1,243	1,257	1,247	1,246	1,250	+7	-7	+3	+4
Smithsonian Institution Press	1,126	1,147	1,147	1,140	1,145	+19	-2	-2	+5
Subtotal, Public Service	2,369	2,404	2,394	2,386	2,395	+26	-9	+1	+9
seum Programs									
Assistant Secretary for Museum Programs	735	748	748	743	746	+11	-2	-2	+3
Office of the Registrar	99	102	102	100	102	+3	---	---	+2
Conservation-Analytical Laboratory	2,033	2,069	2,069	2,041	2,351	+318	+282	+282	+310
Smithsonian Institution Libraries	4,655	4,836	4,836	4,760	4,806	+151	-30	-30	+46
Office of Exhibits Central	1,613	1,774	1,759	1,765	1,768	+155	-6	+9	+3
Traveling Exhibition Service	379	601	601	596	598	+219	-3	-3	+2
Smithsonian Archives	541	552	552	549	551	+10	-1	-1	+2
National Museum Act	772	772	772	---	---	-772	-772	-772	---
Subtotal, Museum Programs	10,827	11,454	11,439	10,554	10,922	+95	-532	-517	+368
rectorate of International Activities	461	1,027	927	1,020	1,022	+561	-5	+95	+2
scial Programs									
merican and Folklife Studies	712	735	735	722	727	+15	-8	-8	+5
nternational Environmental Science Program	728	752	752	732	738	+10	-14	-14	+6
cademic and Educational Programs	771	828	828	823	826	+55	-2	-2	+3
ollections Management Inventory	1,121	1,145	1,145	724	831	-290	-314	-314	+107
useum Support Center	4,891	6,366	6,366	3,490	4,426	-465	-1,940	-1,940	+936
FK Center Trustee Grant	348	---	---	---	---	-348	---	---	---
Subtotal, Special Programs	8,571	9,826	9,826	6,491	7,548	-1,023	-2,278	-2,278	+1,057
inistration	11,949	12,504	12,504	12,396	12,432	+483	-72	-72	+36

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Support Activities									
Office of Design and Construction	2,099	2,123	2,123	2,105	2,111	+12	-12	-12	+6
Office of Protection Services	18,145	19,340	19,340	19,193	19,242	+1,097	-98	-98	+49
Office of Plant Services	32,407	36,402	35,908	35,743	35,389	+2,982	-1,013	-519	-354
Subtotal, Support Activities	52,651	57,865	57,371	57,041	56,742	+4,091	-1,123	-629	-299
Inflation allowance	---	---	-290	---	---	---	---	+290	---
Quadrangle operations	---	---	---	-1,527	-1,000	-1,000	-1,000	-1,000	+527
Total, Salaries and Expenses	176,995	190,061	189,318	180,550	183,920	+6,925	-6,141	-5,398	+3,370
Museum Programs and Related Research (SFCP)									
Grant Program	2,485	---	---	---	---	-2,485	---	---	---
Construction and Improvements National Zoological Park									
Base Program	5,518	4,851	4,851	2,500	2,500	-3,018	-2,351	-2,351	---
Restoration and Renovation of Buildings									
se Program	11,009	12,828	12,113	12,028	12,975	+1,966	+147	+862	+947
Construction									
uth Quadrangle Development	3,976	4,000	3,315	2,630	3,315	-661	-685	---	+685
ithsonian Tropical Research Institute	---	3,500	2,780	3,500	2,780	+2,780	-720	---	-720
Total, Construction	3,976	7,500	6,095	6,130	6,095	+2,119	-1,405	---	-35
Total, Smithsonian Institution	199,983	215,240	212,377	201,208	205,490	+5,507	-9,750	-6,887	+4,282
NATIONAL GALLERY OF ART									
Salaries and Expenses									
re and Utilization of Art Collections	11,574	12,173	12,173	12,173	12,173	+599	---	---	---
eration and Maintenance of Buildings and Grounds	11,021	11,451	11,451	11,451	11,451	+430	---	---	---
otection of Buildings, Grounds, and Contents	6,830	6,638	6,638	6,638	6,638	-192	---	---	---
neral Administration	4,162	4,345	4,345	4,345	4,345	+183	---	---	---
Total, Salaries and expenses	33,587	34,607	34,607	34,607	34,607	+1,020	---	---	---
Repair, Restoration and Renovation of Buildings									
se program	3,244	2,400	2,400	2,400	2,400	-844	---	---	---
Total, National Gallery of Art	36,831	37,007	37,007	37,007	37,007	+176	---	---	---
WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS									
Salaries and Expenses									
lowship Program	1,263	1,316	1,316	1,316	1,316	+53	---	---	---
olar Support	243	294	256	274	266	+23	-28	+10	-8
lic Services	745	780	780	759	759	+14	-21	-21	---
eral Administration	509	801	656	714	706	+197	-95	+50	-8
lding Requirements	125	75	75	75	75	-50	---	---	---
ference Planning	487	---	300	---	200	-287	+200	-100	+200
Total, Salaries and expenses	3,372	3,266	3,383	3,138	3,322	-50	+56	-61	+184

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Endowment Challenge Fund									
Base program	994	---	---	300	---	-994	---	---	-300
Total, Woodrow Wilson Center	4,366	3,266	3,383	3,438	3,322	-1,044	+56	-61	-116
NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES									
National Endowment for the Arts									
Grants and Administration									
Grants									
Program Grants									
Artists-in-Schools	5,309	4,800	5,300	5,400	5,300	-9	+500	---	-100
Educational program	97	---	---	---	---	-97	---	---	---
Dance	8,847	7,300	8,847	8,700	8,847	---	+1,547	---	+147
Design Arts	4,286	3,800	4,286	4,000	4,276	-10	+476	-10	+276
Expansion Arts	6,673	5,450	6,675	5,950	6,655	-18	+1,205	-20	+705
Folk Arts	2,982	3,000	2,982	3,100	2,982	---	-18	---	-118
Inter Arts	3,976	3,600	3,935	4,000	3,885	-91	+285	-50	-115
Literature	5,114	4,600	5,100	5,000	5,100	-14	+500	---	+100
Media Arts	11,993	9,050	12,000	11,000	12,000	+7	+2,950	---	+1,000
Museums	11,302	9,100	11,400	11,000	11,400	+98	+2,300	---	+400
Music	12,236	9,600	12,236	11,500	12,236	---	+2,636	---	+736
Opera / Musical Theatre	4,241	3,100	4,200	4,100	4,200	-41	+1,100	---	+100
Locals Test	2,187	2,200	2,100	2,200	2,180	-7	-20	+80	-20
Theatre	10,815	9,200	10,800	10,400	10,800	-15	+1,600	---	+400
Visual Arts	6,234	5,500	6,200	5,800	6,200	-34	+700	---	+400
Advancement	199	200	200	200	200	+1	---	---	---
Subtotal, Program Grants	96,491	80,500	96,261	92,350	96,261	-230	+15,761	---	+3,911
itate Programs	24,457	21,500	24,500	24,600	24,500	+43	+3,000	---	-100
Subtotal, Grants	120,948	102,000	120,761	116,950	120,761	-187	+18,761	---	+3,811
inistrative Areas									
olicy Planning & Research	975	1,000	1,000	1,000	1,000	+25	---	---	---
dministration	14,514	14,900	14,900	15,000	14,900	+386	---	---	-100
Subtotal, Administrative Areas	15,489	15,900	15,900	16,000	15,900	+411	---	---	-100
Total, Grants and Administration	136,437	117,900	136,661	132,950	136,661	+224	+18,761	---	+3,711
Matching Grants									
ching Grants	8,767	9,000	8,420	9,000	8,420	-347	-580	---	-580
llenge Grants	20,457	18,000	20,580	18,000	20,000	-457	+2,000	-580	+2,000
Total, Matching Grants	29,224	27,000	29,000	27,000	28,420	-804	+1,420	-580	+1,420
Total, Arts	165,661	144,900	165,661	159,950	165,081	-580	+20,181	-580	+5,131
Arts and Artifacts Indemnity Fund									
e program	298	---	---	---	---	-298	---	---	---

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
National Endowment for the Humanities									
Grants and Administration									
Grants									
Program Grants									
Public Programs									
Media Grants	8,864	7,000	8,900	8,500	8,900	+36	+1,900	---	+400
Museums and Historical Organizations	8,767	5,800	8,780	8,000	8,780	+13	+2,980	---	+780
Humanities programs for youth	745	---	---	---	---	-745	---	---	---
Humanities programs for adults	1,889	2,000	2,000	2,000	2,000	+111	---	---	---
Humanities projects in libraries	2,922	1,400	2,900	2,000	2,900	-22	+1,500	---	+900
Subtotal, Public Programs	23,187	16,200	22,580	20,500	22,580	-607	+6,380	---	+2,080
Education Programs									
Education programs	16,401	15,150	16,400	16,200	16,350	-51	+1,200	-50	+150
Fellowships									
Fellowships and seminars	14,987	15,460	15,460	16,500	15,460	+473	---	---	-1,040
Research Grants	16,401	15,700	16,400	16,300	16,400	-1	+700	---	+100
Subtotal, Program Grants	70,976	62,510	70,840	69,500	70,790	-186	+8,280	-50	+1,290
State Programs	21,086	16,630	21,000	20,000	21,000	-86	+4,370	---	+1,000
Office of Preservation	3,976	4,000	4,000	4,000	4,000	+24	---	---	---
Subtotal, Grants	96,038	83,140	95,840	93,500	95,790	-248	+12,650	-50	+2,290
dministrative Areas									
Administration	14,115	14,300	14,301	14,200	14,200	+85	-100	-101	---
Total, Grants and administration	110,153	97,440	110,141	107,700	109,990	-163	+12,550	-151	+2,290
Matching Grants									
tching Grants	11,590	12,500	12,000	12,500	12,000	+410	-500	---	-500
allenge Grants	16,898	16,500	16,500	16,500	16,500	-398	---	---	---
Total, Matching Grants	28,488	29,000	28,500	29,000	28,500	+12	-500	---	-500
Total, Humanities	138,641	126,440	138,641	136,700	138,490	-151	+12,050	-151	+1,790
National Capital Arts and Cultural Affairs									
ants	1,988	---	3,500	4,000	4,000	+2,012	+4,000	+500	---
Institute of Museum Services									
ants to Museums									
Operating Support Grants	17,120	---	17,120	15,000	16,962	-158	+16,962	-158	+1,962
Conservation Grants	3,409	---	3,309	3,000	3,400	-9	+3,400	+91	+400
Museum Services Board	70	---	70	58	58	-12	+58	-12	---
Subtotal, Grants to Museums	20,599	---	20,499	18,058	20,420	-179	+20,420	-79	+2,362
gram Administration	795	330	895	830	830	+35	+500	-65	---
Total, Institute of Museum Services	21,394	330	21,394	18,888	21,250	-144	+20,920	-144	+2,362
Total, National Foundation on the Arts and Humanities	327,982	271,670	329,196	319,538	328,821	+839	+57,151	-375	+9,283

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
COMMISSION OF FINE ARTS									
Salaries and Expenses									
Base Programs	380	420	420	450	450	+70	+30	+30	---
ADVISORY COUNCIL ON HISTORIC PRESERVATION									
Salaries and Expenses									
Advisory Services	1,575	1,417	1,533	1,533	1,533	-42	+116	---	---
NATIONAL CAPITAL PLANNING COMMISSION									
Salaries and Expenses									
Base Program	2,696	2,684	2,684	2,684	2,684	-12	---	---	---
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION									
Salaries and Expenses									
ıse Program	21	---	5	5	5	-16	+5	---	---
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION									
Salaries and Expenses									
ılaries and Expenses	2,315	2,437	2,342	2,437	2,397	+82	-40	+55	-40
Public Development									
blic Improvements	3,230	3,774	3,869	3,924	3,924	+694	+150	+55	---
Total, Pennsylvania Avenue Development Corporation	5,545	6,211	6,211	6,361	6,321	+776	+110	+110	-40
UNITED STATES HOLOCAUST MEMORIAL COUNCIL									
locaust Memorial Council	2,112	2,057	2,040	2,057	2,040	-72	-17	---	-17
Total, Title II, Related Agencies	4,182,518	2,984,261	4,180,027	4,037,441	4,182,603	+85	+1,198,342	+2,576	+145,162
TITLE I - DEPARTMENT OF THE INTERIOR									
reau of Land Management	574,350	550,246	555,481	653,566	663,502	+89,152	+113,256	+108,021	+9,936
sh and Wildlife Service	383,903	295,385	369,483	394,936	396,275	+12,372	+100,890	+26,792	+1,339
tional Park Service	893,480	714,184	846,164	768,321	818,902	-74,578	+104,718	-27,262	+50,581
ological Survey	430,769	395,500	423,220	402,933	418,665	-12,104	+23,165	-4,555	+15,732
nerals Management Service	167,210	161,100	162,893	155,187	160,697	-6,513	-403	-2,196	+5,510
reau of Mines	133,449	107,100	126,429	130,965	138,162	+4,713	+31,062	+11,733	+7,197
fice of Surface Mining Reclamation and Enforcement	291,073	291,400	331,798	283,150	303,723	+12,650	+12,323	-28,075	+20,573
reau of Indian Affairs	1,038,107	924,700	984,546	965,744	997,335	-40,772	+72,635	+12,789	+31,591
rritorial Affairs	309,905	112,499	129,384	170,923	147,861	-162,044	+35,362	+18,477	-23,062
retarial Offices	81,293	80,600	80,721	78,315	80,680	-613	+80	-41	+2,365
Total, Title I - Department of the Interior	4,303,539	3,632,714	4,010,119	4,004,040	4,125,802	-177,737	+493,088	+115,683	+121,762

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
TITLE II - RELATED AGENCIES									
Forest Service	1,658,797	1,286,994	1,424,637	1,636,734	1,665,845	+7,048	+378,851	+241,208	+29,111
Department of the Treasury	(-6,900,000)	---	---	---	---	(+6,900,000)	---	---	---
Department of Energy	(974,444)	(336,853)	(1,179,752)	(848,065)	(935,350)	(-39,094)	(+598,497)	(-244,402)	(+87,285)
Alternative Fuels Production	---	---	---	---	---	---	---	---	---
Clean Coal Technology	---	---	---	---	---	---	---	---	---
(By transfer)	(397,600)	---	---	---	---	(-397,600)	---	---	---
Fossil Energy	310,971	82,767	314,512	242,947	295,866	-15,105	+213,099	-18,646	+52,919
Naval Petroleum and Oil Shale Reserves	13,586	127,108	122,177	122,177	122,177	+108,591	-4,931	---	---
Energy Conservation	446,721	39,433	285,825	246,413	280,129	-166,592	+240,696	-5,696	+33,716
Economic Regulation	24,475	21,850	23,400	23,400	23,400	-1,075	+1,550	---	---
Emergency Preparedness	6,008	6,044	6,044	6,044	6,044	+36	---	---	---
Strategic Petroleum Reserve	112,365	---	147,433	147,433	147,433	+35,068	+147,433	---	---
SPR Petroleum Account	---	---	220,000	---	---	---	---	-220,000	---
Energy Information Administration	60,318	59,651	60,361	59,651	60,301	-17	+650	-60	+650
dian Health	878,359	722,378	891,257	894,026	907,364	+29,005	+184,986	+16,107	+13,338
dian Education	67,071	75,729	67,236	62,000	64,036	-3,035	-11,693	-3,200	+2,036
vajo and Hopi Indian Relocation Commission	22,356	22,335	22,289	22,335	22,335	-21	---	+46	---
ithsonian	199,983	215,240	212,377	201,208	205,490	+5,507	-9,750	-6,887	+4,282
tional Gallery of Art	36,831	37,007	37,007	37,007	37,007	+176	---	---	---
odrow Wilson International Center for Scholars	4,366	3,266	3,383	3,438	3,322	-1,044	+56	-61	-116
tional Endowment for the Arts	165,661	144,900	165,661	159,950	165,081	-580	+20,181	-580	+5,131
ts and Artifacts Indemnity Fund	298	---	---	---	---	-298	---	---	---
tional Endowment for the Humanities	138,641	126,440	138,641	136,700	138,490	-151	+12,050	-151	+1,790
tional Capital Arts and Cultural Affairs	1,988	---	3,500	4,000	4,000	+2,012	+4,000	+500	---
stitute of Museum Services	21,394	330	21,394	18,888	21,250	-144	+20,920	-144	+2,362
mmission of Fine Arts	380	420	420	450	450	+70	+30	+30	---
visory Council on Historic Preservation	1,575	1,417	1,533	1,533	1,533	-42	+116	---	---
tional Capital Planning Commission	2,696	2,684	2,684	2,684	2,684	-12	---	---	---
anklin Delano Roosevelt Memorial Commission	21	---	5	5	5	-16	+5	---	---
nnsylvania Avenue Development Corporation	5,545	6,211	6,211	6,361	6,321	+776	+110	+110	-40
locaust Memorial Council	2,112	2,057	2,040	2,057	2,040	-72	-17	---	-17
Total, Title II - Related Agencies	4,182,518	2,984,261	4,180,027	4,037,441	4,182,603	+85	+1,198,342	+2,576	+145,162
Grand total	8,486,057	6,616,975	8,190,146	8,041,481	8,308,405	-177,652	+1,691,430	+118,259	+266,924
Grand total 1/	8,486,057	6,616,975	8,190,146	8,041,481	8,308,405	-177,652	+1,691,430	+118,259	+266,924
FY 1986 (by transfer)	(99,400)	---	---	---	---	(-99,400)	---	---	---
Advance appropriation-FY 1987 (by transfer)	(149,100)	---	---	---	---	(-149,100)	---	---	---
Advance appropriation-FY 1988 (by transfer)	(149,100)	---	---	---	---	(-149,100)	---	---	---

FY 1985 enacted amount excludes $459,190,000 appropriated in FY 1984 Supplemental for FY 1985 SPR program.

URANIUM ENRICHMENT PROVISIONS IN THE CONTINUING RESOLUTION

Mr. BINGAMAN. Mr. President, I rise to comment on the provision in the continuing resolution dealing with the Department of Energy's Uranium Enrichment Program. Let me, first, thank my colleague, the distinguished senior Senator from New Mexico for his help in securing this important language. Although the DOE's new criteria became effective Tuesday, October 14, and it is difficult to totally repeal it now, the language added to the continuing resolution does selectively reject key provisions of the criteria.

Mr. President, the DOE has a statutory obligation under section 161(v) of the Atomic Energy Act to limit enrichment of foreign source uranium for domestic end use to the extent necessary to assure the maintenance of a viable domestic uranium industry. Alternatively, the DOE can impose regulation, or request the Nuclear Regulatory Commission to impose regulations for a similar purpose under sections 161(b) or 161(p) of the act. The DOE acknowledges that the domestic industry is nonviable but still refuses to act. As a result, 18,000 of the industry's 20,000 workers are unemployed. This has caused severe economic dislocation in my State of New Mexico.

The Senate has already adopted language disapproving new uranium enrichment criteria embodying this DOE refusal. The two House authorizing committees with jurisdiction have also acted. I am happy to see that in response to this action the conferees on the continuing resolution have adopted provisions which will neutralize, for the term of the resolution, some of the worst aspects of the DOE's new criteria. The road should now remain clear to enforce existing law requiring the DOE to limit enrichment to the extent necessary to preserve a viable domestic industry or to take comparable action under other provisions of the Atomic Energy Act. The DOE has no excuse for its continued failure to obey the law.

Thank you, Mr. President.

Mr. NICKLES. Mr. President, I would like to ask my friend from Idaho if he would be willing to engage in a brief colloquy.

Management of federally sponsored petroleum and petroleum-related research is currently highly fragmented. In fact, at least four different research centers are being used to perform various portions of the petroleum research program, Bartlesville, OK (enhanced oil recovery and advanced exploratory research), San Francisco, CA (heavy oil), Laramie, WY (tar sands and oil shale), and Morgantown, WV (unconventional gas, arctic research, and management and oversight of Laramie). There are numerous, substantive synergies and commonalities among the technologies being investigated. From a technological and economic perspective, it is apparent that consolidation and integration of these programs would result in more rapid advances in our national petroleum technologies achieved in a more cost-effective manner.

To encourage communications and sharing of results with other petroleum researchers active in these areas and with the operators and service companies who will commercialize and apply these technologies, any consolidated management of these research programs must be in the "oil patch."

The obvious choice for a "home base" for consolidation of petroleum research programs would appear to be the Department of Energy's Bartlesville Project Office. The vast majority of the relevant resources lie in the midcontinent, southwestern, and western States. Consolidation of research management at Bartlesville would strengthen all of the various petroleum research programs by creating a single point of coordination and integration. Further, consolidated management would permit more effective articulation of priorities within DOE and would facilitate broader cooperation and communication between the Federal Government and the various oil-producing States. These States have a large stake in the efficient development of these resources.

My distinguished colleague from Idaho has had a long interest and a respected record in advancing solutions to our national energy problems and has been a leader in promoting cost-effective, efficient government R&D. I wonder if the Senator from Idaho would help to clarify these matters.

Mr. McCLURE. I would be happy to clarify this issue for my friend and colleague from Oklahoma. I am keenly aware of the effects of the oil price decline on domestic production, State and local revenues, and our national energy security. My State, too, has been hard hit. It is the intention of this legislation to address our major energy concerns and I am pleased to assist the Senator from Oklahoma in whatever way I can. Fundamental petroleum research to increase domestic production is a primary concern.

Mr. NICKLES. Does the Interior section of House Joint Resolution 738 provide the Department of Energy with adequate funds to continue the important petroleum research at Bartlesville?

Mr. McCLURE. It is the intent of the bill that the petroleum research program will continue at Bartlesville. Given the presence there of the National Institute for Petroleum and Energy Research [NIPER] and the nature of the work at that site, it is important that the research continue.

Mr. NICKLES. Is the Department of Energy investigating the consolidation of management of oil, gas, and shale research and development at the Bartlesville Project Office?

Mr. McCLURE. It is the understanding of the committee that the Department investigates carriers consolidation plans periodically may make sense to consolidate the coordination of these activities at one site and we would analyze their recommendation in the budget process.

Mr. NICKLES. I thank my colleague from Idaho for his clarification of the intent of his bill. His leadership in advancing this bill to assist a beleaguered industry and to assure national energy security is greatly appreciated.

Mr. President, I yield the floor.

Mr. BINGAMAN. Mr. President, the conference agreement to accompany the Continuing Appropriations Act for 1987, is the largest spending bill in American history. It provides approximately $558 billion in funding for the entire Federal Government to continue its operations through the next fiscal year. Without it, the entire Government would shut down, and as we speak, we face another midnight deadline. This continuing appropriation agreement is needed because not one of the 13 permanent appropriations bills have yet been passed by the Congress. However, I voted against this bill when it was considered by the Senate, and I intend to oppose the conference agreement for the same reasons. I am not opposed to a continuing resolution; I am opposed to the bill in its present form and believe it should be changed. It should be limited to the original purpose for which it was intended which is to continue the Government funding without any extraneous, new legislative language.

While I don't fault the work of the members of the Appropriations Committees of the House and Senate, this agreement represents the worst of the Congress. It is both substantively and procedurally flawed. It is massive in both size and scope, and very few know what is in it. Each year, in fact, the bill gets larger and each year we get further from the original purpose of the continuing resolution. Instead of just continuing the funding for Government, we use it to authorize more and more programs. As a result, the bill has turned into a mammoth legislative vehicle which gets more and more difficult to pass.

I must vote against this agreement for both substantive and procedural reasons. There are a number of provisions in it which I find extremely objectionable on policy grounds. First, I am opposed to the $100 million in aid to the Contras in Nicaragua. This money is just a downpayment on an unwise and counterproductive military intrusion in Central America.

I am opposed to the cuts this bill makes in military readiness. Such cuts

put us on a path toward a hollow, toothless military despite the massive overall increase in military spending in the first half of this decade.

I am glad to see that one provision which was in the Senate bill was struck. That provision would have given the President the discretion to forgive loans made under the Foreign Military Sales [FMS] Program. It applies to unobligated funds appropriated by Congress for the FMS Program in 1985 and 1986, an amount totaling $3.5 billion. The effect of this section would have been to turn a program which Congress created as a loan program into a free grant program, to be used to give away U.S. arms. I opposed this provision, but my amendment to delete it was unfortunately defeated by the Senate. I am glad that it was eliminated in conference.

I am also concerned with many of the domestic spending cuts carried out in this bill. It cuts important education, health, and other human spending programs in many cases beyond the levels needed to sustain these important programs.

There are a number of other questionable legislative provisions attached to this funding bill, which include: private relief legislation; specific weapons; programs not otherwise authorized; direct Federal payments to specific localities; subsidies to individual farms; new labor law provisions; buy-American trade provisions; and many other equally troublesome provisions. Most troubling, however, is the fact that we are not really sure exactly what is in this bill.

The fact of the matter is that not only don't we know what is in the legislation, that very little consideration has been given to its parts. Many of the bills incorporated in the continuing resolution were passed by the House with very little debate and most have never before reached the Senate floor. As a result, we are being asked to vote for bills which have not been previously considered by the Senate.

There are other procedural problems with this bill besides its size, its lack of due consideration, and the lack of knowledge of what is in it. The distinguished chairman of the Appropriations Committee has asked that no authorizing legislation be added to this measure, but he failed to mention that the bill is full of authorizing language added by the Appropriations Committee, some of which I have already mentioned. As a result, much of this bill should also be ruled out of order.

Mr. President, I think it is time we begin to examine our legislative practices. It is time we begin to examine how we conduct our business. We must ask ourselves why we cannot pass any of our permanent appropriations bills and we must ask ourselves why we have so much legislation on an appropriations bill. We must ask ourselves: How can we begin to address these questions and start to improve our practices?

Because of these problems, I feel compelled to vote against this conference agreement. It has provisions troubling to me, and I fear it has other provisions of which I am not aware, which would also be objectionable. I also feel that the agreement is the product o a flawed process that needs drastic overhaul.

I urge my colleagues to oppose the agreement.

Mr. HOLLINGS. Mr. President, as part of the report on fiscal year 1987 appropriations for the Department of Commerce, Justice, and State, the judiciary, and related agencies, we included language on international telecommunications. This language arose out of a concern we had about the development of policy and strategy and about the extent of coordination among the various executive agencies invovled in developing and implementing internal communications policy. Senator RUDMAN and I just received a letter from the Departments of State and Commerce and the Federal Communications Commission about our report language and how they intend to address our concerns. The proposals in this letter meet the objectives set forth in our report language. I ask that the letter I referred to be inserted in the RECORD.

The letter follows:

U.S. DEPARTMENT OF COMMERCE,
Washington, DC

Hon. WARREN RUDMAN,
Hon. ERNEST F. HOLLINGS,
Washington, DC.

DEAR SENATORS: We share your interest in improved coordination of U.S. international communications policy. We are concerned, however, about language included in Senate Report No. 99-425, which accompanied the fiscal year 1987 appropriations bill for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies (H.R. 5161).

The language at issue seeks to establish a new interagency coordinating process and to mandage monthly meetings of designated Commerce, State, and Federal Communications Commissions (FCC) officials. In addition, an official of the U.S. Trade Representative's Office (USTR) would be required to participate in the proposed communications policy coordinating group (S. Rep. No. 99-425 at pp.5-6).

We recognize the important role that international communications plays and will play in the U.S. economy. The United States today confronts critical choices including how expeditiously to establish U.S.-based international satellite systems, the appropriate role of the United States in the International Telecommunications Satellite Organization given the changing character of its signatories, and the feasibility of linking U.S. policy actions in one telecommunications sector with those proposed in another.

Closer coordination and collaboration among the agencies with primary responsibilities in international communications is highly desirable. As we address current and future issues, there should be full appreciation of the totality of U.S. interests at stake, and an understanding of all strategic and tactical policy options.

Toward this end, we propose the following measures. First, State, Commerce, and FCC officials will plan to meet on a bimonthly basis, if not more frequently, to ensure our efforts in this important area are more effective. Second, when issues with significant trade policy implications arise, USTR will be included. Third, Commerce, State, and FCC staff will continue to coordinate their efforts on a formal and informal basis between meetings of their principals.

We believe that this would meet the objectives set forth in the committee report. We thus urge that the language in the Senate report which concerns us not be included in any final conference report on this bill.

Sincerely,

ALFRED C. SIKES,
Assistant Secretary of Commerce for Communications and Information.
WILLIAM SCHNEIDER, Jr.,
Under Secretary of State for Security Assistance, Science, and Technology.
MARK S. FOWLER,
Chairman,
Federal Communications Commission.

FAIRNESS DOCTRINE

Mr. HOLLINGS. Mr. President, in this legislation we have included a provision requiring the Federal Communications Commission to conduct an inquiry into alternative means of administering and enforcing the fairness doctrine. We do this to determine whether the spirit of the fairness doctrine can be carried out while lessening any burdens that might exist. No one should imply from this language that we in Congress have lessened our support in any way for the fairness doctrine. Our support—as stated in the Senate's report on this legislation—remains as strong as ever. The FCC should not make any material changes in the regulation implementing the fairness doctrine. This would be counter to the direction of the conferees.

In addition to the statutory requirement included in this legislation, in the second paragraph under the Federal Communications Commission section, the "Statement of Mangers" contains language that refers to this statutory provision. It is not the intent of the conferees by the inclusion of this language to support or permit repeal of the fairness doctrine at any tme, even after the required report is filed. In fact, just the opposite is the case. The conferees continue to strongly support the fairness doctrine. I would like to ask my colleague from New Hampshire, Senator RUDMAN, the chairman of our subcommittee, whether this is correct.

Mr. RUDMAN. Mr. President, the Senator from South Carolina is completely correct. This language in the "Statement of Managers" should not be read in any way to support or permit repeal of the fairness doctrine at any time.

Mr. HOLLINGS. I thank the Senator from New Hampshire. The Members of the Senate-House conference were particularly concerned that during the pendency of the report required in this legislation that the FCC take no action to make materials changes in regard to the fairness doctrine. The Members also believed the Commission should not even take such action after the report is required. The FCC should have no doubt about the strong support of the Congress for the Fairness Doctrine and should take no action without Congressional authorization.

Mr. WILSON. Mr. President, I wish to express my appreciation to the distinguished Senator from South Dakota for his support and cooperation in drawing the attention of the House and Senate conferees on this resolution to the need for the General Services Administration to pursue this acquisition of a new Federal building in San Francisco and reduce its reliance on costly leased office space for Federal employees. This is a matter we discussed during the Senate's consideration of House Joint Resolution 738 on October 3.

I am pleased to see that the report contains language directing GSA to initiate a process which upon completion could result in the acquisition of a Federal office building in San Francisco. This is precisely the thrust of our colloquy on this subject of October 3, 1986. The Environment and Public Works Committee has stated repeatedly that GSA should curtail the trend toward increased leasing of high cost office space by using its Building Purchase Program authority to acquire the space needed for Federal activities. The Appropriations Committee has shared the same view, as the long-term cost advantage of converting to Government-owned buildings can be substantial in the long run. This is especially true in cities such as San Francisco where the rental costs to the Government are extremely high.

With the direction given by the conferees, we should look forward to GSA moving promptly to study the alternatives available in terms of existing buildings that might be offered to the Government in response to a solicitation of competitive offers, and to provide an analysis of the cost of purchase as compared to leasing. GSA ought to be able to accomplish that process over the next 3 to 4 months and report to the appropriate committees. That timetable would permit GSA, if it identifies a suitable building that offers a cost advantage over leased space, to commence the acquisition process shortly thereafter.

I understand that the appropriations provided in this resolution may not be sufficient to allow GSA to complete the final acquisition process during the current fiscal year, and yet it would be most unfortunate if it were unable to take early advantage of an attractive purchase opportunity that its study identifies. Fortunately, GSA's existing authority permits it not only to purchase buildings but also to take an option to purchase, or to enter into a short-term lease with an option to purchase, and it should certainly give serious consideration to exercising that authority so that rental savings to the Government can commence as soon as possible. Consummation of the purchase could then occur early in the next fiscal year.

Mr. ABDNOR. Mr. President, I appreciate the interest in this matter expressed by the distinguished Senator from California and concur in his remarks. As a member of both the Environment and Public Works Committee and of the Appropriations Committee, I note that his remarks are entirely consistent with the approach we have been advocating for some time. I have no doubt that both committees will play an important role in assisting GSA in following that approach in this case. I am also certain that the House will play an equally active and supportive role in assisting GSA's process of acquiring a building in San Francisco. During our conference deliberations last week, the House Members shared our view of the need to reduce high cost rents in San Francisco and strongly supported the need to direct GSA to initiate the acquisition process this year.

Mr. WILSON. Mr. President, I thank the distinguished Senator for sharing this explanation of the conference action and commend him for his fine efforts.

LANGUAGE FOR CONFERENCE REPORT ON H.J. RES. 738 TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

Study of Federal Buildings—San Francisco

The GSA is directed under the Building Purchase Program to use a portion of its funds to study the need and availability of existing buildings meeting Federal office building requirements in San Francisco and report to the committee with specific recommendations on alternatives as to cost, space, and locations prior to February 1987.

T-46 TRAINER

Mr. CHILES. Mr. President, it appears the T-46 Trainer Program has become a political football, and this concerns me, because it shouldn't be.

We have heard the argument against funding for this program from the chairman of the Senate Armed Services Committee, whose opinion on these matters, I have the greatest respect. We have also heard arguments from others on the floor today who support the continuation of the T-46 Program.

But, what does the Air Force say? The Senator from Arizona claims the Secretary of the Air Force told him he does not want this new trainer and, if Congress gives it to him, he will put the plane in mothballs. On the other hand, I have spoken to blue suiters in the Air Force who were very impressed after flying the T-46, and told me they need this trainer very badly. If given the funds to purchase the aircraft they will put it to good use in training new pilots.

So, it seems there is a controversy in the Air Force also over this issue.

Some of the arguments against the T-46 Program revolve around contractor design and production problems. It is true that the T-46 Program has had its share of problems. However the number of deficiencies found during the contractor operations review [COR] were not unusual for a brand-new sophisticated small airplane.

I am told great progress has been made in correcting these problems. Over 60 percent of COR deficiencies were corrected by the contractor by March of this year; 97 percent of the identified deficiencies have now been corrected, and the remaining deficiencies should be corrected by the end of this year.

I am also of the understanding that the contractor will be able to meet the Air Force's delivery schedule which calls for the first two production aircraft to be delivered early next year.

Mr. President, U.S. Air Force pilots are flying the most advanced, sophisticated aircraft in the world today. Can we afford not to train these pilots with an aircraft that has similar up-to-date technology?

The Air Force has a critical need for a new trainer. The trainer they are flying today, the T-37, was first introduced 30 years ago and the average age of this fleet is 25 years.

Several months ago the senior Senator from New York was kind enough to include in the RECORD my statement at that time on the T-46 Program. I'd like to take this opportunity to reiterate some of the points I made then.

The American taxpayer has made a substantial investment in the RDT&E of a next generation trainer for the Air Force. To cancel this program now when these aircraft are about to go into production just doesn't make good sense to me. Especially when it appears the selection alternative to continuing the T-46 program will cost an additional $900 million. The T-46A represents an important new asset in the Air Force inventory. With the T-46's ability to train new pilots quickly, effectively and at reduced costs in maintenance and fuel savings, our defense posture should be significantly improved.

Mr. President, it appears what we are trying to decide here today is whether or not to go with an existing 30-year-old training aircraft that has a long list of expensive deficiencies which I won't go into and is quickly approaching the end of its certified

service life, or whether to go with a new more capable aircraft that either meets or exceeds all air training command needs.

I personally think the answer to this question is to go forward with the new T-46 trainer.

THE ABDNOR AMENDMENT

Mr. CHILES. Mr. President, I rise in opposition to the amendment offered by the distinguished Senator from South Dakota. If I understand my colleague correctly, his amendment would prohibit the General Services Administration from even entering into lease construction arrangements in a number of areas where the need for additional Federal space has been well documented. In Miami, for example, the General Services Administration has reported that additional space is very much needed.

At present, Federal workers are housed in 55 separate locations in the Greater Miami area. Of the 6,083 employees in the area, 69 percent are housed in rented space. Federal rental has doubled since 1972.

These rental costs alone drain $8.6 million a year from the Treasury. But the cost does not stop there. Security costs for scattered Federal employees are an additional burden. The GSA has recommended that new space adjacent to the present courthouse complex be provided, and reports that such an arrangement would be very beneficial for both cost and security reasons.

In the GSA's report, made at the request of the House Committee on Public Works and Transportation, an increase of 7 percent in the number of Federal employees in the Miami area is projected over the next 3 to 5 years. A particular increase is expected for the Judiciary and the Department of Justice.

As I am sure other Members realize, south Florida has grown tremendously in recent years. Miami is the center of booming trade with the Caribbean and Latin America. The demand on Federal services has grown even beyond the population growth. The influx of refugees, for example, has caused special problems for Miami and Dade County.

Mr. President, the General Services Administration determined that additional space in the Miami area was needed and should be provided. The only question was whether this new space should be provided by Federal construction or lease construction. There is every reason to believe that Federal construction is justified and would be cost-efficient. Given the current policy of GSA, however, the agency's recommendation was that lease construction be pursued. If this option is eliminated, the currently unacceptable situation in Miami will grow worse.

The House Committee on Public Works and Transportation approved a resolution authorizing Federal construction. The House Appropriations Committee recommended that $2.461 million be provided in fiscal year 1987 for planning and design. I understand that a proposal has been made that the lease construction alternative be pursued, and that this money could be used to acquire land upon which local authorities could construct the needed building for lease to the General Service Administration. Language in the bill provides the appropriate legal authority to the Administrator of the General Services Administration to enter into a lease for a building constructed on Government-owned property for a period not to exceed 30 years.

I must strongly oppose any measure which would threaten this alternative method of construction. The need is there. It has been documented by the General Services Administration and recognized by the House Public Works Committee. The people of south Florida know all to well that the need is there. I urge my colleagues to reject the amendment offered by the Senator from South Dakota.

IN OPPOSITION TO THE ABDNOR AMENDMENT TO AMENDMENT NO. 59

Mr. LAUTENBERG. Mr. President, I rise in opposition to the amendment offered by the Senator from South Dakota.

Mr. President, it is quite common in the Senate to hear that a provision, although not included in a bill before the Senate, is in the House companion measure and will be considered in conference. There is a certain solace in that situation, because almost never does a bill escape a conference without being modified on both sides. The Senate wins on some points; the House on others. This amendment says that unless a project was included by the Senate, it cannot be included in the conference report.

I strongly support one project which was included in the House bill, but not in the Senate bill. The project is a Federal building for Paterson, NJ. The House bill included $1.5 million for planning and design work on the proposed facility.

Construction of a Federal building in Paterson is needed to serve the people of Passaic, Bergen, and Morris Counties in New Jersey. At the present time, the Federal Government leases space throughout the area. Residents are faced with traveling to Clifton, Lodi, Paramus, and Fairlawn for access to offices not in Paterson. A Federal building in Paterson will provide convenient access to the Internal Revenue Service, the Labor Department and the Social Security Administration, which are currently located in leased space in Paterson. In addition, the building will consolidate space for the Defense Logistics Agency, the Occupational Safety and Health Administration, the Small Business Administration, the Defense Contract Audit Agency and the FBI. Such a Federal building could serve as a focal point for the Federal activities in the area.

In addition, construction of a Federal building will provide much-needed stimulus to revitalize downtown Paterson. Paterson, NJ, is the poorest city of its size in the United States. Consolidation of Federal offices will provide a critical mass of workers in the downtown area which will stimulate further construction and revitalization.

Construction of a Federal building is also cost-effective in the long run. The current leasing plan will cost the Federal Government $15 million over the next 30 years. Building a new Federal building is estimated to cost $7.6 million. In the long run, it will save the taxpayers money if the Federal Government owns its building instead of continuing to rent space.

Mr. President, it has been the policy of the Senate, as outlined in public buildings authorization bills passed by this body, to move away from the expensive leasing of space and toward housing Federal agencies in federally-owned buildings. The House provision to construct a new Federal building in Paterson, NJ, is consistent with that policy.

The Senator from South Dakota objects to any building unless it is authorized by both the House and the Senate. It is very difficult to get authorization here in the Senate for any structure unless it is approved by the Administration. Are we simply saying that the Congress is abdicating any role in public buildings and leaving it up to GSA to decide what gets leased and what gets built?

The principle being employed in this case is an unusual one. We are saying that we will only agree to fund public buildings agreed to by the Senate. The usual give and take, which is the essence of the conference committee process, is not being respected in this case.

Mr. President, I am defending the house position in this matter. In addition, I am defending the normal conference committee process in which provisions from both the House and Senate are incorporated in a compromise bill.

Mr. President, I strongly support inclusion of the Paterson Federal Building in the conference report. I oppose the Abdnor amendment and I urge its defeat.

Mr. KERRY. Mr. President let me first state that I fully concur with the remarks made by my distinguished colleagues from Ohio, New Hampshire, and Oregon and I commend them on their tireless efforts on this very critical issue. In addition I would like to reiterate the sentiments of my col-

leagues from Ohio and Oregon that it is likely that we will revisit this issue in the future. They can both be assured that I will be working with them to defeat such dangerous provisions.

Mr. President, I rise in opposition to a provision added to the continuing budget resolution during the conference committee between the House and the Senate. This provision which was not in the Senate passed Commerce, Justice, and State appropriations bill in the continuing resolution, will inhibit the right of women in Federal prisons to have abortions. Although I have no intentions on holding up the continuing budget resolution at this late stage in the session, I want to make it absolutely clear that my opposition to this specific provision is based on two factors. First this provision is unconstitutional and second, this action represents legislating on an appropriations bill.

Federal prisoners do not lose their constitutional rights when they are incarcerated. Last year the Senate was quite clear on this issue when they voted a similar measure unconstitutional. Furthermore, this has been upheld in numerous instances. For example in the case of *Wolff* v. *McDonnell,* 418 U.S. 539, 555-556 (1974), Justice White stated, "There is no iron curtain drawn between the Constitution and the prisons of this country."

In *Roe* v. *Wade,* 410 U.S. 113 (1973), the Supreme Court stated that up to the point of viability "the abortion decision is inherently, and primarily a medical decision . . ." and found that the Government cannot deny a patient the right to obtain an abortion. Moreover an incarcerated woman's right to appropriate medical care is unquestionably protected under the Constitution. This could not be more clearly portrayed than in the U.S. Supreme Court decision *Estelle* v. *Gamble* 429 U.S. 97 (1976), where the Court ruled that the eighth amendment's ban on cruel and unusual punishment requires prisons to provide medical services for inmates; particularly in situations where the denial of elective medical treatment would cause an "irreparable" condition. Preventing a woman from being able to choose to have an abortion in a timely and safe manner is undoubtably "irreparable". This was most recently upheld in a New Jersey court case *Monmouth County Correctional Institution Inmates* v. *Lanzaro,* Civil No. 82-1924 (D.N.J. May 29, 1986). In this case, the court was determining whether it is appropriate for prisons to offer abortions as a medical service. They concluded in their ruling that inmates not only have the constitutional right to an abortion for medical reasons, but that abortions must be paid for by the Government. In sum, this ruling clearly points out the fact that by denying Federal dollars for women in Federal prisons who choose to have abortions we are blatantly denying essential medical services.

I have clearly demonstrated that this provision is unconstitutional. Let us turn our thoughts for a moment to some actual facts about the living conditions in prisons and ask ourselves, should women really be forced to carry a pregnancy to term in a Federal prison if they choose not to? Fact—66 percent of the women in prison were unemployed prior to imprisonment; fact—58 percent of women in prisons lived on less than $3,000 a year prior to imprisonment and 92 percent had less than $10,000 yearly income; fact—the majority of women in prison are single parent mothers; fact—gynecological and prenatal care is inadequate in most prisons; fact—in prisons there is little to no medical care provided for new born children; fact—50 percent of all children do not see their mother after incarceration; fact—prisons have limited support programs for child-inmate relations. Circumstances as grim as this must certainly be studied in depth to assess its impact on the health and welfare of a pregnant woman and her unborn child, before we pass laws in this area.

Mr. President, in conclusion let me say that the constitutionality of a woman's right to abortion was determined in the case Roe versus Wade. Furthermore, the issues of abortion, and access to health care for women in prisons should be carefully examined by the appropriate authorizing committees. Issues of such far-reaching consequences should be fully addressed and not cavalierly placed on a spending bill in the closing moments of this Congress.

THE PAPERWORK REDUCTION REAUTHORIZATION ACT OF 1986

Mr. CHILES. Mr. President, I want to comment on title VIII of the continuing resolution which amounts to the Paperwork Reduction Reauthorization Act of 1986.

This legislation will strengthen the Federal Government's ability to minimize the paperwork and regulatory burden upon the public. It will reduce the number of taxpayer dollars which go to the acquisition and use of information technology by the Federal agencies.

In 1980 I sponsored the Paperwork Reduction Act here in the Senate. Since 1983 the respective authorizing committees of the House and Senate Government Operations and Governmental Affairs, have been working on: First, reauthorizing the 3-year authorization associated with the financing of the Office of Information and Regulatory Affairs [OIRA]; and second, amending the act to correct problems which both committees have examined in oversight hearings. For various reasons that effort has been unsuccessful until now.

The Paperwork Reduction Reauthorization Act of 1986 represents a successful culmination of the 3-year process. It represents a reaffirmation of what Congress intended in 1980 when it passed the Paperwork Reduction Act and a fresh agreement between the Congress and the Executive on how things should proceed under the act in the future.

During the Senate floor debate on the continuing resolution I engaged in a colloquy with Senators HATFIELD, ABDNOR, and ROTH; the respective appropriations and authorizing committee chairmen over the need to respond to the House language relating to the Office of Information and Regulatory Affairs. In brief, my view was that the House had not only zeroed the funding for OIRA but had legislated on the appropriations bill in a way which would have affected substantive laws other than just the Paperwork Act. That colloquy can be found on page 28474 of the October 3 CONGRESSIONAL RECORD.

At that time, I mentioned that Chairman BROOKS of the House Government Operations Committee, Congressman HORTON, the administration and I were working on an agreement on the issues which have surrounded the Office of Information and Regulatory Affairs. The hope was to bring that agreement to the conferees in order to resolve the differences between the House and Senate.

An agreement was reached. Reauthorization language for both OIRA and the General Services Administration Board of Contract Appeals was incorporated. Clarifications to the Paperwork Act and related laws were made. Statutory lines were drawn. The language in title VIII, the Paperwork Reauthorization Act of 1986, represents the agreement which was brought to the conference. Senator ROTH, the Chairman of the Senate Governmental Affairs Committee, participated in bringing about and concurred with this language.

I want to compliment and thank the participants to the 1986 amendments for a job done well. I also want to especially thank Senator DANFORTH whose work as chairman of the Subcommittee on Information Management and Regulatory Affairs during the 98th Congress helped bring about many of the provisions in this 1986 Reauthorization Act.

As I have stated previously, my biggest disappointments since passage of the 1980 act concerned efforts by the executive branch to frustrate both the opportunities for meaningful public participation and mechanisms for accountability to the Congress and the public the law established.

More recently, I sensed to a greater degree than ever, the extent to which these efforts have worked to erode the feeling of trust between the executive and legislative branches of Government. It is critical that this erosion be stopped and reversed. These amendments enable us to avoid the train wreck which was imminent. They provide a basis to build trust, confidence, and accountability for the processes which underpin the Paperwork Act.

For example, this legislation contains several new additional "sunshine" provisions which require more openness on the part of both the agencies and the OIRA in the way decisions under the act are made. Written communications to and from OIRA relating to information collection requests, including those contained in regulations, will be available to the public. The Director of OMB will be required to make an explanation of his reasoning to disapprove or approve requests publicly available. Additionally, as part of the Senate sponsors reaching agreement with the administration on this legislation, the administration agreed to institute sunshine procedures administratively which will make OMB's review of regulations under Executive Order 12291 more accessible to the public.

Open and timely decisions on regulatory as well as other kinds of reviews is the principle to which OIRA is to adhere.

Second, several amendments which will enhance public participation in the decisions which are made as a result of the act have been made. Federal agencies will be required to announce in the Federal Register their understanding of who will be affected and their estimate of what the burden of proposed information demands will be.

This standardization of Federal Register announcements should increase and improve public comments on the proposals. Since agency information requests will be reviewed at least every 3 years, there will be a continuing opportunity for the public to comment on all reporting and recordkeeping requirements.

Most importantly, the potential loophole to section 3512, the public protection section of the act, has been closed. That provision of the law declares that information requests, whether they are forms, recordkeeping requirements, or regulations, must display a control number indicating they have been checked for need. Absent such a control number the request is a "bootleg" and can be ignored by the public. With a control number the justification and need for the requirement can be reviewed by all.

A fundamental premise of the Paperwork Reduction Act is that every citizen in entitled to have their Government check the need for information requests made of them. Duplicative or unnecessarily burdensome requests should be avoided. The Justice Department issued a legal opinion in June 1982 which purported to interpret the paperwork statute. A major effect of that ruling was to confuse the public over what paperwork requirements were and were not covered by the public protection section. The 1986 amendments clarify Congress' original intent. The opinion is specifically overturned. This action should lead to more assertions by the public of the right intended by the public protection section.

Third, this legislation will make activities of OIRA more accountable to Congress. Future administrators of OIRA are to be appointed by the President, with the advice and consent of the Senate.

Additionally, authorization language was agreed to which specifically requires a separate appropriation account for funding OIRA's activities under the act. Funding for carrying out functions assigned to the Director of OMB by the act must come from this account. Separate funding must be obtained for OIRA activities which are not related to the functions assigned by the act.

The effect of this authorization provision will be to enable Congress to focus upon how funds appropriated annually to OIRA are used. The use of funds from this account for reviewing rules or regulations is limited to carrying out the Director's responsibilities regarding information collection requests. To the extent the review of regulations is consequent to such responsibilities funding must come from the newly established account.

In my view, the Paperwork Reduction Act of 1980 was intended as a regulatory reform as well as an information management reform. A key to this understanding is that the framers appreciated the relationship and linkage between the two. Caution was expressed that the authorities contained in the act were not to be abused nor used to extend beyond the scope of the act. Indeed, the initial authorization language of 1980 limited OIRA to no other purposes but to those authorized by the act. Director Stockman moved quickly in 1981 to avoid the establishment of a separate appropriation account for OIRA which would have enabled Congress to provide proper oversight.

But the aspect of new technology for example, and how it could be used to both save money and reduce public burden was and remains a very exciting potential. My fervent hope and intent are this reauthorization act and the amendments incorporated will provide an even better basis to realize this potential.

The oversight mechanism created by the separate account will reveal annually to the Congress the Director's determination of the extent to which OMB's review of regulations is or is not a function of carrying out the information management responsibilities established by the Paperwork Reduction Act.

The requirements for more sunshine, more public participation, and better accountability to Congress were essential to the agreement the Paperwork Reduction Reauthorization Act of 1986 represents. I believe a foundation for success has been rebuilt. OIRA's performance in the upcoming year will say a lot about whether the results the Congress, the Executive, and the American public want can be obtained; whether a modicum of trust can be maintained between the OMB, Congress, and the public; and whether there will be a renewed attempt to eliminate funding.

Mr. President, legislative history for the Paperwork Reduction Reauthorization Act can be found in the following report: the conference report on title VIII accompanying the continuing resolution; (H. Rept. 98-147), (S. Rept. 98-576), and (H. Conf. Rept. 98-861, pp. 1421-1438) of the 98th Congress; and (S. Rept. 99-347) of this Congress accompanying S. 2230. The relevant language of (S. Rept. 99-347) concerns title VI of S. 2230.

I want to place attention on pages 16 and 17 of the Senate committee report of the 99th Congress. This report language amounts to an expression of committee intent that Senator MATHIAS and I drafted for the report. The late Senator Jacob Javits highlighted the Committee on Governmental Affairs special responsibility to provide oversight of the relationship of the Paperwork Reduction Act to civil rights acts during the Senate floor consideration of the Paperwork Act in 1980. Both Senator MATHIAS and I believe Senator Javits admonition should be a constant reminder.

In both the 98th and this Congress I filed an additional statement regarding amendments in which I played a specific role. My purpose was to add to the legislative history behind the amendments. I want to submit for the record a copy of my statement made earlier this year.

The only correction needed concerns the section entitled "Senate Confirmation of the Administrator of the Office of Information and Regulatory Affairs." Language clearly requiring a separate appropriation account was agreed to after the Senate Governmental Affairs Committee reported title VI of S. 2230. The language requiring reporting by function of how resources were used by OIRA referred to in the statement was dropped. I already commented on why the specific provision of a separate account will

provide better accountability to Congress.

An additional comment I offer regarding the language limiting funding to activities "specifically authorized or required by the chapter" is that the issue of whether the information collection budget, a process first established by President Carter by way of executive order, met this standing was discussed by representatives of both the House and Senate authorizing committees. There was agreement that OIRA's present role in the ICB process did meet the standard and would be funded by funds in the separate appropriation account.

Mr. President, let me also include for the RECORD a summary of the act and three newspaper editorials. One is from the Jacksonville Times-Union of August 10, 1982. A second is from the Wall Street Journal of June 3, 1986. The third is from the Washington Post of August 27, 1986.

I ask unanimous consent that those materials be printed in the RECORD.

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

SUMMARY OF PAPERWORK REDUCTION REAUTHORIZATION ACT OF 1986

Establishes new goals for reducing the paperwork burden upon the public—5 percent for each of the next three years for a total goal of 15 percent by the end of three years.

Requires future Administrators of the Office of Information and Regulartory Affairs (OIRA) be appointed by the President with the advice and consent of the Senate.

Eliminates confusion over what paperwork requirements are covered by the public protection section of the act. Clarifies that all information demands upon the public, including all reporting and recordkeeping requirements contained in new or existing regulations are covered by the public protection section.

Facilitates additional public participation in the paperwork review process by specifying agencies must include who will be affected, how often they will be affected, and what the estimate of burden is in their Federal Register notices of proposed information collection requests.

Requires all written communications between the agencies and OIRA and between the public and OIRA shall be made publicly available.

Authorizes funds for OIRA for three years—5.5 million dollars for each of the fiscal years 1987, 1988, and 1989.

Establishes a separate appropriation account to fund activities of OIRA related to the functions contained in the Paperwork Act in order to enhance accountability to the Congress.

Clarifies the relationship of the act's authorities to the review of rules for information policy purposes.

Establishes a Federal information locator system within OIRA which shall serve as a comprehensive register of all information requests. The system shall be designed to help agencies and the public in locating Government information.

Requires the Director of OMB to appoint a chief statistician to develop and oversee statistical policies and programs.

Combines the existing Federal telecommunications fund and automatic data processing fund in order to improve the acquisition by agencies of new information technology.

Extends authorization for the General Service Administration board of contract appeals for three years.

Redefines automatic data processing equipment as that term is used in P.L. 89-306, the Brooks Act, in order to recognize the merging of ADP, telecommunications, and other technical resources used in the management of information by Federal agencies.

Clarifies the roles and authorities of the Director of OMB, the Administrator of GSA, and the GSA board of contract appeals as those authorities and roles relate to each other under the Brooks Act and Competition and Contracting Act.

[From Senate Report 99-347]

ADDITIONAL VIEWS OF SENATOR LAWTON CHILES

Title VI of S. 2230 contains language which reauthorizes funds for the Office of Information and Regulatory Affairs and which provides needed amendments to the Paperwork Reduction Act of 1980. The provisions of title VI as amended by the Committee are similar to the provisions of S. 2433, a bill in the 98th Congress which Senator Danforth and I sponsored and which this Committee passed on a unanimous vote of 16 to 0. (Senate Report 98-576.)

At the time of the Committee's action in the 98th Congress I provided additional views on amendments undertaken, supported, and passed by the Committee in which I had a specific role. I want to update and repeat those remarks for the purposes of the 99th Congress.

As I mentioned in my views in 1984, the reauthorization process by the Senate Committee on Governmental Affairs concentrated more upon what problems existed in the act's implementation since 1981 than upon what accomplishments were obtained. This is a proper focus for congressional oversight and congressional oversight is an essential part of the reauthorization process.

However, a perspective should be placed on the achievements. By the end of 1985 some 630 million hours of paperwork requests were eliminated. Time spent fulfilling paperwork requests is used as a proxy measure for cost. At $20 an hour, this amounts to a savings of some $12.6 billion. This savings in and of itself demonstrates the act has made a difference in how the Government works.

But as the experience of the past five years reveal and as the hearings by both the House and Senate document, there is much progress yet to be made if the management and accountability structure created by the 1980 act are to lead to the achievements envisioned by the framers of the Paperwork Act. As I have stated frequently, the ultimate test in my own mind will be when I can travel through Florida and get a sense from the people they feel Government's paperwork demands are not out of control. This still has not happened to me.

The biggest disappointments of the past five years concern efforts by the executive branch to frustrate both the opportunities for meaningful public participation and the mechanisms for accountability to the Congress and the public the law establishes.

What I sense now to a greater degree than two years ago is the extent to which these efforts have worked to erode the feeling of trust between the executive and legislative branches of Government. It is critical that this erosion be stopped and reversed. Several of the amendments contained in title VI are designed to enhance public participation and accountability to Congress. I believe these amendments will go a long way to fulfilling the need.

THE OFFICE OF LEGAL COUNSEL OPINION

The Committee amended the definition of "information collection request" to include the term "collection of information requirement," term used in section 3504(H) in the act. This amendment clarifies what the term "collection of information requirement" was intended to mean when the act was passed in 1980. A specific intent of this amendment is to establish that the legal opinion issued by the Justice Department in June of 1982 provides an invalid interpretation of the law.

I have previously characterized this opinion as a flagrant example by unelected officials in the bowels of the Federal office building to rewrite and change a law passed by Congress and signed by the President. (Congressional Record, July 1, 1982.) It is an opinion which serves to distort and change the congressional intent expressed in the Paperwork Reduction Act. Moreover, the opinion causes more problems than it purports to solve.

According to the opinion, its conclusion is based on, among other things, a thorough analysis "* * * of the language and history of section 3504(H), the language and history of the act's other provisions, and the statute's general scheme * * *". The clarifying amendment to the definition of information collection request makes clear that not only did the opinion reach a false conclusion, it also was based on a selective and false analysis of language and legislative history. Despite its 56 pages, and 101 footnotes, the analysis of the opinion is so flawed, it should not be relied upon for any future efforts to interpret the statute.

The opinion misconstrues the general scheme of the statute. The law was intended to be comprehensive in its coverage of federally sponsored "collections of information." Exemptions to this coverage, either by agency or by class of information were specifically set out in the definitions of section 3502 or the savings provisions of section 3518. The notion the law was dedicated primarily to "forms, questionnaires, and surveys" and not to other instruments such as reporting, recordkeeping, and disclosure requirements which are means to carry out federally "sponsored collections of information" is a fundamental misreading of what the law states, what the Congress of 1980 intended, and what this Committee affirms in the amendments of 1986 contained in title VI of S. 2230.

The opinion does not reflect a thorough analysis of either the language or the legislative history of the act's provisions. It is a limited and selective analysis. The scholarship reflected by the analysis is deficient. The following aspects of the legislative history which were not included in the OLC opinion should be considered in any future interpretations of the act.

1. The Congress used the reports and work of the Federal Paperwork Commission in drafting the law. The Commission's reports on the "history of paperwork reforms" and on the "reports clearance process" specifically instructed the Congress on the legal and policy issues associated with the responsibilities contained in the Federal Reports

Act and the Administrative Procedure Act. (The OLC opinion did not acknowledge any relationship between the Commission's work and the drafting of the act.)

2. The Paperwork Reduction Act of 1980 amended the Federal Reports Act of 1942. The Administrative Procedure Act was passed in 1946. These two laws had co-existed for some 30 years. What the history was and, most importantly, what the prevailing practice of the executive branch, the General Accounting Office, and independent regulatory commissions were in regards to the laws were known to the Congres when the Paperwork Act was deliberated upon. Much of the language of the 1942 law was deliberately incorporated in the Paperwork Reduction Act in order to preserve the traditional understandings of the authority contained in the 1942 law. (The OLC opinion made no reference to the prevailing practice or understanding of the agencies, the Comptroller General, or the Director of OMB.)

3. In 1973 the Congress amended the Federal Reports Act and required the General Accounting Office to be responsible for clearing the information requests of independent regulatory commissions. The amendment was motivated by a concern over the integrity of the rulemaking process. (How the 96th Congress studied the issues raised and responded to the concern of Congress reflected by the 1973 amendment was ignored by the OLC opinion.)

4. The language of section 3504(h) was part of an amendment proposed by Senator Kennedy and accepted and introduced by myself during full Senate consideration of the act. Senator Kennedy's amendment included amendments to other sections of the act, including section 3507 wherein substantive language was added requiring all decisions of the Director of OMB to be made publicly available. (The OLC opinion construed Senator Kennedy's amendment and explanatory comments to relate only to the language of 3504(H). This is inaccurate.)

5. The most definitive statement on the relationship of section 3504(H) and information collection requirements to the procedural requirements of other sections of the act upon information collection requests was made by Senator Kennedy on December 15, 1980. (Congressional Record, December 15, 1980, S 16700.) The OLC opinion does not acknowledge this explanation.)

Federal agencies will continue to try to find ways, including unfounded interpretations of what Congress intended, to limit the scope of the Paperwork Act's requirements and assurances the law is intended to provide the public. The Committee's amendment to the definition of information collection request exposes the attempt which culminated in the OLC opinion of June 1982.

SENATE CONFIRMATION OF THE ADMINISTRATOR OF THE OFFICE OF INFORMATION AND REGULATORY AFFAIRS (OIRA)

The Committee amendment to require advise and consent of the Senate in the selection of the Administrator of OIRA is designed to strengthen accountability to Congress.

During development of the 1980 Paperwork Act the Senate agreed to President Carter's request to drop the idea of Senate confirmation of the head of OIRA in exchange for his support of a separate authorization and appropriation account for the office's activities. This administration chose not to abide by what I regard. the language of the act to mandate. A separate appropriation account consistent with the separate authorization has not as yet been created. In addition, the issue of how resources have been used and what resources are needed to accomplish the ambitious strategy Congress incorporated in the 1980 act has been a point of continuing contention between the administration and OIRA's oversight committees in the House and Senate.

The 1986 amendments will require Presidential appointment and Senate confirmation of the head of OIRA in the future. They retain the language which I believe mandates a separate appropriation account. They also require a reporting by function of how resources are to be used by OIRA which will be tied to the annual budget process. Accountability to Congress will be strengthened by these steps.

IMPROVEMENTS FOR PUBLIC PARTICIPATION

The amendment to section 3507(a)(2)(B) which requires agencies to set forth a title, a brief description of the need for the information and its proposed use, a description of the likely respondents and proposed frequency of response, and an estimate of the burden, is designed to enhance public participation in commenting upon proposed agency requests for information. Since approvals for continuing requests are required every 3 years, this minimum amount of information is particularly important if the affected public is to become a meaningful part of the justification process.

Prior to and shortly after the act's passage the OMB gathered agency notices, complete with the above information, and published them in the Federal Register under OMB auspices. This practice was dropped and agencies were left to their own descretion to meet the act's requirement to give notice in the Federal Register. Testimony from small businesses, individuals, universities, and State and local governments supports the idea that standardizing the requirements for minimal information will improve both the number and quality of comments.

While the Committee amendment does not specifically require OIRA to publish agency notices, I do want to note that the House version of section 3507(a)(2)(B) in 1980 was amended by the Senate at the specific request of OMB. The request was to provide language which would enable all paperwork notices to be aggregated in one location in the Federal Register. At the time the view was that this approach made for more participation by the public in the comment process.

It is my hope that this standardization of what minimal information should be contained in the notices will lead to more thoughtful efforts by the agencies and OIRA to encourage public participation in the process of justifying agency requests.

The Committee amended section 3505 to include the task for the Director of OMB to report to the Congress in a year upon the feasibility and means of enhancing public access, including access by electronic media, to information relating to information collection requests required by the law to be made available to the public.

The administration agreed to this assignment after lengthy discussions on the need to improve public access to the decision making process surrounding agency justification and OIRA review of paperwork requirements. It is my view that with the explosion in computer and telecommunications technology, great strides can be made in improving the ease upon which persons can access the information relating to decisions on paperwork requirements which are publicly available. ORIA can seize this opportunity to demonstrate how new information technology can be used to expand meaningful public participation in how Government makes decisions concerning paperwork burdens. My hope is this opportunity will not be missed.

FEDERAL GRANT PROGRAMS—A MISSING INVENTORY OF PAPERWORK REQUIREMENTS

The Committee also amended section 3505 to require the Director of OMB identify further initiatives to reduce the burden of Federal collections of information associated with the administration of Federal grant programs.

The intent of this amendment is to continue specific statutory attention to paperwork demands associated with grant programs that was highlighted by section 3505(1)(E) of the 1980 act, which has expired.

My view is that there remains a large number of federally sponsored reporting and recordkeeping requirements associated with the management and audit of grants which has not been identified and subjected to the discipline of the Paperwork Reduction Act. A major area of requirements which has not been inventoried concerns reporting and recordkeeping demands that result from OMB's own circulars. Historically, OMB has taken the position that its circulars constitute policy guidance to the agencies and it is agency implementation of OMB's guidance which is subject to the clearance requirements of the act. Agencies have found this view easy to ignore. For many reporting and recordkeeping requirements which are established by the circulars, this position is inconsistent with the requirements of the act and inconsistent with the specific regulation the Director of OMB has promulgated to implement the act. (See 5 CFR Part 1320. 15(B).)

A result has been to confuse recipients of grant programs who seek the assurances of the public protection section of the act, and to permit agencies to find loopholes in the act's coverage.

Enclosed is recent correspondence between Director Miller and myself which concerns this very point in regards to OMB circular A-21. That circular regulates the documentation required of institutions of higher education who receive funds for federally sponsored research.

Circular A-21 has been controversial for some ten years and I have always believed the reporting and recordkeeping demands which flow from it should be subject to the discipline and requirements of the paperwork clearance process. I read Mr. Miller's response to be a commitment to see to it that the Paperwork Act requirements will be complied with in regards to the requirements which flow from A-21.

I expect OIRA to follow up on this commitment on Circular A-21. All other OMB circulars which lead to collections of information should be examined for their practical utility as well.

LAWTON CHILES.

U.S. SENATE,
Washington, DC, March 11, 1986.

Mr. JAMES MILLER,
Director, Office of Management and Budget, Old Executive Office Building, Washington, DC.

DEAR JIM: The Chancellor of the State University System of Florida has brought to my attention your office's proposal in the February 12 Federal Register to change

OMB Circular A-21. He indicates to me he has written to you as well.

As you know, the circular concerns governmentwide accounting principles for educational institutions who are engaged in federally sponsored research. The proposal announces that agencies will limit federal reimbursement for allocated administrative overhead to 26 percent by April 1, 1986; to 20 percent by April 1, 1987. The estimated savings are 100 million in fiscal year 1987, and over 200 million in fiscal year 1988.

Chancellor Reed's essential concern is the manner in which this policy change is being brought about. I am confident you agree the conduct of the federal government's overall relationship to institutions of higher education is an important aspect of our country's infrastructure for the conduct of basic research. Our foundation for basic research is an important factor in those things which contribute to our national security, a growth economy, and a national ability to compete in international markets.

While I understand one justification for this proposal in the need to respond to Congressional concerns, and another is the estimated budget savings. I do share the Chancellor's concern about the manner in which the federal government is pursuing this regulatory role and what it means for the future relationship between the government and the college and university community.

I am reminded this is not the first time the issue of changes to A-21 have arisen. I find myself asking questions similar to those I asked previous Directors of OMB almost a decade ago and repeatedly since. Recall that in your previous position as head of OIRA I had occasion to ask you just these sort of questions.

What is the relationship of the proposed change to A-21 to the need for OMB to comply with the Paperwork Reduction Act and its implementing regulations?

What is the relationship of the proposed change to Executive Order 12291 on Federal regulation? As a major architect of that Executive Order you bring a unique expertise to that question.

A primary purpose behind both the Act and the Executive Order is to ensure the federal government examine its alternatives when undertaking a federal role. Despite previous assurances, I remain unconvinced that the requirements of the Paperwork Reduction Act have been complied with in implementing A-21. I find no burden estimates with either direct or indirect costs associated with reporting or recordkeeping burdens which flow from the circular. Given the public protection section of the law, the proposed change once again raises the serious consequences which result from any failure on the part of agencies to comply.

I also believe the proposed change is subject to the Executive Order on Federal regulation. The 100 and 200 million dollar saving estimates suggest the "major rule" criteria for a regulatory analysis and exploration of alternatives has been triggered. I find little indication that the purpose and spirit, much less the letter of the Executive Order, has been met.

I am enclosing a copy of a letter sent to Chris DeMuth back in 1982 concerning these same questions. His response is also enclosed. As I commented then, I am confident the present A-21 discussion will not be the last time the question of whether a federally imposed burden is appropriate will occur. Establishing and maintaining a cost-effectiveness discipline is an important precedent to set and keep.

I request you do not implement the A-21 proposal until you are satisfied that executive branch agencies are in compliance with the Paperwork Reduction Act and the Executive Order in regard to this circular. I would appreciate your providing me such an assurance. If we are going to have an effective partnership with the university and college community, I think we should assure ourselves the federal government is conducting itself in a manner that makes sense and is consistent with its own rules.

Let me add that the university community does need to strive to reduce administrative costs associated with federally sponsored research. The institutions in my state do understand this point.

Let me suggest that an examination of alternative ways to achieve cost reductions in this area should include the demonstration several agencies and the Florida State system have underway presently. The National Academy of Science's Government-University-industry Research Roundtable is monitoring this effort. The work builds on an experiment first conducted by the National Science Foundation in my state and which was endorsed by the Grace Commission as a means to reduce administrative costs.

Senator Danforth and I have had an interest in this work for the past three years and I am very encouraged by the results so far. It is this Florida experience that I invited you to look at during your confirmation proceedings. The idea of applying the Florida experience nationally could make a significant contribution to research productivity. I believe administrative cost savings which would equal those assumed in the proposed A-21 change would not be an unreasonable expectation. I view this initiative as a target of opportunity for regulatory relief as well and would welcome working with you to explore the usefulness of this particular alternative.

I look forward to your response.

With warm regards,

Sincerely yours,

LAWTON CHILES.

MARCH 15, 1982.

CHRISTOPHER DEMUTH,
Administrator, Office of Information and Regulatory Affairs, Old Executive Office Building, Washington, DC.

DEAR CHRIS: Enclosed is a letter I received from Gus Turnbull of Florida State University.

I would appreciate your response to the two questions posed by Mr. Turnbull.

I am sure you have heard a great deal about the growing federal role in University activities. Both the broad issue of federal-University relationships and the specific issue of Circular A-21 were highlighted in Senate paperwork hearings before and after passage of the Paperwork Reduction Act in 1980. Interestingly, modifications to A-21 were a subject matter of the Subcommittee on Federal Spending Practices first paperwork hearing in June of 1978 and of its successor committee's last paperwork hearing in March of 1981. The A-21 effort reporting issue was specifically referred to your office for review as one of the burdensome demands listed to the Subcommittee on Federal Expenditures by the University community.

It is my firm opinion the reporting and recordkeeping burdens of the Circular are subject to the requirements of the Paperwork Reduction Act. Now that the Public Protection section is in effect, this point is critical. Presently, Circular A-21 does not display a control number.

It has also been my belief that consistent with both Presidents' Carter and Reagan Executive Orders on regulations, A-21 should be subjected to a regulatory analysis. To date the government does not have an estimate of what the compliance costs are for meeting the requirements of A-21, much less an assessment of what the relative costs of alternatives would be. To my knowledge, a regulatory analysis of A-21 has never been conducted.

Whether the Office of Management and Budget considers OMB circulars resulting in substantial economic consequences as regulations subject to the President's Executive Order on Regulations and whether OMB considers circulars which create collections of information subject to the requirements of the Paperwork Reduction Act are important policy questions. Regarding the University research community, I am confident the present A-21 discussion will not be the last time the question of whether a federally imposed burden is appropriate will occur. I believe that establishing a cost-effectiveness discipline is an important precedent to set. Certainly, that was a purpose of the Paperwork Reduction Act for reporting and recordkeeping requirements.

I would also appreciate the Administration's view on the relationship of OMB Circulars to Executive Order 12291 and the Paperwork Reduction Act.

With kind regards, I am

Most sincerely,

LAWTON CHILES.

Enclosure.

THE FLORIDA STATE UNIVERSITY,
Tallahassee, FL, February 24, 1982.

Senator LAWTON M. CHILES,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR CHILES: Knowing of your continuing interest in governmental efficiency, especially as related to governmental paper work, I would like to raise a question on the current status of OMB Circular A-21 as it relates to the Paperwork Reduction Act of 1980. The *Federal Register* of January 7, 1982, contains a long-awaited and apparently useful revision of A-21. Universities and related research associations have long objected to the unreasonable requirements of A-21 and consequent demands of federal auditors acting under its structures. These resulted in a major paper work burden substantially counterproductive of accomplishing the missions of the universities and the objectives of the U.S. Government.

Accordingly, first reactions to the revised A-21 seem favorable. My university and others are preparing a detailed response which will probably praise the improvements while suggesting some additional refinements.

I would like to raise for your consideration, however, another point. Why has the revision of A-21 not been subjected to the provisions of P.L. 96-511, the Paperwork Reduction Act of 1980? The reporting requirements seem to fall under section 3502(4) and thus should bring A-21 under the explicit review provisions of the act.

If the requirements of Circular A-21 are not so reviewed and the A-21 procedures posesses neither the "control number" nor "state that the request is not subject to P.L. 3512," would a university be within its legal right to decline to maintain or provide the requested information as provided under section 3512 of the law?

It would be helpful to the Florida University to have an authoritative interpretation of these points.

Sincerely,

AUGUSTUS B. TURNBULL III,
Vice President for Academic Affairs.

OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, April 14, 1982.

Hon. LAWTON CHILES,
U.S. Senate, Washington, DC.

DEAR SENATOR CHILES: This is in response to your letter of March 15, 1982 which asked that we respond to two questions raised in a February 24 letter from Gus Turnbull of Florida State University and asked about the relationship of OMB Circulars to Executive Order 12291 and the Paperwork Reduction Act (P.L. 96-511).

In his letter, Mr. Turnbull is specifically concerned about the applicability of the Paperwork Reduction Act to reporting and recordkeeping requirements contained in a recently proposed revision to OMB Circular No. A-21, "Cost Principles for Educational Institutions." The letter goes on to ask whether a university would be within its legal right to decline to maintain or provide information requested by the Circular, as provided under the public protection clause of the Paperwork Reduction Act of 1980 (44 USC 3512), since the A-21 procedures neither display a control number nor state that the request is not subject to the Act.

Circular No. A-21 establishes basic principles and requires agencies to implement those principles by establishing appropriate rules and procedures. In establishing such requirements the agencies have considerable latitude. The Circular does not explicitly require answers to identical questions by 10 or more members of the public. However, to the extent that the agencies' implementing regulations require reporting or recordkeeping subject to the Paperwork Reduction Act, they are required to be cleared. Accordingly, on August 21, 1980, we issued an instruction to each agency informing them that before they incorporate the principles of A-21 into their regulations, they had to have the information collection component reviewed and approved by OMB.

While the A-21 procedures do not display an OMB control number, agency implementing regulations which establish reporting or recordkeeping requirements should. In cases where they do not, it appears that the public protection clause of the Paperwork Reduction Act would apply.

Regarding your more general question about the relationship of OMB Circulars to P.L. 96-511 and E.O. 12291, Circulars are subject to the requirements of both. Each OMB Circular that calls for the collection of information involving answers to identical questions by 10 or more members of the public should and does undergo a Paperwork Reduction Act review. Furthermore, each OMB Circular (e.g., A-102 "Uniform Requirements for Grants to State and Local Governments") that requires agencies to obtain answers to identical questions has an OMB control number printed in the Circular where the requirement is set forth.

Under internal OMB procedures, proposed OMB Circulars are also reviewed for compliance with E.O. 12291 by my office. Any Circular designed to implement, interpret or prescribe law or policy or describe the procedure or practice requirements of an agency is subject to such a review (e.g., A-40 "Management of Federal reporting requirements"). Excluded from those requirements, however, are directives that outline procedures to be followed by the President's budget and legislative programs, or for matters affecting only the internal functions, management or personnel of Federal agencies (e.g., A-19, "Legislative coordination and clearance"). In a recent review of existing OMB Circulars, it was determined that twenty-three were covered by the Executive Order.

I am pleased we could be of assistance on this matter. I look forward to a continued close working relationship as we move toward effective management of Federal information resources.

Sincerely,

CHRISTOPHER DEMUTH,
Administrator for Information and Regulatory Affairs.

OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 4, 1986.

Hon. LAWTON CHILES,
U.S. Senate, Washington, DC.

DEAR LAWTON: Thank you for your letter concerning the proposed revision of OMB Circular No. A-21, "Cost Principles for Educational Institutions."

As you may know, Federal payments for university allocated overhead rose from 24 percent of total Federal support for research in 1974 to 31 percent in 1984. I believe this disproportionate growth of Federal payments for university allocated overhead is damaging to our efforts to encourage important scientific research.

Congress itself recognizes the problem of rising overhead payments, and has expressed its concern on a number of occasions. In 1981, the Senate Committee on Appropriations, in reporting the FY 1982 Labor-HHS Appropriations bill, expressed concern over the rising level of Federal overhead payment rates, and predicted that should these rates continue to increase, "the amount of money appropriated by the Congress will finance less and less actual research." In 1983, the House expressed its concern about "the rate at which these (overhead) costs are escalating" and that it was "not convinced that the present system for calculating these costs is equitable. . . ." Both this report and the companion Senate report urged the Administration, in consultation with scientists and administrators, to formulate a governmentwide policy to address the issue of rising overhead payments. Last year, conferees for the 1986 Labor-HHS Appropriations bill directed the Administration to take steps to contain both research costs and overhead costs.

Coupled with this longstanding concern of both the executive branch and the Congress, a number of other groups have addressed the issue of rising payments for overhead. Reforms have been proposed in studies prepared by the General Accounting Office, the National Academy of Sciences, the President's Private Sector Survey on Cost Control, the White House Office of Science and Technology Policy, the Department of Health and Human Services, and the White House Science Council. Several of these reports, as well as audits performed by Federal staff of university allocated overhead claims, documented cases where the Federal government was clearly paying more than its fair share of universities' overhead.

In developing proposed changes to OMB Circular No. A-21, we determined that a 26 percent limit represented the average rate for Federal payments to universities for their four allocated administrative overhead pools, with one-half of the major universities exceeding the 26 percent rate. We believe implementation of this rate, followed by a subsequent adjustment to 20 percent, will strengthen efforts to maintain a stable and sustainable program of Federal support for research and development at universities. Especially in light of current budget constraints underscored by the congressionally initiated Gramm-Rudman-Hollings legislation, continuation of the current trend of more for university overhead and less for research is unacceptable. Thus, our primary interest in restoring an appropriate balance between research and overhead is to protect the Nation's research efforts during a period of budgetary restraint.

We welcome alternative approaches to restore an appropriate balance between research and overhead. As noted above, the issue of rising university overhead payments is not new, and we recognize that other alternatives may exist. In seeking the broadest public comment possible, we have sought to ensure that such alternatives would be brought to our attention.

Let me now turn to your concerns regarding the applicability of the Paperwork Reduction Act and Executive Order No. 12291 to proposed changes to OMB Circular No. A-21. The procedural issues you raise are important ones and relate to the ultimate implementation of any changes.

As you know, we have traditionally taken the position that data collection related to OMB Circular No. A-21 occurs only through implementation by agencies. Our position has been that this results from promulgation of instructions, regulations and other implementing guidance by the agencies and that agencies must individually receive Paperwork Reduction Act approval for such collections of information even though they are driven by A-21. In light of the concerns you have raised, we are currently reassessing this interpretation and reviewing all data collection issues related to A-21 and the proposed changes. We hope to conclude this review before any final action on changing A-21 is taken. Regardless of the outcome of the proposed changes to A-21, we intend seriously to deal with these procedural questions relating to the Paperwork Reduction Act as quickly as possible.

You have asked about the relationship between Executive Order No. 12291 and the proposed revisions to A-21. Prior to any final implementation of the proposed or other changes to OMB Circular No. A-21, I assure you that we will conduct a thorough review of the changes, taking into account the President's regulatory principles as contained in Executive Order No. 12291.

The Administration is committed to the importance of discussing OMB Circular No. A-21 revision with the widest possible audience. As you are aware, we have delayed the proposed implementation date of the A-21 revisions in order to fully consult with the university community on how to most effectively curb university allocated overhead. Any final decisions in this area, I assure you, will reflect full consideration of the opinions of the affected public.

Sincerely yours,

JAMES C. MILLER III,
Director.

[From the Jacksonville (FL) Times Union, Aug. 10, 1982]

PAPERWORK REDUCTION ACT RENDERED USELESS BY RULING

Democracy in action: The public protests excessive federally mandated paperwork: Congress finally responds by the Paperwork Reduction Act of 1981. The president signs the bill into law.

So what happens?

Immediately the worst offenders get to work trying to circumvent the law.

That describes, in a nutshell, what's happening in Washington today.

The Internal Revenue Service is by far the worst offender in demanding excessive paperwork. But the IRS has somehow persuaded the Justice Department into giving a ruling that the Paperwork Reduction Act does not, in effect, apply to any regulations adopted before Dec. 31, 1981, the effective date of the act.

This effectively ties the hands of the Office of Management and Budget, the agency charged with enforcing the paperwork reduction law.

OMB officials responded with such reactions as "preposterous" and "bizarre" and "incredible."

Sen. Lawton Chiles, D-Fla., author of the paperwork reduction law, blasted the Justice Department.

"[This] decision serves to distort . . . the congressional intent. . . ."

Chiles has asked the comptroller general to issue a formal legal opinion, which he can take to court, in answer to the Justice Department ruling.

There is a double irony involved.

This IRS determination to defeat the intent of Congress, to block any overview of its continued proliferation of paperwork, is important in itself because the IRS generates about 50 percent of all federal paperwork.

But it also serves as a precedent to inspire any and every other federal agency to seize the ruling the Justice Department gave to the IRS and use it to frustrate the Paperwork Reduction Act in other federal agencies as well.

[From the Wall Street Journal, June 3, 1986]

RED TAPE REVIVERS

With only $5 million to spend and 70 employees, the Office of Information and Regulatory Affairs in the Office of Management and Budget is a mite-sized federal agency. But some congresspersons are accusing it of "intimidating" the entire federal regulatory empire, a colossus with 114,500 rule makers and rule-maker helpers, $9 billion to spend and powerful supporting lobbies. Is the tiny little OIRA really that tough?

Not really, but that's mostly beside the point. OIRA's troubles have to do with a much bigger issue, whether Congress or the president will manage the day-to-day business of the U.S. government. The fight here is over how much red tape Washington will be allowed to inflict on American citizens. It's important to President Reagan because he needs to prevent slippage from his early successes in reducing the regulatory burden. Deregulation, readers will remember, was one of the four pillars of Mr. Reagan's successful economic program, along with tax cuts, spending control and sound money.

To understand OIRA's role, think of it as a pesky machine-gun nest defending the prerogatives of the White House. Week before last, a bipartisan congressional assault team, led by Reps. Dingell, Brooks, and Whitten and Sens. Durenberger and Levin, targeted OIRA. It was accused, as the Washington Post phrased it, of "sitting on regulations, weakening them, intimidating bureaucrats not to impose them, undermining their implementation, holding private meetings with industry and operating in secret." The congresspersons wanted to withhold OIRA's funding.

A point at issue is whether OIRA, created by legislation, can legitimately carry out broader assignments for the president. OIRA was set up by the Paperwork Reduction Act of 1980 primarily to review all information requested by federal agencies from the American public to see if the information was really needed, was duplicative of some other agency's work and could be collected efficiently. Passage was helped along when one witness taped together the federal forms needed to start a small business and stretched them across a congressional hearing room. Nobody doubted that federal paper-work demands had gone round the bend.

Ronald Reagan, less than a month after becoming President, launched a far broader assault. His Executive Order 12291 demanded that all federal agencies weigh regulatory moves in terms of whether sufficient need had been demonstrated, benefits outweighed costs and some less costly and intrusive method might be found to achieve the same result. OIRA was assigned to review agency actions to test their compliance with EO 12291. Among the early achievements: The Department of Education dropped a rule barring federal funds for schools with dress codes that distinguish between girls and boys.

Just before Mr. Reagan took office, Murray Weidenbaum of Washington University's Center for the Study of American Business had estimated that compliance with federal regulation cost American business nearly $100 billion a year. Mr. Weidenbaum, who returned to the center after having served two years as Mr. Reagan's chief economic adviser, hasn't done a recent compliance cost estimate, but he still keeps track of the size of the regulatory apparatus. And after Mr. Reagan's initial pruning, it has been growing again. Estimated employment in the 56 regulatory agencies this fiscal year is 114,566, up 2,622 jobs from fiscal 1985. Budgeting, in real terms, last year returned to the 1980 level and this year will exceed it.

One of the fastest-growing regulatory enterprises is the Environmental Protection Agency. Environmental laws have yielded public benefits but they also now are widely used to obstruct development. Most of the complaints about OIRA come from the so-called "environmental lobby."

The administration tells congressional complainers that even if they wipe out OIRA, the White House will continue to screen out regulatory nonsense. So even if the machine-gun nest goes, the war won't end. But it would be a shame if a doughty little agency that has done so much for rule-plagued Americans were wiped out.

[From the Washington Post, Aug. 27, 1986]

WHO REGULATES THE REGULATORS?

In the 1960s and 1970s, Congress passed an ambitious series of acts to regulate the cleanliness and safety of the air, water, work place, highways, pesticides, waste disposal sites, consumer products and much more. Because the issues involved were often technical, and because it could not always agree, Congress tended in these acts to enunciate broad regulatory standards, leaving to executive agencies the job not just of enforcing them but of refining what they meant. The regulation-writing that has ensued has blurred the textbook distinction between the legislative and executive branches, creating a new realm of government not wholly either. There is now an enormous fight over the extent to which the President controls this.

Beginning with Richard Nixon, four successive Presidents have tried to exercise greater control. In part these have been the usual efforts of Presidents to master and direct the sprawl of agencies beneath them. But there has also been a sense that the benefits of regulation need to be better balanced against the costs. That was the view of some even in the Carter administration. In the Reagan administration, where regulation is almost always referred to as a burden, the view is that benefits often fail to equal costs.

In two executive orders, one at the start of his first term, one at the start of his second, the President has centralized and seized control of the regulatory process as never before. His instrument has been OIRA, the Office of Information and Regulatory Affairs in the Office of Management and Budget. It is no longer possible for a line agency, without the approval of OIRA, even to gather information about whether a problem exists that might in the future require regulation. No regulation can be proposed, much less promulgated in binding form, unless this little-known agency agrees; every regulation must pass what OIRA regards as a properly constructed cost-benefit test.

In many areas and ways, the administration is now regulating less, or trying to. OIRA has become the target for those both in and out of Congress who are fighting this. They say the OIRA operation is unconstitutional; that no such regulatory switchyard has been authorized; that OMB has improperly displaced line agencies with greater commitment to, and expertise in, the regulatory areas involved; and that in reversing those agencies, as it often does, it fronts for industry. They complain that it operates furtively, has clandestine contacts with industry representatives, imposes ideology on scientific judgments, rigs the cost-benefit calculus and unfairly uses delay as an ultimate weapon. The House has voted to cut off OIRA's funds.

The White House has responded that it will continue to control the issuance of regulations in some other way if funds are cut off; that the President has both right and duty to guide the regulatory decisions of his appointees as he does all other important aspects of his administration; that regulations do have costs and that if Congress doesn't want these costs weighed, it should come out and say so, which it generally has not done. The President's people say the constitutional and other procedural arguments made against OIRA are mainly an expression of unhappiness with the last election returns.

There is some merit on both sides of this argument. Congress, often for lack of majorities to strengthen them, has left most of the regulatory statutes open to interpretation. The President is accountable; he should take and have control, and there is no way to deny it to him in any case. But OIRA has, on a number of well-documented occasions, gone too far. Secret dealings and delay are the ugly problems. If there is an

open and timely decision and it is wrong, it can be attacked in court. Various senators, rather than go through the confrontational exercise of cutting off OIRA's funds, are trying to force the agency into the sunshine (it has now adopted some sunshine rules) and subject it to the clock. Those are homely steps, but they are the right kind of solution to this problem.

CHILD NUTRITION COLLOQUY

Mr. BOSCHWITZ. It is my understanding that H.R. 7, the School Lunch and Child Nutrition Act Amendments of 1986, may be passed by Congress as part of two different pieces of legislation.

I am concerned that the Department of Defense authorization bill and the continuing resolution for fiscal year 1987 have different effective dates for the child nutrition provisions. Which dates are controlling?

Mrs. HAWKINS. As the sponsor of both amendments, and as a member of the Senate Agriculture Committee I believe that our intent was to provide the Nation's schoolchildren with benefits as soon as possible. Therefore, I believe that the intent of Congress is to take the earliest effective date. If both bills are signed into law, it is the intent of the Agriculture Committee that the earliest effective date prevails.

THE NORTHERN VIRGINIA COMMUNITY FOUNDATION FOUNDER'S AWARD

Mr. WARNER. Mr. President, I rise to recognize the presentation of the Northern Virginia Community Foundation 1986 Founder's Award to Mr. James T. Lewis of McLean, VA.

The award will be presented to Mr. Lewis at a dinner gala at the Sheraton Tysons Corner Hotel in Tysons Corner, VA, on October 25, 1986.

Each year, the Northern Virginia Community Foundation presents the Founder's Award, its most prestigious award, to a northern Virginian in recognition of outstanding community service and dedication to the improvement of northern Virginia.

The foundation salutes individual achievement to promote awareness of the importance of an individual contribution to the community as a whole.

The Northern Virginia Community Foundation has been in existence since 1978, when it was started by a group of northern Virginia residents who wanted to build and improve on the quality of life in the region. The foundation receives gifts from individuals as well as national corporations and foundations and channels them into the community in the areas of the arts, education, youth, health, and civic improvement, exclusively in the area of northern Virginia.

The recipient of this year's Founder's Award, James T. Lewis, has made significant contributions to the northern Virginia area, both through his professional activities and his community involvements.

He is president and chairman of the board of James T. Lewis Enterprises, Ltd. The partners of James T. Lewis Enterprises and its affiliated companies have initiated and constructed more than 2.5 million square feet of new commercial office space in the last decade.

James Lewis serves as vice president and board member of the Tysons Transportation Association, which is dedicated to the improvement of Tysons Corner transportation; as a director of the Fairfax County Council of the Arts; as president of the McLean Citizens Foundation; chairman of the Community Development Bureau of the Greater Washington Board of Trade; and member of the Fairfax County Chamber of Commerce.

In addition, Mr. Lewis has contributed to the northern Virginia community through his involvement in the International Children's Festival and Gala, the RACE Against MS and the American Heart Association's cardiac arrest.

James T. Lewis indeed has been a driving force in the improvement of the northern Virginia community, both through his business leadership and his civic contributions. Please join me and the Northern Virginia Community Foundation in saluting the deserving recipient of the 1986 Founder's Award, Mr. James T. Lewis.

TRIBUTE TO SENATOR BARRY GOLDWATER

Mr. LAUTENBERG. Mr. President, I rise in tribute to Senator BARRY GOLDWATER, who will retire from the Senate at the end of this session of Congress.

Senator GOLDWATER has served this body, the State of Arizona, and his country with distinction and dedication for 56 years—as a soldier, a Senator, and a statesman. He defended his country in military combat. He has represented the State of Arizona ably in the Senate for 30 years. And, as past chairman of the Senate Intelligence Committee, and current chairman of the Senate Armed Services Committee, he has worked hard to keep our Armed Forces strong and effective. His expertise in national defense matters is undisputed, as is his integrity and dedication to his country.

His views may not have paralleled my own on many issues. But I never doubted for a moment that he arrived at them after careful deliberation, and with the good of his country foremost in his mind.

It is with regret that I bid farewell to a great leader and a great American, Senator BARRY GOLDWATER.

PRODUCT LIABILITY LAWS STIFLE INNOVATION

Mr. PRESSLER. Mr. President, as a cosponsor of the Product Liability Reform Act and a long time advocate of product liability and other tort reform, I have often argued that our current tort laws stifle innovation. As a result they often have an adverse effect on safety innovations as well. A recent article from the October 6 edition of the Journal of Commerce, entitled "Product Liability Law Stifling Creativity?" illustrates the point very well. I ask unanimous consent that the article appear in the RECORD at this point.

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

PRODUCT LIABILITY LAW STIFLING CREATIVITY?

(By Leah R. Young)

WASHINGTON.—A Japanese academy of engineering would not have five lawyers on a meeting program, an attorney-engineer told the U.S. Academy of Engineering.

Instead, Peter W. Huber said, a Japanese program would have sessions that would be on ceramics, genetic and other engineering topics.

Mr. Huber used the comment to explain to the U.S. academy last week why he believes that product liability law and safety regulations by federal agencies is stifling creativity by U.S. engineers.

"The legal system is pounding a message—don't innovate," Mr. Huber said. The risk is great, he added, that U.S. technology will fall "irretrievably" behind the technology of other countries because of liability problems.

Technological productivity would thrive best in an atmosphere in which the courts abandoned the rules of strict liability and returned to the negligence standard, Mr. Huber suggested.

But realistically, he said, engineers will have to settle for "more modest changes." He suggested a goal of inserting into the law the idea that complete compliance with federal standards established by competent agencies should be a total defense in product liability lawsuits.

Under the current legal regime, he pointed out, "knowledge of the law is no excuse" and meeting all federal safety criteria is not a defense in a product liability action.

He also argued that regulatory agencies must be reconstituted. Since the 1960s, he said, they have seen themselves as "gate keepers" regulating on the side of what is "acceptably safe."

Prior to this time, regulatory authorities considered only what was "an unacceptable hazard."

The consequence of the new regulatory zeal is an environment in which it is much harder to recognize the benefits of products being developed. Mr. Huber noted that 10 years ago there was a movement to curtail the techniques of genetic engineering.

There is no way, he said, to assess the benefits that the nation will forgo if research is not undertaken, he stressed.

The regulatory agencies have "an inordinate fear of what is new" while tort law weighs not the technologist and his care or competence, but the technology itself. He pointed out that juries are much less likely to condemn the familiar—such as pesticides from new recombinant DNA technology.

Why else, he asked, have familiar tobacco products escaped verdicts on defects while new pharmaceuticals are constantly challenged?

David G. Owen, professor of law at the University of South Carolina, noted that juries in product liability cases are valuing human lives at monetary levels far in excess of that assigned by the individual himself when he purchases life insurance.

The reality, Edward G. Jefferson, former Chairman of E.I. du Pont de Nemours & Co., said, is that this year Du Pont will experience product liability claims outnumbering its legal cases of all kinds seven or eight year ago.

THOMAS H. CANDON OF VERMONT

Mr. LEAHY. Mr. President, it was not that long ago that Democratic conventions in my State of Vermont could be held in telephone booths without disturbing the person making the call.

The early Democrats in our State were tolerated as eccentrics and were concentrated in the more populated areas. In those days, before the one man, one vote decision, the city of Burlington, with a population of more than 30,000 cast one vote as did the representative of Granby, population 24. The folks in Granby had two things in common. They were all Republicans and most of them shared the same surname.

It was not particularly difficult to get the Democratic nomination for legislative office. Most likely you would run unopposed. But only very close members of your family would vote for you. And you could not even count on that.

This was pretty much the situation when a very good friend of mine, Thomas H. Candon, of Rutland, ran for the Vermont House of Representatives more than 20 years ago.

Now, Tom had a couple of strikes against him. He was not born in Rutland—he was born down the road in Pittsford. And even though he had a distinguished military record—he worked for the Federal Government and was a Roman Catholic, a combination of vices that would not only deny one election in Vermont, but absolution itself in some folk's minds.

Well, Tom got elected to the legislature, and made so much sense that people got to thinking that having Democrats represent them was not the end of the world after all. Other heresies followed, and Vermonters discovered a two-party system made some real sense because it offered some alternatives to previously accepted doctrines which had gone untested for decades.

The fact that people like Tom Candon ran as Democrats—and made no bones about it—was a turning point in our State. Soon we were electing Governors—and for the first time in our history—a U.S. Senator.

Mr. Candon retired from a long and distinguished career in the Vermont General Assembly recently—and there were Republicans and Democrats at his retirement dinner. And you could not have told one from the other because they all loved and respected Tom Candon and listened to him when he talked about economic growth and jobs and homes for Vermont families.

He was minority leader, and actually became majority leader—that is how popular Democrats had become—in Vermont House.

He also provided inspiration, to me and others who later sought and won elective office on the local and State levels.

I was sorry the Senate stayed in session and I missed Tom's retirement dinner in Vermont, because so many good friends were there to thank Tom and his good wife, Margaret for more than 20 years of exemplary public service to the people of our State. My wife told me it was one of the outstanding gatherings in Vermont.

I know that all Senators can trace their desire to run for public office back to people and events that inspired them.

The standards of honest and dedicated public service set by Thomas Henry Candon remains an inspiration to those of us in public office in Vermont today.

His long record of achievement as a legislator will benefit Vermonters for years to come.

REEXAMINING THE STRATEGIC DEFENSE INITIATIVE

Mr. MATHIAS. Mr. President, President Reagan is on the right track when he asks the American people to reflect on the critical questions that are raised by the Strategic Defense Initiative. In fact, one of the great benefits of the Reagan-Gorbachev talks in Iceland could be the renewed interest of the American people in star wars and what it could mean to them both positively and negatively.

One specific question that the President asks the American people to consider is "how does a defense of the United States threaten the Soviet Union or anyone else?" It is a central question and one that must be understood with all its implications if the events in Iceland are to have any meaning. So let us respond to the President's request by working through this issue step by step.

In the first place, the ambitious defense that we seek to build called SDI or star wars, will probably be somewhat limited in its scope. The shield, if it is constructed, is unlikely to cover the entire country, but only afford protection to our own missiles to protect them from an incoming attack, although more ambitious hopes are sometimes expressed for it.

I have talked with defense officials in the Soviet Union and have a clear idea of their response to such a proposal. In fact, this reaction is similar to our own position at the time they were threatening to build an antiballistic missile system that might intercept incoming missiles.

What both the United States and the Soviet Union have said is that if one nation has both offensive weapons and a defensive system it has the potential to launch an attack against an undefended nation without suffering a retaliatory response. In short, a defensive system could confer a first strike capability.

We did not want the Soviet Union to gain such a first-strike capability by deploying a nationwide ABM system and they do not want us to acquire it through SDI. Thus what may appear at first glance to be a matter of defense for them or for us, clearly has implications for the other side.

If the Soviet Union believes that our technology is 5 or 10 years ahead of theirs in this field, they could see that we would have a strategic advantage for at least that period of time. It would be for them a window of vulnerability.

Should it come to that, the response of the Soviet Union is predictable. If star wars could eliminate 50 percent of incoming missiles, they could restore the strategic balance by doubling the number of warheads in their arsenals. That is a development that should concern us deeply.

There are, of course, collateral questions that must be present in Russian minds about star wars. The concept involves vast systems of very high-technology equipment, some of it equipped with lethal weaponry. While these weapons may have been designed to kill missiles in space, any prudent general in the Kremlin will be bound to ask "what else will they kill?" The answers are likely to conjure up another vision of a new window of vulnerability. No matter how many labels "For Defense Only" we stick on the star wars weapons we cannot expect to reassure them.

The window of vulnerability that we feared in the early 1980's was the Soviet Union's arsenal of massive missiles. They have now offered to reduce that arsenal and consequently the perception of vulnerability if we do the same for them.

It is something to ponder, and President Reagan is right to urge the American people to think about it seriously. The opportunity is too important and

too rare to lose over unnecessary disagreements.

The conference in Iceland failed to come to the point of agreement over the question of whether the United States could or could not test star wars in space within the next 10 years. It was agreed that laboratory testing and other research would go forward.

I suspect that the issue could be defined differently and more accurately. The Soviet Union is saying, if you test in space you may open our window of vulnerability, you may place us at a strategic disadvantage.

President Reagan has said many times that he has no such intention. I fully believe him. But given the logic that has animated the whole subject of defense systems for years it may be difficult to make the Soviet Union believe him. By our own ABM arguments, strongly expressed, he should be willing to revise his thinking about star wars. But that may not be necessary, although I think it would be desirable. The fact is that the Soviet Union, for its own reasons, is ready to accept star wars research as legitimate so neither party has to forego all such activity. What we now need is a solution like the ABM Treaty which recognized the basic logic that defensive systems are not productive of better defense, but at the same time allowed each party a symbol instead of a system.

So my advice is to put the experts to work, to sketch the kind of guidelines that will let us do what we need to do to prove or disprove our theories without acquiring a strategic advantage that the President says we do not want.

That should be a task within the grasp of human ingenuity and we should get on with it while the positive aspects of the Iceland meeting are still visible.

PLANS TO FIGHT THE KILLER BEE

Mr. MATHIAS. Mr. President, Senators may recall that during the Senate's earlier consideration of the continuing resolution I had offered an amendment to earmark $1 million of agriculture funds to be used to curb the advance of the Africanized or killer bee.

My amendment would have directed the United States Animal and Plant Health Inspection Service to use the money to establish a biological barrier across the Mexican isthmus of Tehuantepec that could have blocked the northward migration of this dangerous insect. I was gratified that the Senate shared my concern and passed my amendment.

I regret, however, that my amendment has not survived the conference committee. I appreciate the pressures faced by the conferees as they struggled to reach agreement on a bill as massive and complex as this continuing resolution, and I can understand how my amendment may have fallen by the wayside in the crush. In place of my legislative earmark, the conferees added language to the conference report expressing the Congress' concern and directing USDA to conduct additional study with available funds and to make recommendations for action to the Congress next year.

I am pleased that the conferees underscored congressional concern about the Africanized bees, but I think it is important to point out that if USDA waits until next year to propose a plan for dealing with the bees, it may well be too late. Scientists within the United States Animal and Plant Health Inspection Service have already drafted a proposal for protecting agriculture and human health by establishing a biological barrier across a narrow isthmus in Mexico. They have sound reason to believe such a barrier could actually prevent the bees from migrating further north toward the United States.

There is a catch, however. USDA must move immediately if the plan is to work, because the bees will reach the isthmus in 3 to 6 months. If USDA chooses to delay, the bees will have already crossed the isthmus and the opportunity will be lost.

Further study of the bees is important, but study alone will not head off the agricultural disaster the bees will bring. I hope that USDA officials will take notice of this very worthwhile plan within their own department and make the decision to commit the funds necessary to move ahead with the barrier.

RETIRING SENATORS

TRIBUTE TO SENATOR RUSSELL B. LONG

Mr. HEFLIN. Mr. President, the U.S. Senate is widely acclaimed as the greatest deliberative body in the world. I believe that this reputation is largely a result of the truly outstanding contributions of a few Senators who have provided this country with such leadership, counsel, and guidance that their actions have reflected on the name of the Senate as a whole. The names of Calhoun, Clay, Webster, Lodge, Adams, and LaFollette are among the most prominent.

RUSSELL B. LONG, who has announced his retirement after 38 years of service to his country in the U.S. Senate, is one man whose name belongs among those legends of our past. Throughout his tenure in the Senate, RUSSELL LONG has been the Senator's Senator. He is the "Old Master." When many of the present Members of this Chamber were just graduating from college or establishing a career, and when a few others were children or adolescents, RUSSELL LONG was already serving his Nation with the likes of Richard Russell, John Stennis, and Carl Hayden. Indeed, the Senate as an institution has changed dramatically since he was first elected, and Senator LONG has provided needed continuity, and direction during this change. Whether this change has been for good or bad is not at question—what is most evident about this period of history in the Senate is that RUSSELL LONG has served throughout this time to provide an example that others could follow. His presence, attitude, outlook, and concern has been a definitive factor in determining the manner in which every Member of this body behaves. His sense of humor defuses even the most heated debate even at the latest hour. Somehow, Senator LONG is always able to direct our attention to humorous factors which are evident in any political or legislative question—while still making an important point and even underscoring its importance. This is a highly effective technique, and adds to his unrivaled powers of persuasion. He has been repeatedly recognized for his influence and persuasion in several surveys of his colleagues conducted by such publications as U.S. News & World Report, and Washingtonian magazine. He has been chosen as the "Most Respected Senator" and the "Best Senate Debater" by the public television program "The Lawmakers." These are great honors, and I am sure that our colleague views them with a grain of salt, but I agree with their accuracy.

Throughout his service as a U.S. Senator, RUSSELL LONG has distinguished himself with his knowledge of finance. His tenure as chairman of the Senate Committee on Finance spanned 14 years. I have heard it said that he has learned so much about finance during his years in the Senate that he has forgotten more than most Members have ever known. I must doubt this, however, for I have never known RUSSELL LONG to forget very much. I believe that he may let us think that he has forgotten certain things so as not to show off. If he ever revealed to us how much he actually does know about finance, I imagine that there may emerge a mandate among Members which would require him to stay. And I know that he is ready to return to his home.

There are many legislative accomplishments of which RUSSELL LONG can be very proud. He has been the leading congressional champion of the employee stock ownership plans, which encourage greater productivity, job satisfaction, and company interest by providing the employee with a share of the company for which he or she works. Another is the Child Support Enforcement Program which has helped children and their mothers while saving the Government more

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than $5 billion in welfare costs by locating "runaway" fathers and requiring them to contribute to the support of their children. Among those achievements which are, doubtless, most important to him are the reforms and advancements made in the field of Social Security, and Medicare. When he took office in this body, many of the Nation's aged, blind, disabled, and truly needy had no means of adequate financial support or medical care. Senator LONG worked to champion their cause. However, he has also led the fight against a "DOLE" which would have guaranteed annual income for able-bodied persons who refuse to work, thereby ensuring the survival of the incentive to work and to do a job well done.

Mr. President, I have greatly appreciated and enjoyed having the opportunity to serve in the Senate with RUSSELL LONG. He is truly a modern day hero, and a legend of our time. His contribution, which is evident in so many programs and laws, is nothing less than outstanding. I am sure that each one of my colleagues joins me in thanking him for the friendship that he has provided to each Member, and to the direction that he has given to the Senate and to the Nation as a whole.

TRIBUTE TO SENATOR PAUL LAXALT

Mr. HEFLIN. Mr. President, I rise, today, to pay tribute to my colleague and friend PAUL LAXALT, who has announced that he will retire from the Senate at the end of this, the 99th Congress. I am sorry to see him leave, for with his departure, the U.S. Senate will lose a trusted friend and valued adviser.

PAUL LAXALT was born in Reno, NV, and then raised in the small State capital town of Carson City. He learned two things while growing up, that, it is apparent, remain with him still. The first is the strong importance which he learned to place on the family. The second is the strong work ethic which was instilled in him by his father, who was a sheep herder, and his mother, who ran a small boardinghouse in town. I know that each of these qualities has been of great benefit to him during his entire life. They are evident in his attitude, and in his outlook.

Like so many before him, the first time that PAUL LAXALT served his country was during World War II, when he served as a U.S. Army corpsman and saw combat duty in the South Pacific. After the war, he continued to serve the public interest as the district attorney of Ormsby County and, then, he set up a private law practice. In 1962, our distinguished colleague decided to return to public service, and was elected as Nevada's Lieutenant Governor. He so impressed the people of his State that 4 years later, they elected him as their Governor. PAUL LAXALT was a highly effective Governor, advocating a policy of self-reliance and fiscal prudence, which resulted in the largest fiscal surplus in Nevada's history up to that time. In 1970, he momentarily stepped out of the public limelight to continue his law practice and conduct family business interests.

However, in 1974, PAUL LAXALT ran and was elected to the U.S. Senate. As he had done so often in the past, and as he continues to do, PAUL used the experience he had gained in previous office and occupations to provide background experience for his work as a U.S. Senator. I know that he serves the citizens of the State of Nevada well while earning the respect of his colleagues here in this body. I have been honored to have served with him on the Senate Committee on the Judiciary, where he has been instrumental in the passage of several key legislative packages, including the Omnibus Crime Control Act of 1984.

Mr. President, PAUL LAXALT has served his country in an excellent capacity. He has provided great leadership and guidance to the citizens of his State, and to the Members of this body. Additionally, he has been a very close friend and adviser to the President of the United States. His career is truly remarkable, and his efforts have been tireless. I wish him the best of luck and happiness in the future. This country has benefited from his past contributions and, I am sure, will benefit from future accomplishments.

TRIBUTE TO SENATOR THOMAS F. EAGLETON

Mr. HEFLIN. Mr. President, I rise, today, to bid farewell to my good friend and colleague, Senator TOM EAGLETON. The senior Senator from Missouri has announced that he will retire at the end of this, the 99th Congress. All Members of this body will miss his good sense, his outspoken, frank opinion, and his enthusiastic energy. He has served his Nation well.

THOMAS F. EAGLETON grew up in St. Louis, the second son of a prominent figure in St. Louis politics. After graduating from high school, he demonstrated his keen intellect by earning a B.A. degree, cum laude, from Amherst College, and a law degree, also cum laude, from Harvard. He served a stint in the U.S. Navy, and then returned to St. Louis to pursue a career in law and politics.

In November of 1956, he was elected to his first public office, the circuit attorney of the city of St. Louis. He then served for one term as chief prosecutor for the city, and in 1960 was elected attorney general of Missouri. In 1964, TOM EAGLETON was elected Lieutenant Governor of Missouri, and finally, in 1968, he was elected to the U.S. Senate. He was reelected in 1974 and in 1980.

Throughout his career in the Senate, THOMAS EAGLETON has possessed a moral passion and a sense of moral justice that are unrivaled and unquestioned. He is incredibly committed to what he believes in, and will fight to the end to oppose any matter which is not right or just. His character displays his sense of leadership and guidance with which he has provided a clear voice for justice. This voice is logical and persuasive. His convictions, his eloquence, and his impeccable integrity have distinguished him as a Member of this body. His effectiveness in the Senate is well known.

Mr. President, we will miss the service of THOMAS EAGLETON, yet he is not leaving the realm of public service entirely. The students of Washington University in St. Louis will be very fortunate to learn of his qualities. I hope that he is able to find better students there than he did here in this Chamber.

TRIBUTE TO CHARLES MC C. MATHIAS, JR.

Mr. HEFLIN. Mr. President, I rise today to pay tribute to Senator CHARLES MCC. MATHIAS, JR., who announced that he would retire from the Senate at the end of this Congress. Thoughout his life, whether as an attorney, Congressman or Senator, MAC MATHIAS has never been one to forsake his conscience for the purpose of party politics or personal ambition. His attitude is refreshing and inspiring. His voice has been one of wisdom and reason—he will be greatly missed.

During his entire adult life, Senator MATHIAS has been an outstanding servant of the people of Maryland in many different ways, and as the holder of many different elective offices. After receiving his law degree, he was elected as the assistant attorney general of Maryland. He then served as the city attorney for the city of Frederick, was later elected to the Maryland House of Delegates, and then, in 1958, was elected to the U.S. House of Representatives, where he served for three terms. Finally, in 1968, CHARLES MATHIAS was first elected as a Member of this Chamber. Looking back through this truly unselfish record of public service, one is reminded of the similar examples of public service established by our forefathers—for the life of CHARLES MATHIAS was cast in the same mold.

Throughout his history of service to the people of Maryland, and to each citizen of this Nation, CHARLES MATHIAS is probably best known as a strong advocate of civil rights. During his tenure in both Houses of Congress, he has always been in the forefront of the fight for equality among all American citizens. He is one of the chief sponsors, as a Member of the House of Representatives, of the civil rights legislation which was passed by Congress in 1964 and 1965. In 1968, after being elected as Senator, CHARLES MATHIAS introduced the Fair Housing Act. He has since that time fought to strength-

en the act in an effort to further protect both the elderly and the handicapped. Additionally, he was instrumental in the 1975 and 1982 extensions of the Voting Rights Act. His tenure in the Senate will be remembered for both his courage and wisdom.

CHARLES MATHIAS is also known for his great work in other areas vital to our national interests. He has served for years as a member of the Senate Foreign Relations Committee, and has worked with NATO members to assure our national security. I recently had the pleasure to serve on the Impeachment Committee of Judge Harry Claiborne which Senator MATHIAS chaired. I must say that I was impressed with his efforts to provide the defense with all legitimate requests while still preserving the sanctity of the Senate. Senator MATHIAS provided tremendous leadership and direction during the implementation of this archaic impeachment process.

The moral character of Senator MATHIAS is unquestionable. He often serves as a defender of the citizen who has no voice. He will not tolerate any injustice, or impropriety. His service has been long and valuable. He has helped to provide the Senate with an irreproachable conscience. His contribution, voice, and good nature will be missed. His friendship will also be missed.

TRIBUTE TO SENATOR BARRY M. GOLDWATER

Mr. HEFLIN. Mr. President, I rise today to pay tribute to a truly outstanding American, BARRY M. GOLDWATER, with whom I have been lucky to have served in the U.S. Senate. Few men in our history have contributed so much or have dedicated themselves with such vigor to the welfare of these United States. His sage counsel, and wise advice will certainly be missed.

An examination of the career of Senator GOLDWATER impresses upon one the truly outstanding nature of his service. He began his service for our country in 1930 when he was commissioned as a second lieutenant in the Infantry Reserve attached to the 25th Infantry. In 1941, at the beginning of World War II, he volunteered for duty and was subsequently attached to the air training command, ferrying command, and air transport command. As a transport pilot, he ferried P-47 fighters and flew air transport command missions to China and India. After World War II, BARRY GOLDWATER was instrumental in organizing the Arizona Air National Guard and served there until his first election to this body. He reitred as a major general in the Air Force Reserve after serving in the Army and Air Force Reserves from 1930 to 1967. He is a graduate of the Air War College, and an honorary member of the Air Force Academy Association of Graduates.

Senator GOLDWATER began his political career in 1949, when he was elected to the city council of Phoenix. In 1952, he was elected to his first term in the U.S. Senate. He was reelected in 1958, but did not seek reelection to the Senate in 1964 as he ran as the Republican Presidential nominee. In 1968, he was again elected to the U.S. Senate, and was assigned to the Senate Armed Services Committee, of which he is now the chairman. I believe that the entire Nation is aware of his tireless efforts to provide for the common defense of the people of this country. Additionally, Senator GOLDWATER has provided great leadership to the Senate as a member of the Commerce Committee, the Committee on Small Business, and the Select Committee on Indian Affairs.

Senator GOLDWATER is admired throughout this Nation as a great patriot, and strong defender of the liberties, freedoms, and values possessed by all citizens. He has the strongest sense of moral justice, and is a staunch supporter and defender of the qualities that made this Nation great. Even during our involvement in Vietnam—a period in our Nation's history when it was not always fashionable to defend the qualities of this Nation—he forever labored to, again, lead people to a pride in their country.

Among his other many talents, our colleague is a talented author. The books which he has written relate both to his ideology and outlook as well as to his interests. "The Conscience of a Conservative," "Why Not Victory?," "Where I Stand," "Down the Green and Colorado Rivers," and "With No Apologies" are just a few of them.

This Chamber will, indeed, be left lacking after the departure of Senator BARRY GOLDWATER. His experience and expertise in military affairs is unrivaled, and his opinion in all matters is highly valued. Yet, each Member of this body has learned much from his example, and his instruction. Many are in his debt, and no one will forget his example. In the future, the Members of this body will have the honor and the duty to build on his achievements—and our task is easier because of his efforts. We have also been fortunate to have known the loyal friendship of our colleague from Arizona. In the years to come, I hope that he will experience the greatest happiness.

TRIBUTE TO SENATOR GARY HART

Mr. HEFLIN. I am pleased to rise, today, to pay tribute to my distinguished colleague, Senator GARY HART, who has announced that he will retire from the Senate at the end of this Congress. Throughout his career, he has been a fine Senator who has represented the people of Colorado well. He is a man of conscience and of strong feelings. His voice will be missed as a part of this body.

Though my opinion often differed from those of Senator HART, his viewpoint in any debate was important and necessary, for it aided the deliberative process. He always argued with conviction, reason, and passion. A well-based decision on legislation cannot be made without first considering all facets of a problem, and our distinguished colleague, Senator HART, always made his point of view known to all Members of this body. Throughout his service, he has brought forth new ideas, and new approaches which will continue after his departure. People throughout the Nation have been affected by his approach, and he has helped to initiate a reexamination of the issues crucial to our country.

After receiving both a divinity degree and a law degree from Yale University, GARY HART began his career in public service after being appointed to the U.S. Justice Department. He then served as the special assistant to the Secretary of the U.S. Department of the Interior. He was elected to the U.S. Senate in 1974, and has been serving since that time.

The service that Senator HART has provided has been very valuable. As a member of Senate Armed Services Committee, he has helped to lead the fight for military reform, and founded the bipartisan military reform caucus. He has helped to protect against wasteful spending through his work on the Committee on the Budget, and with the Committee on Environment and Public Works, he has been a strong advocate of legislation which has been designed to protect our land from pollution, and to preserve our national parks for many generations to come.

Additionally, throughout his career, Senator HART has been an active author, and I admire him for the many books, and writings he has published. Among these are, "America Can Win," and a contemporary spy thriller which he coauthored with Senator WILIAM COHEN of Maine, "The Double Man."

I anticipate that Senator HART will somehow be involved in a future race for the Presidency and wish him luck in any such venture. We are sorry to see him leave this body, and wish him and his family the best of happiness in the future.

CALICO ROCK, AR

Mr. BUMPERS. Mr. President, I wish to take a few minutes to pay tribute to an extraordinary place in the fine State of Arkansas, the town of Calico Rock. This town is a shining example of the virtues of small town life in this country.

I recently had the good fortune to visit Calico Rock, a lovely town which takes its name from the color of the

bluffs of the Ozarks mountains. Glenn Bennett, the mayor of the city of Calico Rock, has described in a letter to me what is special about his hometown:

We hope you will have recorded * * * that you visited a place this summer, a place in your home state in North Central Arkansas, across the river and beyond the mountains—a town of 1,100 people, by the name of Calico Rock, nestled in the foot hills of the Ozarks on the banks of the White River. You found a happy people in a town where the city jail has been closed for over 25 years. There is no town marshall or city police. There are no beer joints but there are 14 active churches in the general vicinity. You have found a place called Calico Rock that is alive and well and striving with all its heart, mind, body, and soul to be a better place to live.

The mayor's description of Calico Rock is indeed accurate. The White River he mentions is a crystal clear stream, and its trout attract fishermen from across the country. The peaceful but breathtaking beauty of the Ozark National Forest, on whose border the town rests, tends to melt away the stress of modern life. Calico Rock has held onto the best of the past and looks forward to the best the future has to offer.

RETIREMENT OF SENATOR CHARLES McC. MATHIAS, JR.

Mr. MITCHELL. Mr. President, although I have not had the privilege of serving on a committee with Senator MATHIAS—indeed, although we have served on separate sides of the aisle in the Senate—I believe his retirement this year marks a major loss to this body.

Senator MATHIAS has exemplified the kind of reasoned debate, civility and thoughtfulness that give meaning to the idea of the Senate as the world's greatest deliberative body.

His principled approach to issues as volatile as criminal code reform and as close to home as the administration of the Senate itself has earned the respect of those who differ with him as well as those who do not.

Senator MATHIAS has acted on principle throughout his public life. In the early 1960's, he was one of three Republican Congressmen who introduced the bill which ultimately became the law we know as the Civil Rights Act of 1964. Throughout his Senate career he has pursued the strengthening of that law and its companion voting rights and fair housing statutes.

He has sought to pursue and to guide our Nation's foreign policies in ways that serve our Nation's long term interests, under Republican and Democratic Presidents alike. His far sighted view of our national interests was particularly aptly recognized last year, when he was unanimously elected president of the North Atlantic Assembly, a legislative body of NATO members. He is the first U.S. Senator to have been so honored.

And he has remained a champion of constitutional values and constitutional protections throughout his career. Whether the issue is as misunderstood as the exclusionary rule which serves to buttress the fourth amendment or as controversial as capital punishment, Senator MATHIAS has never sought refuge in stridency or in silence. His has been a voice of reason, of political courage and of sanity in the Senate.

It has been a privilege to work with him. His loss will be felt on both sides of the aisle.

RETIREMENT OF SENATOR GARY HART

Mr. MITCHELL. Mr. President, the retirement of Senator GARY HART of Colorado is a loss to the entire Senate. Senator HART's 12 years of service in this body have enriched its deliberations and broadened its perspective on a broad variety of issues, ranging from defense preparedness and arms control to environmental and energy policy.

It has been my personal pleasure to serve with Senator HART on the Environment and Public Works Committee, working on issues such as Superfund and nuclear powerplant safety.

Senator HART's contribution to public safety through his work on the Three Mile Island disaster is incontestable. His willingness to review in depth the steps needed to improve the security of nuclear powerplants and the safety of the people whose homes abut them will protect thousands of Americans in communities around the country for decades into the future.

In 1978, in the aftermath of one of the most fiercely contested environmental debates in its history, the Senate appointed GARY HART chairman of the National Commission on Air Quality, a bipartisan and interdisciplinary group which studied the Clean Air Act, its implementation, and its regulatory effects for over 2 years.

The conclusions drawn from that Commission's work, under Senator HART's guidance, have been an essential element in preserving the consensus for strong environmental legislation which exists today. It is a consensus that has ensured the fight to maintain environmental standards will not be derailed, even in the face of neglect and outright hostility.

Senator HART's work on our Nation's defense policies, ranging from his insistence on a strategic buildup based on sense and effectiveness, not dollar amounts, have brought balance and rationality to the debate over defense procurement and strategic posture.

Senator HART's pathbreaking efforts in the late 1970's to alert us to the potentially devastating shortcomings in our early warning system have helped put into place necessary corrections to help prevent the worst nightmare, an accidental nuclear war.

And his recent lucid lectures on "Enlightened Engagement" have helped recommence the national policy debate that is so clearly needed if we are to move from a foreign policy that is based on reaction and policy lurches to an understanding of international change and the opportunities and dangers it presents to our Nation.

Senator HART's role in the Senate, as a leader of difficult causes, whether it was ratification of Salt II in 1979 or his principled opposition to the popular Gramm-Rudman bill, has always sprung from his personal examination of the issues and his commitment to pursuing what he saw as right, not what was politically expedient.

His hard work has earned him a role as a leader of the national Democratic Party. As a candidate in the 1984 primary campaign, Senator HART won 27 primaries and caucuses. He led 1,200 delegates to the National Democratic Convention.

He will pursue the rational debate and deliberation of public policy when his Senate career ends. I know his contribution to the policy debates of our time will energize and elucidate all Americans, as they have his colleagues in the Senate.

SOUTH DAKOTA PARKS VISITATION DOWN IN BOOM YEAR—REASONS UNCLEAR

Mr. PRESSLER. Mr. President, 9 percent fewer visitors have visited Mount Rushmore this year compared to last year, but we lack the tools to say why. With my home State of South Dakota embarked upon a promotional plan to increase tourism by 20 percent during the next 4 years, this is a matter of real concern.

Witnesses appearing before my Subcommittee on Business, Trade, and Tourism during an October 1 hearing on the adequacy of Federal data collection activities testified that this concern is prevalent throughout the travel and tourism industry. They believe the Federal Government has dropped the ball in this area, and that the industry is suffering as a result.

The message delivered during that hearing was clear: travel and tourism related businesses, State, and local governments, and even Federal agencies need more information if they are to make the best use of their shrinking budgets.

The Mount Rushmore situation is a good case in point. Before there can be a cure, one must pinpoint a cause. The drop in attendance at that monument has been attributed to a variety of potential causes, none of which can be confirmed without a better picture of what is happening on a nationwide basis.

Potential visitors may have been scared off by early predictions of overcrowding at our national parks. The economic problems faced by the farm families in South Dakota and bordering States—which contribute the most visitors to the monument—have undoubtedly played a large role. The real reasons may never be known, unless the Federal Government begins to take seriously the need for better travel and tourism statistics.

During the subcommittee hearing, we were told that most Federal and private policymakers are frustrated by the lack of a standardized and recurring survey which would help them analyze changes as they occur. Many travel and tourism statistics users feel that the last year for which we had an accurate picture of what was happening in travel and tourism in America was 1977. That was the last year in which a national travel survey [NTS] was undertaken by the Bureau of the Census.

The impact felt in the absence of the NTS, or similar data collection activity, was described by the witnesses at the hearing as follows:

Mr. Roger Whyte, Deputy Undersecretary for Travel and Tourism, U.S. Travel and Tourism Administration [USTTA], testified that his agency finds it difficult to analyze international travel to individual States in order to help them develop effective marketing plans.

Mr. Richard Walsh, Director of the Office of Economics, Office of the Assistant Secretary for Policy and International Affairs, Department of Transportation [DOT], testified that his Department lacks the ability to analyze travel patterns related to trips of over 100 miles from home—which account for almost 20 percent of all highway vehicle miles traveled annually.

Mr. Ken Hornback, chief of the statistical unit for the National Park Service, testified that his office lacks the tools with which to understand the changing characteristics of the average family in this country so appropriate planning can take place to prepare our parks for the recreational needs of the future. There is a new generation of travelers arriving on the scene: two-income families with one or no children, a week or two to spend on vacation, and a preference for traveling by plane. Understanding and responding to such changes demands analysis which is not currently possible.

Dr. Douglas C. Frechtling, director of the privately sponsored U.S. Travel Data Center, testified that only the Federal Government has the ability to obtain information of the scope and level of detail that is required for planning decisions to be made by State travel offices, city convention and visitors bureaus, and thousands of small businesses. Vital information on origin and destination related travel patterns by region and State has not been available since the NTS was last conducted in 1977.

Statements such as these provide considerable evidence that the travel and tourism industry in this country is operating what might be called a statistical black box. What is necessary for its illumination is our Nation's reinvestment in gathering accurate and timely data, such as that once collected by the NTS.

This is not to say that the NTS is the only vehicle that should be considered for collecting needed information. The hearing I conducted last Wednesday is only the beginning of a process to learn what information is available and how people can obtain it, and what actual data gaps exist and how they might be filled.

If States are to reap the economic benefits from promoting attractions like Mount Rushmore, they need to be able to understand why people across the country are coming to visit them, or not. They need to know when trends are developing that will affect the way they should do business. They need to know how to invest limited resources in the most effective marketing efforts.

During the upcoming Congress I will be consulting with representatives of Federal, State, local, and private organizations to consider possible options for developing and funding a survey which would fill the data gaps that exist. A number of approaches will be explored ranging from full Federal responsibility to the possibility of building a consortium of private and public data users.

The future is only a step away. I urge my colleagues to join me in working to ensure that the travel and tourism industry in this country is equipped to face it successfully.

TRIBUTE TO DEPARTING SENATORS

CHARLES MC C. MATHIAS, JR.

Mr. PRYOR. Mr. President, when Senator McC. MATHIAS leaves the Senate at the end of the current session, we will be losing one of the true gentlemen scholars this body has known. Senator MATHIAS is my friend, and he is the friend of all Americans who cherish what's good and decent and upright in this country.

Senator MATHIAS has distinguished the Foreign Relations Committee with his experience and wisdom, as well as the Aeronautical and Space Sciences Committee, the Joint Committee on the Library, the Government Affairs Committee, and the District of Columbia Committee.

And, probably more crucial for those of us serving every day in the Senate, he has been chairman of the Rules Committee—that sensitive body that determines administration and operating procedures, and budgets, and laws governing campaign finance. On a daily basis, this nuts-and-bolts committee has tremendous sway over our lives.

Always, Mr. President, and without fail, Senator MATHIAS has been courteous and fair and equitable in this sensitive area. I have seen him under great pressure, and he has always dispatched this difficult job with a balance of judgment and good sense that's called for in such a chairman.

I want to mention, finally, the record Senator MATHIAS has put together in controlling the spread of nuclear weapons. He has been a staunch and fearless advocate of arms control legislation since he first came to Congress. He was an adviser to the SALT II delegation and an observer at the START talks in Geneva. Although active in other foreign policy matters, this issue has always been important to Senator MATHIAS, and we owe him our thanks and recognition for those tireless efforts.

Mr. President, we will miss McC. MATHIAS in this Chamber. I wish him well as he retires to that beautiful farm, "Bullskin," in the countryside he loves so much. His accomplishments will always be a part of the history of the Senate.

GARY HART

Mr. PRYOR. Mr. President, the close of this session marks the end of an illustrious Senate career for our colleague, GARY HART. First elected to the Senate in 1974, Senator HART has served with distinction as a member of the Budget, Environment and Public Works, and Armed Services Committees.

He was Congress' earliest voice for military reform and a cofounder of the Congressional Military Reform Caucus, the chair of which it has been my privilege to serve this session of the Congress. GARY HART spoke the loudest and got the attention of a number of us who share his view that the Pentagon is not above continued scrutiny of the performance of its programs and its personnel.

GARY HART and I have labored together on another issue about which we both feel quite deeply. We share a belief that the moratorium this Government has observed with respect to the production of lethal nerve gas weapons must be continued. We must not allow these terrible weapons to be restockpiled. The Senate will miss his leadership on this issue, but I want him to know that there will be a number of us who will continue speaking out for that cause.

On January 4, 1986, GARY HART announced his plans to retire from the Senate. I doubt that he will confine his activities to writing, a profession

for which he also has immense talents. I fully expect that he will continue to be a national voice in our party—a man whose thoughts and ideas will be sought as our party prepares for the future.

PAUL LAXALT

Mr. PRYOR. Mr. President, PAUL LAXALT has chosen to leave this body when the 99th Congress adjourns. I want to add my words of tribute to those he has already received.

Though we are not of the same political party, I have continually been impressed with the manner in which Senator PAUL LAXALT has discharged his role as the recognized "best friend" of President Reagan. When called upon by our President to represent this Nation as a foreign emissary, PAUL LAXALT, in every instance, without hesitation, has accepted. Without exception, we, on both sides of the aisle, respect PAUL LAXALT.

The manner in which he handled the delicate situation in the Philippines during the upheaval in that country is clear evidence of PAUL LAXALT's strength and steadiness.

A Senator of many legislative accomplishments, PAUL LAXALT will be particularly remembered for his work on the Comprehensive Crime Control Act of 1984—legislation regarded by most as the most sweeping piece of anti-crime legislation in the history of the Congress.

The people of Nevada are fortunate to have been served so well by PAUL LAXALT's quiet determinations.

BARRY GOLDWATER

Mr. PRYOR. Mr. President, few of us will ever be able to amass even a small portion of the legislative legacy of retiring Senator BARRY GOLDWATER.

From serving on the Phoenix, AZ, City Council to chairing the Senate Armed Services Committee, Senator GOLDWATER has given 37 years of his life to service in government. Probably his finest hour in the legislative battlefield came earlier this year with the passage of the Defense Reorganization Act of 1986—a measure which appropriately is named for him. In the years to come, our children will recognize the importance of this legislation in revamping our military services and their programs and procedures.

We owe him a debt of gratitude for his service as chairman of the Senate Select Committee on Intelligence and for his stewardship as a member of the Commerce, Science and Transportation Committee, the Small Business Committee, the Select Committee on Indian Affairs, and the Aeronautical and Space Sciences Committee.

BARRY GOLDWATER is certainly deserving or more time with his family. Their gain is the Senate's loss. We will miss his persistence in reminding us regularly of the need for a strong national defense, a fiscally sound budgetary policy, and vigilance in protecting our cherished freedoms.

I hope that we can count on BARRY GOLDWATER to admonish us in the future should we be straying from that course, in the inimitable way that he has done so for almost 40 years.

RUSSELL LONG

Mr. PRYOR. Mr. President, in 1979, the Reader's Digest described Senator RUSSELL LONG in this way: "A consummate strategist and persuasive advocate, power broker and wheeler-dealer par excellence, he has become, in ways rarely understood by the public, one of this country's greatest movers and shakers."

I want to associate myself with those remarks, Mr. President, and stand here today to pay tribute to my friend and mentor, Senator RUSSELL LONG, with genuine regret that he is leaving the Senate. But let me add that I wish him the very best in his new challenges when he returns to his beloved Louisiana.

It is hard to imagine the U.S. Senate without RUSSELL LONG. It is hard to imagine the Senate Finance Committee without RUSSELL LONG. Our colleague, Senator BOB DOLE, said at one time that "RUSSELL LONG knows more about the Tax Code than all of us combined." And I believe this to be true.

When I came to the Finance Committee in 1983, Senator LONG was not only my model but my friend as well. Faced with a bewildering array of figures and issues and questions of public policy that ranged from taxes to trade, I was in need of leadership and guidance. And it came from the senior Senator from Louisiana. I will never forget his example, his willingness to be the coaxing nudger when that was so clearly what I needed.

Senator LONG came to the Senate in 1948, one day before his 30th birthday. And what changes and developments he has seen since that time. Our post-war economy was fashioned in those years, with the guidance of Senators such as RUSSELL LONG. Our present strong defense was defined and executed then, and our health care system, and our network of public education, and the transportation improvements that have made this country accessible in all its corners.

Someone asked me once who was the founder and defender of the ESOP Program—the Employee Stock Ownership Plan that gives tax advantages to corporations that allow their employees ownership of company stock. Of course, it is RUSSELL LONG. And then I thought of other programs he might be grandfather to—revenue sharing, child support enforcement, financial election checkoff plans, and numerous benefits under Medicare. The list goes on and on.

What I will personally remember RUSSELL LONG for is his shrewd understanding of the workings of the Senate and the sense of humor he is always able to employ when describing them. There are many times in this body, Mr. President, when we must laugh and appreciate what is humorous and funny in order to avoid becoming cynical and fall into despair over the world and its troubles. Never have I seen RUSSELL LONG give up on the Senate. Never have I seen him give up on the American people or the country he loves and has served so faithfully throughout the years.

THOMAS F. EAGLETON

Mr. PRYOR. Mr. President, I recall the shock and dismay all of us felt in the summer of 1984 when our friend and colleague, TOM EAGLETON, made the announcement that he would not seek reelection to the Senate. At the same time, we championed this decision as one that came from someone who had worked long and hard and who wanted to move on to other areas of contribution and participation.

Now the time has come for our colleague, TOM EAGLETON, to make that move, and for that reason I am sorry to see the end of this session of Congress come. Senator EAGLETON has been a personal example to me—an example of dedication and public spirit, of fairness, and of good judgment in the face of great pressures.

The work Senator EAGLETON has done on the Government Affairs Committee was an inspiration when I first came to the Senate in 1979. He knows how the Government works better than anybody. He understands the bureaucracy and the frustrations all of us meet in cutting through redtape and getting down to bare-bones service to the people. Time and again, I have seen TOM EAGLETON bore into an issue and come out with clean evidence that fraud and abuse have indeed occurred, that an inspector general is now more necessary than ever before, and that the recovery of lost dollars and hours is possible after all.

Senator TOM EAGLETON has always waged a fearless fight for the handicapped, the poor, the elderly, and those oppressed by big power wherever it occurs. He was a guiding light in putting together the National Institute on Aging and in making available extended services under the Older Americans Act. These are typical of the courage and dedication he has shown as a Senator. They are only part of what distinguishes his record and the legacy of TOM EAGLETON in the Senate.

In addition to his public record, TOM EAGLETON will be missed because he is a warm and personable colleague. He is my friend, Mr. President, and I will miss seeing him daily in this Chamber. His decision to move into law and teaching is a fortunate one for his

native Missouri, and I can only wish him well in this new challenge.

PRESIDENT KYPRIANOU SPEAKS TO THE UNITED NATIONS ON THE SITUATION IN CYPRUS

Mr. PRESSLER. Mr. President, recently President Kyprianou of Cyprus spoke to the members of the U.N. General Assembly about the plight of Cyprus, and I ask that his speech be inserted in the RECORD following my remarks. His statement makes clear that Turkey has refused to abide by the demands of the international community for the withdrawal of troops, respect for the territorial integrity of Cyprus, withdrawal of colonizers sent from the Turkish mainland to occupy Greek-Cypriot homes and property taken in the 1974 invasion, and resolution of the cases of the five missing Americans and 1,600 Greek Cypriots missing from 1974. President Kyprianou states:

"Despite the oppressive presence of the Turkish occupation troops and settlers which makes mockery of free negotiations as provided for in the landmark General Assembly resolution 3212, we have not refused to negotiate. We have been negotiating for the past 12 years under duress and under all sorts of pressures."

He is absolutely right. The Republic of Cyprus has a population just slightly more than that of a typical U.S. congressional district. Yet 37 percent of its territory is occupied illegally. And do we really expect a government in such a situation, with a gun pointed at its head, to give up its sovereignty and dissolve itself with only a promise of future troop withdrawal? Of course not. Yet that is what the most recent U.N. settlement proposal called for.

Cyprus deserves better. The United States must stand for the rule of law and respect for human rights and territorial inviolability, and if that requires more active United States involvement in the effort to reach a fair settlement for Cyprus, then that should be the next and urgent step for the United States Government to take.

The speech follows:

STATEMENT OF PRESIDENT SPIROS KIPRIANOU BEFORE U.N. GENERAL ASSEMBLY, SEPTEMBER 25, 1986

Mr. President, when we gathered in this hall last year to celebrate the 40th anniversary of the United Nations and evaluate the progress achieved in translating its principles and purposes into living realities, we concluded that the record was still far from being satisfactory. Now, a year later, the record is not much better.

The situation prevailing in the world continues to be more often one of affront and violation of the very principles and purposes of the UN Charter rather than one of commitment and adherence to them. Thus, the use or threat of use of force in international relations, aggression, military occupation, and foreign interference in the internal affairs of states as well as the persistent violation of human rights in many parts of the world are still frequent phenomena. No one can deny that if this frightening vulnerability of the international political system remains unchecked, it would vitiate the very concept of collective security which lies at the heart of the Charter, not to speak of the ultimate disastrous consequences on humanity as a whole. [passage omitted]

Mr. President, I now finally turn to the grave situation we are confronted with in Cyprus, a situation with which the General Assembly and the Security Council are only too familiar. In fact the reason why the Cyprus problem still exists is the nonimplementation of the resolutions of the General Assembly and the Security Council. This is an example of the weakness of our organization I referred to at the beginning of my statement. But if the Cyprus problem is to be properly and reasonably solved the implementation of the resolutions of the United Nations constitutes an absolute necessity. There is no alternative. Various attempts have been made to solve the Cyprus problem away from the provisions of the charter and the resolutions of the United Nations. These attempts have unavoidably contributed to the perpetuation of the unresolved crisis and indeed to the worsening of the situation. It is only when all efforts are concentrated on implementing the provisions of the relevant resolutions of the United Nations that progress toward a just and lasting solution can be achieved.

The elements contained in the UN resolutions for a solution to the Cyprus problem represent the only realistic approach. We are ourselves in the process of considering what should be done next on our part in pursuance of the implementation of the UN resolutions.

Twelve years have gone by since the inhuman invasion of Cyprus by Turkey. Despite the condemnation of the aggression, 37 percent of our territory is still under the occupation of Turkish troops, one third of our population are still refugees forcibly prevented from returning to their homes and ancestral lands, the missing persons are still unaccounted for, while the occupying power persists in its calculated policy of consolidating the occupation and the division of the country.

Turkey still maintains an occupation of about 30,000 men. She has implanted in the occupied part 60,000 colonist settlers from her Anatolian provinces. In fact the Turkish Cypriot community itself is now submerged under the vocal colonist element and one of the most ominous recent developments, ominous for Cyprus and for the Turkish Cypriot themselves, is the fact that the political party which was formed by the settlers is now playing a determining role in the so-called government in the occupied area of Cyprus. The systematic large-scale implantation of colonist settlers from Turkey in a calculated attempt to change the age-long demographic character of Cyprus, in addition to the presence of the Turkish troops of occupation and the solution she envisages, is a manifest attempt by Turkey to place our country under her permanent political and military control. Throughout this period Turkey has been taking a series of partitionist steps culminating in the 1983 blatant attempt at secession which was condemned by the United Nations in Security Council Resolutions 541 and 550.

Neither Security Council Resolutions 541 and 550 calling for the reversal of all secessionist acts nor the other resolutions of the Security General and of the General Assembly calling for the withdrawal of the occupation troops, for the respect of the sovereignty, territorial integrity, unity, and nonalignment of Cyprus, calling for the return of the refugees to their homes, condemning the influx into the occupied area of colonist settlers from Turkey, calling for the cessation of foreign intervention in the internal affairs of Cyprus have been respected by Turkey.

Turkey has been able to ignore with impunity every principle and norm of justice and morality. Turkey felt in a position to ignore completely the General Assembly and the Security Council. It is obvious that free from any real pressure Turkey has not so far felt the necessity to give up her expansionist and partitionist plans against the small, defenseless and nonaligned Republic of Cyprus.

Mr. President, occasionally an attempt is made by some to present the Cyprus problem as a dispute between the Greek Cypriots and the Turkish Cypriots. Nothing could be further from the truth. The problem of Cyprus in its essence is a problem of invasion and occupation aiming at the imposition of a solution that will serve the expanionist designs and other interests of Turkey in the region. There may be internal differences to be settled between the Greek Cypriots and the Turkish Cypriots. I am convinced, however, that these differences would have been solved many years ago if it were not for the presence of the occupation troops and the foreign intervention.

Despite the oppressive presence of the Turkish occupation troops and settlers which makes mockery of free negotiations as provided for in the landmark General Assembly Resolution 3212, we have not refused to negotiate. We have been negotiating for the past 12 years under duress and under all sorts of pressures. In our genuine desire to reach a peaceful solution we have made a series of concessions to an extent that no other government I believe would have ever gone in similar circumstances. In fact if the concessions we have offered in connection with the constitutional and territorial aspects of the Cyprus problem were applied to other states having ethnic minorities with separatist inclinations a large number of states would be confronted with permanent instability and even complete disintegration. And yet all the concessions we have offered, away from such internationally recognized and accepted democratic principles as majority rule and one man one vote, have not been considered enough. They now want us to make even further concessions to the point that it would mean the legalization of the results of the invasion and a prescription for new deadlocks and conflicts, with reprecussions beyond Cyprus.

Mr. President, I have to be very frank. Unfortunately the mentality prevailing in certain quarters, which we very much resent, is that pressure must be exercised on the victim being the weak side and not on the stronger party, namely Turkey, irrespective of the fact that she is the aggressor and the wrongdoer. Some consider this more practical. They consider a solution easier through continuous conscessions on the part of the weak side, irrespective of the merits of the case or the principles and moral issues invovled. But even if we suppose that this attitude prevails and succeeds the net result would not be a just and viable solution, but instead it would be the beginning of a new crisis with far-reaching consequences. Let me at this point make clear that despite the

many difficulties we are encountering, despite our weaknesses and the different pressures, we cannot under any circumstances agree to a solution which will place Cyprus directly or indirectly under the military and political control of Turkey, or a solution that because of its inequity and unworkability would lead to a new Cyprus problem, to new conflicts, and to new tragedies. The solution must be just, viable, and workable and in full conformity with the charter and the resolutions of the United Nations.

Mr. President, we have extended our sincere cooperation to the secretary general of the United Nations in the exercise of his mission of good offices, which is well defined in the resolutions of the United Nations. We have done this motivated by a genuine desire to achieve a peaceful and fair solution in strict conformity with the Charter and the resolutions of the United Nations. We shall continue the dialogue with the secretary general in the same spirit.

The internal aspect of the Cyprus problem is of course important. We have been negotiating on the internal aspects, namely the constitutional and territorial, for a federal system for almost 12 years. We all know where both sides stand on these. But we do not know where the Turkish side stands with regard to the basic issue of the withdrawal of the occupation troops and settlers, the question of international guarantees, and the question of the application of fundamental freedoms and human rights for all Cypriots.

In a letter I addressed to the general on 10 June 1986, I explained to him our position with regard to his latest initiative and I suggested to him how we might proceed forward. Progress cannot be made by demanding more and more concessions from one side to the point that an arrangement will be both totally unjust and unworkable. In fact all the concessions we made in the past which, I repeat, no other government in my humble view in our position would have made, were contingent upon acceptance of the position that the subject matter of the resolutions of the United Nations relating to the withdrawal of the occupation troops and settlers, the question of the effective international guarantees with no spurious claims of rights of unilateral interventions, and the application of the fundamental freedoms and human rights for all Cypriots were priority questions to be discussed and settled urgently. If agreement on these three fundamental issues is not possible there is no point in discussing further the constitutional aspect of the problem. If on the other hand agreement on the three vital issues proves possible that will facilitate an overall agreement as provided for in the resolutions of the United Nations. The way out, therefore, would be without further delay and as a matter of priority to tackle the important issues of the Cyprus problem.

Mr. President, the problem of Cyprus is a problem of the United Nations and it should be solved within its framework and in conformity with its Charter and its resolutions. This has always been our position and it will continue to be so, but it is only natural and I hope understandable to expect efforts and initiatives which will preclude the realization by Turkey of her sinister designs at the expense of Cyprus or any arrangement that might lead, because of its unworkablility, to new conflicts and new crises.

If progress is to be made the international community must at last find the way to make Turkey feel the necessity to abandon her expansionist and partitionist plans at the expense of Cyprus. Meaningful and effective efforts toward checking Ankara's intransigence are necessary and fully consistent with the obligations of all the members of the United Nations to ensure the implementation of its resolutions. Equally, we welcome any proposals from any side that contribute toward finding a just solution to the Cyprus problem. In this connection I wish to reiterate that we welcome the proposals made by the Soviet Union last January on the principles of a Cyprus settlement and ways to reach it. These proposals are fully consistent with the principles of the Charter and the resolutions of the United Nations. In order to address the major components of the Cyprus problem the proposals call for the convening of a representative international conference under the auspices of the United Nations. We urge all concerned to consider this suggestion, which we fully support, seriously and urgently.

Mr. President, It is not the first time I address the General Assembly and it is not the first time that I speak in this hall about the Cyprus problem. I repeatedly appealed to the General Assembly and the Security Council to take concrete steps for the implementation of the UN resolutions. I repeatedly appealed to all the members to place the Cyprus problem higher on their list of priorities.

For how long will the occupation of a large part of our territory continue? For how long more the refugees will forcibly remain away from their homes and for how long more the fate of the missing persons will remain unknown? For how long more the human rights of our people will be denied? For how long more the people of Cyprus will live in agony about their future and their very survival?

The Cyprus problem may appear to be a complicated problem, but in its essence is a simple one. If Turkey is made to see reason and the resolutions of the United Nations are implemented the Cyprus problem will be solved. Cyprus is a small island but it has all the possibilities to be a happy place for all its inhabitants irrespective of ethnic origin. This can be achieved without the presence of occupation troops and without dividing lines. This can be achieved without foreign interferences and interventions. We want peace, security, and stability in Cyprus. We want freedom. We want human rights for all our citizens. Cyprus is truly a test case for the United Nations.

KIPRIANOU COMMENTS ON MEETINGS AT UN TO HELLENIC RADIO TELEVISION, ERT, SEPTEMBER 27, 1986

My talks with the UN secretary general, the U.S. secretary of state, and the Soviet foreign minister have all been substantive. I had the opportunity to explain our views on the latest developments in the Cyprus issue in detail, as well as present our opinions about what should be done.

In all my meetings, I have emphasized that Cyprus cannot accept a solution which would place it either directly or indirectly under Turkey's political or military control. Cyprus also cannot accept a solution that will only collapse and lead the country into new tragedies. These were the main points which I made during my talks with the UN secretary general and the foreign ministers of the two superpowers. I also stressed these points in all my other meetings.

During my talks with the UN secretary general, I naturally explained our reply to his recent proposals. I pointed out why it is now imperative to give priority to the well-known basic question; namely, the withdrawal of troops and settlers, the need for effective guarantees, and the protection of human rights. It is impossible to have an endless discussion about the constitutional aspects of the Cyprus issue. This has been going on for 12 years and look where it has led us. We must achieve some sort of substantive progress, or I should say agreement, on the basic aspects of the Cyprus issue that will constitute prerequisites for an overall Cyprus solution.

The UN secretary general listened very carefully to my analysis. I gave a similar presentation during my other talks. We must now wait and see what the UN secretary general's next step will be. He has given me some indications in this regard, but at this stage I should not make any further comment.

I would like to add something else, however. As a result of my various meetings, I have noted a greater interest in the Cyprus issue this year as compared to last year. Perhaps this is due to the nonaligned conference, or to developments in general. Maybe it is the result of efforts on the part of the Greek and Cyprus Governments. I cannot predict future developments. We must keep a close watch on the situation. I would not like to rule out the possibility of a debate at the UN General Assembly if developments so warrant.

RETIRING SENATORS

TRIBUTE TO THOMAS F. EAGLETON

Mr. PRESSLER. Mr. President, when the 99th Congress stands in adjournment, the Senate will bid farewell to Senator THOMAS EAGLETON, the senior Senator from Missouri. I have had the privilege and pleasure to work with Senator EAGLETON on the Foreign Relations Committee and regret that he is retiring after 18 years in the U.S. Senate.

TOM EAGLETON seemed destined for a successful political career soon after receiving his law degree from Harvard. In 1953, he was elected circuit attorney of St. Louis and quickly became State attorney general and Lieutenant Governor of Missouri. He first won election to the Senate in 1968.

He is the ranking Democratic member on the Governmental Affairs Committee and also is a member of the Foreign Relations and Select Intelligence Committees. As a member of the Appropriations and Labor and Human Resources Committees until the 99th Congress, Senator EAGLETON played a paramount role in writing much of the social legislation of the 1970's. He demonstrated his concern for the elderly and policies affecting this special segment of our society by helping to create the National Institute on Aging. In addition, Senator EAGLETON was instrumental in expanding the services offered under the Older Americans Act.

I appreciate the opportunity I've had to work with TOM EAGLETON in the U.S. Senate. His empathy for others compelled him to apply his scholarship and political expertise to the writ-

ing of law assisting the less fortunate. No amount of praise would be adequate to commend Senator EAGLETON's effective efforts in the Senate. I wish him life's best in all his future activities.

TRIBUTE TO PAUL LAXALT

Mr. PRESSLER. Mr. President, I am honored to have worked with my friend and colleague, Senator PAUL LAXALT of Nevada, who will not be seeking reelection this year.

A dedicated public servant, he can be credited with numerous legislative accomplishments. During his two terms as U.S. Senator, PAUL LAXALT worked diligently on regulatory reform and crime control legislation. He fought long and hard to defeat a picketing bill and won. A close friend of President Reagan, Senator LAXALT was instrumental in persuading the President to modify a questionable MX missile deployment proposal in 1981.

After completing law school in 1949, PAUL LAXALT was elected Ormsby County District Attorney and was later a city attorney in Carson City, NV. He also was elected Lieutenant Governor and Governor of Nevada. Senator LAXALT's outstanding U.S. Senate career began when he was elected to this body in 1974.

During the 99th Congress, Senator LAXALT has been an effective member of the Appropriations Committee, where he chaired the Commerce, Justice, State and Judiciary Subcommittee. While serving on the Judiciary Committee, he chaired the Criminal Law Subcommittee.

The Senate will be losing one of its best and most personable members when the 99th Congress adjourns. PAUL LAXALT's wisdom, dedication and legislative talent are enduring assets which will make him a successful leader in all his future endeavors.

I commend Senator LAXALT for 12 years of exemplary work as a U.S. Senator, and wish him the best of luck in the years to come.

TRIBUTE TO GARY HART

Mr. PRESSLER. Mr. President, Senator GARY HART of Colorado will not be seeking reelection this year in order to devote more time to the pursuit of other interests. This gentleman has made great contributions to the Nation during the two terms he has served in the Senate. It has been an honor and a pleasure to serve with Senator HART and I am certain he will work hard to carry out the priorities he has established for himself in the Senate in all his future endeavors.

Defense and energy were two issues that received major amounts of Senator HART's time and effort. In the area of defense, he focused our attention on the over-reliance on sophisticated weaponry where emphasis on small, maneuverable ships and airplanes might be more effective. He also staunchly supported policies lessening U.S. dependence upon imported oil long before this issue dominated the political scene.

After graduating from Yale University Law School in 1964, he was an attorney for the U.S. Justice Department for a short period of time. Then the future Senator worked as a special attorney for the U.S. Department of the Interior and later practiced law in Colorado. He immersed himself in politics as the national campaign director for Senator GEORGE MCGOVERN's bid for the Presidency in 1972. His experience as a campaign manager helped in 1974 when his own bid for the Senate was successful. During the last Presidential election, GARY HART sought the democratic nomination. Through all of these efforts, GARY HART has proved himself to be one of the foremost players on the American political stage.

Senator GARY HART has displayed an ardent interest in the future of our Nation's environment and our Nation's defense. He is to be commended for his consciousness-raising efforts within this body and across the Nation. Although the Senate will be losing the benefit of this intellect and ideals, we are indebted to Senator HART for the fresh insights he brought to this institution.

TRIBUTE TO RUSSELL LONG

Mr. PRESSLER. Mr. President, the Long family has been an institution in Louisiana politics for many, many years. Today it is my privilege to pay tribute to the retiring senior Senator from Louisiana, RUSSELL LONG. After having served 38 years in the Senate, he is leaving this distinguished body to enjoy a much deserved retirement.

Senator RUSSELL LONG has a very impressive career and is held in the highest esteem by his friends and colleagues. After receiving his law degree in 1942 from Louisiana State University and practicing law for a few years, he was elected to the U.S. Senate in 1948 to finish the term of John Overton, who died while in office. Six successful reelection bids followed RUSSELL LONG's introduction to the Senate—a powerful recognition of his hard work for the citizens of Louisiana and the Nation. He also served as the Senate majority whip from 1965 to 1968.

Senator LONG is renowned for his accomplishments as chairman of the Senate Finance Committee from 1966 to 1980. His unquestionable mastery of the Tax Code helped to shape important tax reform initiatives, perhaps more than any other Senator. Two of LONG's many accomplishments as chairman of the Senate Finance Committee include the voluntary tax check-off provision that provides public funds to Presidential campaigns and the tax credit program for companies that offer stock ownership plans to their employees. He also worked tirelessly to implement tax policies to help the working poor.

During the 99th Congress, Senator LONG has held the prestigious position of ranking Democrat on the Finance Committee and on the Surface Transportation Subcommittee. The Select Committee on Ethics and the Joint Committee on Taxation also were graced with RUSSELL LONG's intellect and talent, and I am honored to have served with him on the Commerce, Science, and Transportation Committee.

Senator RUSSELL LONG is leaving the Senate, but his impeccable reputation as a warrior for the common person will not be retired. I join my colleagues in lauding this great man for his 38 years of dedicated work on behalf of a better, fairer nation. The world is a better place because of men like RUSSELL LONG, and the principles he advanced, and I extend my congratulations to him for a job well done.

TRIBUTE TO BARRY GOLDWATER

Mr. PRESSLER. Mr. President, one of the privileges I have enjoyed during my nearly 8 years in the U.S. Senate is working with the senior Senator from Arizona, BARRY GOLDWATER. As the 99th Congress draws to a close, this body will bid a fond farewell to a great man and a great patriot. I would like to take a few moments to reflect briefly upon Senator GOLDWATER's impressive career.

From 1930 to 1967, he was a member of the U.S. Army Reserve and the Air Force Reserve. Senator GOLDWATER began his political career in 1949 when he was elected to the Phoenix City Council. In 1952, he was elected to the first of two successive terms in the U.S. Senate. Senator GOLDWATER did not seek a third term when he won the Republican candidacy in the Presidential election of 1964. He returned to his position of U.S. Senator from Arizona in 1968 and has held that office ever since.

Throughout his tenure in the Senate, Senator GOLDWATER has adhered sincerely to his political philosophies and worked hard to fulfill the goals he set for himself. When he became chairman of the Commerce Subcommittee on Communications in 1981, he continued to carry out his belief in less government by working toward the removal of excessive governmental bureaucracy from broadcasting. Similarly, he has carried out his interest in and dedication to our Nation's military personnel and his conviction in the need for a strong national defense through his chairmanship of the Senate Armed Services Committee.

He is justifiably proud of his service to Native Americans through his active leadership on the Indian Affairs Committee.

I have been fortunate to have had the opportunity to serve on the Commerce, Science, and Transportation Committee and the Small Business Committee with such a distinguished and respected Member of this body.

One of the highlights of my association with him was his visit to South Dakota with me in 1984. South Dakotans strongly supported him and continue to regard him with the highest respect and affection, as I do.

Senator BARRY GOLDWATER has devoted his life to the service of his country and I applaud him for his unfailing and successful efforts. While we will miss BARRY GOLDWATER's presence greatly, the ideals and principles he espoused will continue to guide the Senate and constantly remind us and future generations that the greatness of man arises from faithful commitment to those noble values.

TRIBUTE TO CHARLES MCC. MATHIAS, JR.

After 18 years in the U.S. Senate, Senator CHARLES (MAC) MATHIAS is retiring to devote his keen skills to teaching and practicing law, as well as spending more time with his family. This body is honored to have claimed MAC MATHIAS as a Member, and the citizens of the State of Maryland are fortunate to have been so conscientiously represented. I personally have enjoyed working with my colleague from Maryland, and it has been a pleasure and an education to serve with him on the Foreign Relations Committee.

MAC MATHIAS is famous for his concern for justice and equality for the needy and disadvantaged. A staunch advocate of civil rights legislation, he also has been a leading supporter of many social programs, such as the Job Corps. His knowledge of the law and the Constitution has always guided him when Senate business presented him with difficult decisions. Senator MATHIAS fought to keep the ever-growing defense budget in perspective, and searched tirelessly for ways to bring an end to the escalation of the arms race.

CHARLES MATHIAS began his illustrious career with the study of law. After receiving his law degree from the University of Maryland in 1949, he spent a year as assistant attorney general of Maryland, 4 years as city attorney in Frederick, and 2 years in the Maryland Legislature. His political career expanded to the national level where he served in the U.S. House of Representatives from 1961 to 1969, and in 1968 he was elected to the U.S. Senate.

Senator MATHIAS is completing his Senate service as chairman of the powerful Rules and Administration Committee and as a valuable member of the Governmental Affairs, Judiciary, and Foreign Relations Committees. His dedicated service in Congress also culminates in other leadership positions, as chairman of the Joint Committee on Printing and as one of the vice chairmen of the Joint Committee on the Library.

I congratulate this learned scholar on his outstanding and distinguished performance as a U.S. Senator. MAC MATHIAS's life and leadership in this body have been characterized by intelligence and compassion. After leaving the Senate I hope he continues to find his path filled with the same success and good fortune that have marked his career among us.

FOCUS ON LIBYA

Mr. DENTON. Mr. President, much concern has been expressed in the news media over the reported administration deception plan to help destabilize the regime of Mu'ammar Qadhafi in Libya. While we applaud the determination of the administration to take effective action to bring to an end Libya's outrageous behavior as a prime sponsor of international terrorism, we must take issue with the judgment that any alternative to Qadhafi would be better for U.S. interests.

Mr. President, such a judgment obscures the high probability that were Qadhafi to be toppled as a consequence of U.S. actions, his most probable immediate successor would be Maj. Abdel Salem Jalloud. Jalloud has long been identified as Moscow's man in Libya. Thus, to facilitate Jalloud's rise to power may well mean the ultimate transformation of Libya into a Soviet base on the southern flank of NATO.

Mr. President, I have an advance copy of the October issue of "Focus on Libya" which points out most clearly that while the United States has focused its attention almost exclusively on the terrorist antics of Qadhafi, he has been working aggressively and astutely to destabilize Egypt, and establish a commanding influence in sub-Saharan Africa, a region of vital strategic importance to us and our allies.

Mr. President, there is substantial cause for concern over the apparent failure to develop an acceptable alternative to Qadhafi beforehand, rather than precipitate Qadhafi's downfall and trust to serendipity to prevent a Soviet-backed takeover. As observed in the article I have referred to, "it would be a tragedy if the seeds of empire that Qadhafi has so carefully planted in strategically important Africa were to be harvested by the Soviet Union, aided and abetted by a United States that couldn't quite see the forest because of the trees."

Mr. President, I ask unanimous concern that the attached article entitled "Focus on Libya," by Dr. Martin Sicker, be placed in the RECORD.

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

FOCUS ON LIBYA—OCTOBER 1986

WHOSE DECEPTION PLAN?

The strong media reaction to the revelation in the Washington Post on October 2 of a secret Reagan administration deception plan to destablize the Qaddafi regime focused entirely on the question of whether Washington was providing disinformaton to the American press. Completely ignored were the grave implications of the premises of the plan as outlined in the memorandum by National Security Advisor Admiral John Poindexter to the President in preparation for the meeting of the National Security Planning Group.

Poindexter's memo stated: "Most intelligence estimates conclude that in spite of new tensions and Gadhafi's own shock, depression and impaired performance following the April 14 raids he is still firmly in control in Libya." The memo noted further that while there were risks involved, "the benefits of a successful policy demand that every appropriate effort be made to achieve our objectives." Finally, the memo stated that the purpose of taking steps against Qaddafi was to deter terrorism and ultimately to "bring about a change in leadership in Libya . . . *any alternative leadership to Gadhafi would be better for U.S. interests and international order*" (emphasis supplied).

This judgement clearly indicates a serious failure to grasp the realities of the Libyan situation. While any alternative to Qaddafi might indeed reduce Libyan sponsorship of terrorism, or at least reduce its visibility, there is much more at stake in Libya than its support of terrorism. As pointed out in August's "Focus," the critical question is who will take control in Libya if Qaddafi is ousted. It is highly improbable that any of Qaddafi's leading lieutenants have the independent standing or capacity to assume control. Each of them is inextricably linked to Qaddafi they all have Libyan blood on their hands and lack the charisma necessary to exercise unchallenged control of the country. What this means is that if Qaddafi is toppled, his successor will need substantial support from the outside. At the moment, only the Soviet Union is in a position to render such support. As has been pointed out previously in these pages, Qaddafi's longtime second-in-command, Jalloud, would probably move to seize power in the event of his collapse, in conjunction with the other remaining original members of the Revolutionary Command Council and with the backing of the Soviets and the East Germans who continue to have their hands on Libya's internal security apparatus.

While the desire and the will to strike back at international terrorism is commendable, prudence dictates that the longer range consequences of such action be thoroughly understood. The phenomenon we are concerned with is state-supported terrorism, and equal attention must be given to the "state" aspect of the problem. It would be a pyrrhic victory to stop Libyan-backed terrorism by precipitating the overthrow of Qaddafi and in the process swing that strategically located country more firmly into the Soviet orbit. A Soviet dominated Libya would have a dramatic impact not only on the security of the Mediterranean and NATO's southern flank, but also on the future of Africa.

The United States should move decisively to provide a political alternative to Soviet proxy control of Libya, rather than precipitate Qaddafi's downfall and trust to seren-

dipity to prevent a Soviet-backed takeover. Such a takeover would hardly "be better for U.S. interests and international order."

Terrorism, and state-sponsored terrorism in particular, is indeed a most serious problem and significant steps must be taken by the international community against both its perpetrators and backers. However, the Reagan administrations' focus on Libya in this regard is overdrawn. It has obscured not only the fact that the primary sponsors of international terrorism today are Syria and Iran, but also that it is Qaddafi's sponsorship of radicalism that far overshadows in importance his involvement in terrorism per se. Indeed, one could make a persuasive case that Qaddaffi's support of some of the more outrageous terrorist incidents over the past several years are part of his own deception scheme, calculated to draw the attention of the United States away from his more historically important moves in Africa and elsewhere. After all it is only a little more than two years since President Reagan felt compelled to publicly embarass France into taking action in Chad to prevent the collapse of the pro-Western government and the conquest of the country by Qaddafi proxies backed by Libyan troops.

While the United States seems to be preoccupied with Libya's role in terrorism, Qaddafi has been moving aggressively to alter the political map of sub-Saharan Africa, a region of immense strategic importance to the West.

SUDAN: A HIGH PRIORITY TARGET

Even as the Sudanese prepared to go to the polls on April 1 of this year, in the first multi-party election in 18 years, there were already clear signs that Libyan political influence in the country, on the rise since the overthrow of Jaafar Nimeiri a year earlier, had already reached dramatic dimensions. A report from Khartoum on March 29 by Radio France International observed, "it is clear that Libyan influence has taken on proportions much larger than what has been imagined abroad, and that the future Sudanese regime will be closer to the Libyan regime than the current one."

In mid-March, the Sudanese Defense Minister General Usman Abdullah and Prime Minister Dafaalah Djazouli visited Tripoli and concluded a defense agreement. Libya promptly lent the Khartoum government two TU-22 medium range bombers which were immediately used in attacks upon the southern Sudanese rebels. On April 17, obscured by the uproar over the U.S. attack on Tripoli and Benghazi a few days earlier, the Washington Post reported that,

"Greasing its entry with free oil, foreign employment and, most recently, shipments of military equipment, Libya has transformed its image from pariah to powerful patron . . . . In recent years, the United States has been willing to commit more resources to Sudan than to any African country south of the Sahara. According to a senior western diplomat here, the spending is intended to guarantee that Sudan is a pro-American buffer 'of a million square miles that Saudi Arabia and Egypt don't have to worry about.'

"But after a year of head-to-head competition against Libya, a well-placed western official conceded that the Americans' buffer 'has lost a lot of its resiliency. It was Libya that Sudan was supposed to be a buffer against. Now there is a cat among the pigeons.'

"Sudanese officials and western diplomats agree that there is a widespread public feeling in Khartoum that the United States has abandoned the government here in its time of need as civil war escalates in the south against rebels armed and supported by the Ethiopian government.

"Libya, in the meantime, has lent Sudan at least two Soviet-made bombers that have flown raids against southern towns held by rebels of the Sudanese People's Liberation Army. A senior western diplomat here said the United States was never asked by Sudan to provide bombers for the war, but he added that such a request would have been turned down.

"The hostilities between the Reagan administration and Qaddafi have fueled northern Sudanese concern over what they see as anti-Arab intentions of the United States.

"Sudan's defense minister, Lt. General Osman Abdullah, recently described the U.S. confrontation with the 'brotherly Libyans' as part of an American campaign in the region 'that is really against Arabs.'

"'The Americans' timing, in the case of Sudan, is most unfortunate,' a senior western diplomat here said. 'For at the same time as the U.S. is more critical than ever of Qaddafi, Sudan's relations with him are warmer than ever. When Reagan plays to his domestic audience, he loses the people of Khartoum.'"

On September 9, Qaddafi spoke to a rally at Omdurman while on an official visit to Sudan. Among many other points of great interest he asserted:

"There must be a resumption of the call for Arab unity under the banner of Arab nationalism, with all strength and force. We must be prepared to change the map of the Arab homeland. Time will be working against us if we hesitate in realizing this demand . . . A union must be established immediately between Sudan and Libya. Any force from among the people that opposes such a union must be identified, exposed, and fought because it is the enemy of this nation, its future, and its aspirations. Unity o' brothers, at the present stage is not an emotional demand, but it is a necessity, a necessity for survival, a necessity for our survival . . . Unity is the only way by which we can confront not only the United States and Israel and also famine, drought, disease and underdevelopment. Come and take Libya's oil and Sudan's Nile, and let us mix them together for the Libyan and Sudanese peoples."

Qaddafi amplified on this at Khartoum University on September 13:

"I call for the establishment of a union between the two countries. Any action other than unity is a waste of time and a blurring of the issue, and will lead to dangers in the future. There would be danger from pan-Arabism and our existence if Arab unity is not established. Now the atmosphere is suitable for establishing a union between Sudan and Libya. Regardless of the time needed for the establishment of a union, there are huge potentials between the two countries. We can achieve economic integration and benefits for both peoples. Libya has oil and oil derivatives, cement and chemical industries, and 2000 km of coast on the Mediterranean; Sudan has the Nile and rain. Sudan has a large population; Libya has only a small population. Sudan is on the Red Sea and is in the heart of Africa; we are close to Europe and Sudan is close to Africa. This is a great thing. Both countries could complement each other. There are many things we need from Sudan, and Sudan needs things from Libya."

QADDAFI'S STRATEGY

Qaddafi's reach for Sudan has very dire implications for both Egypt and sub-Saharan Africa. With regard to Egypt, Qaddafi is committed to undermining the already shaky rgime of Hosni Mubarak and overturning the Camp David Accords. His elusive goal remains the integration of Libya and Egypt, the leading country of the Arab world, into a new Arab empire. Since he cannot attack Egypt frontally, he is pursuing a strategy of applying pressure through Sudan which controls the head waters of the Nile, Egypt's lifeline.

The transformation of Sudan into a Libyan appendage would isolate Egypt in Africa and threaten its very viability. It would also provide a means of resolving one of Libya's chronic resource problems, the lack of adequate water to sustain a self-sufficient agricultural capability, a problem made worse by the gross mismanagement of Libya's water resources by the revolutionary regime. The optimum way of achieving this would be, as noted in Cairo's Al-Ahram on March 29, 1984, by "the digging of a canal from Lake Nasser to the Kufra oasis and the building of a pipeline from Kufra to Tobruk and from Tobruk to Tripoli, the Libyan capital to carry fresh water from the Nile." On August 7, 1985, Qaddafi reaffirmed this idea in an interview with Cairo's Al-Ahali:

"I believe that the Arab nation can become a paradise. It can become one powerful state. I imagine that it is possible to link the Nile to the great man-made river in Libya, that the Libyan and Egyptian deserts can turn green, and that the western desert can yield fruits and become a green carpet . . . I would imagine that Lake Nasser will be linked to al-Kufra, the source of the great man-made river. Will we not thus create paradise on earth?"

Failing Egyptian acquiesence, Qaddafi would divert the Nile from Sudan to Kufra. This would extend the necessary canal by several hundred kilometers, but would be quite feasible given Qaddafi's willingness to expend the required sums for construction.

However, the key to Egyptian compliance with Qaddafi's wishes lies in the Sudan. Ten days after Nimeiri's ouster, Qaddafi warned:

"Any regime in Sudan that is hostile to Egypt can harm Egypt . . . For who really needs the other? Sudan or Egypt? Egypt needs Sudan. Then Egypt should be the one attached to Sudan, which could impose on Egypt anything that Sudan wants. Because in the final analysis, it is Sudan that can choke the Nile and stop the Nile's resources and dominate it. How can Sudan, which controls the resources of the Nile, be subservient to Egypt which needs it? . . . We believe, however, that the situation will be redressed . . . and that Egypt will become attached to the Sudan . . . This is because Sudan controls the resources of the Nile and Egypt needs Sudan."

While it is unquestionably true that a hostile Qaddafi-dominated regime could strangle Egypt by blocking the Nile, it is also inconceivable that Egypt would sit still for such a threat to its life line. Surely any serious attempt to tamper with the flow of the Nile to Egypt should provoke an Egyptian military intervention. However, it seems that Qaddafi is prepared to gamble that Mubarak is in no position to intervene in Sudan, given the rising concern over the viability of his government. On the other hand, failure by Mubarak to mitigate the growing rhetorical threat to Egypt's life

line, which may after all only be a plausible ploy to pressure Mubarak, could help bring him down. By seeking to extend a controlling influence over Khartoum, Qaddafi is engaged in a very high risk game which could engulf the whole region in conflict.

As suggested, however, getting at Egypt is only one of Qaddafi's aims in Sudan. Another of equal if not greater consequence is to become the dominant influence in all of sub-Saharan Africa. An entrenched position in Sudan would enable Libya to capitalize on its investments in Uganda and the small states of Rwanda and Burundi, providing a direct wedge from Tripoli to the very heart of Central Africa. As noted by Intelligence Digest (September 24, 1986): "Gaddafi's route southwards lies either through West Africa or East Africa. He tried hard to force his way into West Africa through Chad but was brought to a halt principally by Nigerian opposition and active resistance, including Nigerian military aid to Chad. The further result was Nigerian determination to keep Gaddafi out of the entire West Africa, and an unwritten West African anti-Libyan alliance, but de facto without doubt, now exists. That left East Africa, of which Uganda is an integral part, offering also easy access to Kenya and Tanzania as well as Zaire."

On his return from his tour de force at the Nonaligned Movement summit in Zimbabwe, Qaddafi stated on September 14:

"Regardless of the sacrifices and the battles won and lost, after a number of years passed, we finally came out the victors in Uganda. We defeated our enemies, the racists such as Obote, the fascists such as Obote, the fascists and the agents of colonialism hostile to the revolutionary policy and to the Jamihiriyah. Thousands of Ugandan fighters welcomed me in Uganda. They were trained in Libya. They are the fighters who entered Kampala and liberated it from the enemies of the Jamahiriyah, enemies of the Ugandan people, at the top of whom is our friend Museveni, who was in Libya. We used to meet with him and struggle together to liberate Uganda, to recover this position; it has been recovered. Now Uganda is a semi-jamahiriyah, its system is revolutionary-popular; people's congresses and people's committees have been established in every village, and the formation of revolutionary committees has begun. All of this needs time to emerge and be firmly established. A new jamahiriyah, in fact, has started to be formed in East Africa—i.e. Uganda—which at one time was a hostile post to us and in which we fought. They thought they had won the battle; however, in the end it was we who have won the long struggle in Uganda."

What Qaddafi appears to be concocting is a far-flung Libyan-dominated Arab-Muslim empire with an African colonial system which can be exploited to serve the needs of the imperial center—Libya. Thus, in reference to the states of sub-Saharan Africa, Qaddafi observed:

"All those countries are rich; they are not poor and do not need charity but need joint programs between them and the people of the Great Jamahiriyah so the Libyan Arab people and those countries would benefit. They are countries very rich with all the materials needed by Libya, and which it is importing from countries very far away, sometimes from colonial markets. These materials are abundant and only need to be exploited in Sudan, Uganda, Ethiopia, Zimbabwe, Tanzania, Burundi and Zambia."

Finally, in a remark pregnant with geopolitical significance, Qaddafi stated that "from Bab al-Mandeb, from Yemen and Aden to Ethiopia and Sudan and to Libya, from the Arabian Sea to the Mediterranean, all these have become forces allied with each other. In fact colonialism was pinning hopes on Sudan in breaking this axis and this bridge, which links Aden with Addis Ababa and Tripoli in a single chain of allied liberated peoples."

There can be little question that the removal of Qaddafi from power by virturally any means is necessary and it is in the interests of the free world. However, who takes his place is critical. It would be a tragedy if the seeds of empire that Qadddafi has so carefully planted in strategically important Africa were to be harvested by the Soviet Union, aided and abetted by a United States that couldn't quite see the forest because of the trees.

TOWARD AN ENDING OF MARTIAL LAW ON TAIWAN AND OPENING OF POLITICAL PROCESS

Mr. DENTON. Mr. President, last week the President of the Republic of China, Chiang Ching-kuo, gave a remarkable interview to the Washington Post. He discussed widely and forthrightly each of the major issues facing the Republic of China.

During the course of the interview, the President discussed steps toward ending martial law on Taiwan, a move which he indicated would be consistent with the enormous economic maturity which Taiwan has gained in the past several decades.

President Chiang Ching-kuo also addressed the complex question of legalizing new political parties on Taiwan. The President offered the view that he would support legalization for parties which subscribed to several fundamental national premises. These premises include: the three principles of nationalism, democracy, and social welfare advanced by Dr. Sun Yat-sen; anticommunism; and noninvolvement in the Taiwan independence movement.

Mr. President, every nation in the world possesses a fundamental framework within which political debate and disagreement take place. Without this framework of shared commitment, one simply does not have a nation. In the United States, for example, our Constitution provides this structure. All political issues must be settled within the bounds and procedures of the Constitution. Even the act of amending the Constitution must occur in a fashion which is prescribed by the Constitution itself.

How would we view an individual or a group which set itself apart from this fundamental structure and which did not recognize its authority? How would we view a State which denied its citizens a republican form of government? How, in fact, did we view States which proposed to secede from the Union? We fought a bitter civil war over this latter question.

Mr. President, what Chiang Ching-kuo is attempting to do is to define the broad premises of the political life of the Republic of China. He is open to further developments in the evolution of a broad political consensus. At the same time, he is sensitive to the need for these developments to occur in a way that is consistent with the overall security and preservation of the nation.

Mr. President, I believe that President Chiang Ching-kuo's interview merits the attention of all colleagues. For that reason, I ask unanimous consent that the interview, as well as several articles about it, be printed in the RECORD.

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

CHIANG ENVISIONS CHANGE FOR TAIWAN

(By Daniel Southerland)

TAIPEI, TAIWAN—Chiang Ching-kuo, the president of Taiwan, is an affable, chunky, round-faced man not given to dramatic gestures or public muscle flexing.

When it comes to tough issues, Chiang usually lets his prime minister or others fight the day-to-day battles. They take the flak. The smiling, unruffled Chiang seems above it all.

But the benign-looking Chiang, the eldest son of the late president Chiang Kai-shek, is now fighting to bring limited changes to Taiwan's authoritarian political system. If he succeeds in doing half of what he promises, the changes could prove to be dramatic over the long run.

In the end, those changes may require every bit of political muscle Chiang can exert.

Thanks partly to its economic success, Taiwan has reached a political turning point. The 76-year-old Chiang has been pressing for reforms that would include not only the lifting of martial law but also the end to a longstanding ban on organized political opposition.

The opposition to reforms from the right wing of Chiang's ruling party is so strong that only a leader of his standing is likely to be able to bring even the beginnings of meaningful change.

To get his way, Chiang is having to apply quiet but steady pressure. The main resistance comes from some of the elders within his own party and from leaders of the military as well as the police and intelligence organizations.

The problem for Chiang, it would appear, is to give the more than 80 percent of the population that is native Taiwanese a greater voice in affairs, but to do so without creating instability or a real loss of power.

Opposition politicians and Taiwan human-rights activists, some of whom have spent time in prison or seen their publications repeatedly censored, are skeptical.

You Chiang, a founding member of an opposition party formed two weeks ago in defiance of the ban, said this week that he detects nothing more than a change of tactics by the president. Another opposition leader calls it "old wine in a new bottle."

No one expects major changes before the Dec. 6 legislative elections. Even while lifting martial law, the ruling Kuomintang, or Nationalist Party, is expected to propose a

new national security law that could be nearly as stringent, critics say.

But some critics grudingly acknowledge that taboos are being dismantled. An opposition politician who dared even talk about lifting martial law or forming a new party might have found himself under arrest a few years ago.

Some critics also recognzie that the opposition to change is such that unless Chiang Ching-kuo puts his strength and prestige on the line, little is likely to happen.

Chiang is clearly not aiming for anything like western-style democracy. The Kuomintang is organized along Soviet lines, with a Central Committee at the top and party cells below.

But Chiang has been trying to move the island, as opposition politician You Ching describes it, from "hard authoritarianism" to "soft authoritarianism."

Chiang's motives seem to include a desire to create a more broadly based political framework that would, in theory at least, provide a more stable base for Taiwan's remarkable economic progress once the president leaves the scene.

Because of health problems and his advanced age. Chiang may also be thinking of his place in history. He may have an eye on Taiwan's image—none too good in some parts of the world because of past crackdowns on opponents. And Chiang must realize that once he goes, no leader is likely to have the standing required to make the changes he is now pursuing.

Chiang's likely successor, Vice President Lee Teng-hui, an agricultural economist and native-born Taiwanese, is widely liked but lacks Chiang's experience and influence.

All of this matters much more than it might seem at first glance to the outside world. The island may look like a mere dot on the map, but its more than 19 million inhabitants have turned Taiwan into a major exporter. Its location, not far from China, Hong Kong, Japan and the Philippines, adds to its importance.

In Peking, Chinese leaders watch every move Chiang makes. They appear to be more comfortable with the idea of dealing with Chiang, anticommunist that he is, than with his successors.

If Chiang's current strategy works, Peking will be facing a more broadly based and thus more complicated political entity on Taiwan. The president's successors may be even less interested than he in Peking's proposals for "reunification" with the mainland.

Chiang is apparently encouraging political change, in the meantime, not only for reasons of his own but also because of pressure coming from three directions—from his opponents, from an expanding Taiwanese middle class that wants more representative government, and from the younger members of his own political party. In their view, Taiwan's politics are a few decades behind its economics.

But while the long-range change may prove dramatic, Chiang can move only gradually in the short run. The president cannot make a move without consulting the Kuomintang patriarchs.

Chiang long ago brought the generals under control, but he cannot ignore them. There unhappiness is reflected in a Defense Ministry publication, the Youth Daily News, which over the past two weeks has published 25 editorials and commentaries against legalizing the new opposition political party.

Chiang said in an interview last week that the termination of martial law would mean an end to trials of civilians in military courts.

Most observers have concluded that an end to martial law will also mean diminished influence for the Taiwan Garrison Command, which now carries out much of the censorship. But censorship and restrictions on opposition activities in elections may continue under other laws.

Chiang has shown in the past that he can deal with tough opponents in the military and police. But even if he can get the military and police to work within a new system, he will face challenges from the political opposition. The newly formed Democratic Progressive Party includes some members who favor Taiwan independence, a taboo for Chiang.

Those who support Taiwan independence question the legitimacy of mainland-born Chiang's rule and propose instead that Taiwan be governed by those who were born on Taiwan. Mainlanders make up little more than 10 percent ofthe island's population.

TAIWAN: THE WINDS OF CHANGE

More than ever, those are only words. Communist rule in Peking has been a fait accompli almost since 1949, the year the Red Army pushed the bedraggled Nationalist forces to retreat to Taiwan. But in the minds of the Kuomintang hard-liners who have ruled in Taipei since then, the struggle to reconquer the lost empire has never really ended. For more than a quarter of a century Chiang Kai-shek kept the country on a civil-war footing with his "Temporary Provisions Effective During the Period of Communist Rebellion," martial-law regulations forbidding the formation of political parties and giving the government nearly unlimited authority. Since the generalissimo died in 1975, his son, Chiang Ching-kuo, has ruled with the same authoritarian powers.

Now at the age of 76, Chiang has no doubt begun to reflect on the legacy he will leave behind—and he evidently does not like what he sees. As things stand now, his government is unable to meet the demands of Taiwan's increasingly pluralistic and educated population. Reforms may be the only way to guarantee stability in the future. Chiang is also apparently unhappy at the prospect that he might be remembered as a dictator, and he has orchestrated a remarkable outreach to his political opposition in recent months—remarkable in Taiwanese political terms at least. Last April he appointed a three-member committee from the Kuomintang (KMT) party to hold ground-breaking talks with the *tangwai*, Taiwan's opposition. In an interview last week with Newsweek and The Washington Post, Chiang confirmed publicly for the first time that he plans to lift martial law (box). The president said at one point that the government had "decided to terminate the emergency decrees."

That hardly amounts to a pledge to inaugurate a Western-style democracy in Taiwan. Chiang set no firm timetable for implementing the changes, and he made it plain that new national-security legislation will replace some of the old provisions of the emergency decrees. But if his vow to end martial law is not *derailed or compromised* it will institutionalize the concept of a legitimate opposition to the KMT's one-party rule. "We've never before had an organized political opposition," tangwai member Antonio Chiang said last week. "This will be an experiment." If it works, it will almost certainly lead to further political liberalization, a home—and perhaps, eventually, *to an end to Taiwan's four decades of enmity toward Peking.*

Whatever the outcome of Chiang's promise, the pressure of change on the KMT will only increase. Just three weeks ago a group of 135 opposition members dared to form what they are calling the Democratic Progressive Party (DPP). That was technically a violation of Taipei's martial-law rules—aimed, at the very least, at preempting the government's reforms, with an eye toward the Dec. 6 legislative elections. Internationally Taiwan's diplomatic isolation continues to grow; the list of countries still recognizing the KMT as the legitimate rulers of China has dwindled to just 23. And inevitably, many Taiwan residents have come to question the relentless fearmongering over the communist menace from Peking. In fact many business leaders see the mainland as a perfect market for expanding Taiwan's export-driven economy.

Against that background, Chiang has begun remaking his own image. The president suffers from diabetes and eye ailments, and last April he had an operation to implant a pacemaker. He moves slowly, with apparent pain, and his hands tremble. Still, Chiang's mind remains keen, and at last week's National Day festivities his message was firm even though his voice was feeble. "We must be united!" he rasped before crew-cut soldiers and banner-waving students. "Long live the Republic of China!"

In spite of the rhetoric Chiang began practicing the art of cautious compromise years ago. At the very time he assumed office he brought into the government scores of native Taiwanes, who make up 85 percent of the island's population. That incensed some of the mainland-born KMT establishment but helped assure the party's grip on the government. Now Chiang is apparently betting that the same pragmatic approach to politics will lead to a smooth transition, and continued KMT rule, after he is gone.

Lifting martial law makes the first step in that process. As Chiang explained to NEWSWEEK, the proposed modifications in the country's legal system will first go to the Legislative Yuan, the country's highest legislative body. Under the new laws, civilians will probably no longer be tried by Taipei's strict military courts. Such crimes as sedition—which currently has no precise definition in Taiwan—will likely be spelled out in detail. But the biggest change beyond doubt will be the legalization of political parties. Until now opposition candidates could run for office, but only as independents with no party affiliation. The whole campaign process heavily favors the KMT. (Two other legal—but insignificant—parties rarely, if ever, front candidates against the KMT.) In truth, the opposition has been given slight leeway this year. But in the past, members had to go through elaborate charades—calling their political meetings "birthday parties," for example—to avoid violating martial law.

Understandably, all this resulted in a deeply divided and fractious opposition. Although a few opposition politicians have been elected to national office, the largest turnout the opposition ever received was 27 percent. The 135 founding members of the DPP hope to begin changing all that. It remains unclear whether the government will give the fledgling party a chance. According to top KMT officials, the Army and right-wing party members wanted to arrest the DPP founders the day they issued their

manifesto. Fearing the international criticism that followed an opposition roundup after a bloody riot in 1979, party moderates managed to persuade the extreme rightists to back down. Chiang himself has tried to ignore the group as best he can, dismissing it as a "so-called party"—a convenient rhetorical side step.

MAXIMUM FLEXIBILITY

In fact, the government has apparently concluded that no quick action is the wisest response to the DPP. Last week Prime Minister Yu Kuo-hwa attacked the party during a session of the Legislative Yuan, warning ominously that DPP members would be "dealt with in accordance with the law." The following day Chiang cut a different tack, conceding that some KMT members might see the government's response to "certain problems" as weak. But he went on to say that in order "to attain more important goals, priorities should not be confused." Such deliberately mixed signals from the top give the government maximum flexibility on the DPP issue, and help keep the opposition off balance. If the DPP stirs up trouble, nothing will prevent a swift, hard crackdown. If the opposition sinks into its previous state of confusion, the KMT can probably ignore the DPP. "Let the opposition form their party," scoffed one young high-level KMT pragmatist. "They have little support, and we have nothing to fear."

Taiwan's economic prosperity helps support such bluster. Shortly after their arrival, the Nationalists cut an unspoken deal with the longtime residents of the island, reserving the fields of government and security for themselves but leaving the operation of business largely to the Taiwanese. Concentrating on low-tech exports, the country has built a robust $60 billion economy with almost no inflation or unemployment. The income of Taiwan's citizen, now an average of more than $3,000 annually, is more than 10 times the amount the typical mainland worker makes.

Still, prosperity has its price. Although wages in Taiwan remain low, especially when compared with those in the United States or Japan, such countries as Thailand and China now easily undercut Taiwan's labor costs on big international contracts. Such nations have begun to compete with Taiwan in the production of low-end consumer electronics, textiles and toys. Taiwan has had little success in upgrading its exports to more sophisticated products that rely more on technology than cheap labor. Spending for research and development remains alarmingly low. That, combined with a generally low investment rate, spells almost certain trouble for the future. And the very efficiency of the export machine has created problems. Last year, for example, Taiwan recorded a $13 billion trade surplus with the United States, its biggest export customer, touching off fears over a growing protectionist drive in Washington.

CREATURE COMFORTS

The economic miracle also has high social costs. Taiwan's growing middle class enjoys such creature comforts as refrigerators, color televisions and VCRs. Many also have money to spend on such pleasures as, say, foreign travel. The exposure to other, more liberal systems of government has prompted many people to ask why things cannot be as free at home. Economic achievement has also brought a sense of security in Taiwan's business community on the question of relations with Peking. China's 1 billion potential consumers are barely 100 miles away across the Formosa Strait. They seem natural customers for Taiwan's finished products and could in turn supply huge amounts of much-needed raw materials. "We must stop looking at the mainland as our enemy and start dealing with it as our strong competitor," says one daring young government official. Peking can't possibly swallow Taiwan without an international uproar, the argument goes, so why not put the past to rest and start talking?

The very question sets off panic among KMT stalwarts. Their entire lives have been constructed around a rigid policy known as the three noes—no negotiations, no compromise and no contact—with what they regard as the communist usurpers on the mainland. Even as he discussed the eventual end to martial law last week, Chiang remained adamant about Chinese intentions toward Taiwan. "They have not abandoned their desire to invade or incorporate us," he insisted. Indeed, Peking refuses to rule out a military solution to the Taiwan question.

However, the Chinese have also made very public and increasingly peaceful overtures aimed at reconciliation. Seven years ago Peking's Marshal Ye Jianying even announced a proposal for reunification that would have allowed Taipei to maintain its capitalist economy and its own military. The KMT rejected the offer out of hand, although that stance made Taiwan look like the stubborn party. Since then, Peking has continued its so-called smiling offensive, repeatedly reiterating the offer to establish a plan modeled on the "one country, two systems" settlement worked out with Britain over the future of Hong Kong. Taipei has rejected each proposal.

Yet cracks may have begun to appear in Taipei's resolve. Last May, after a pilot from Taiwan's China Airlines diverted a cargo plane to Canton, CAL representatives sat down with their counterparts from CAAC, Peking's state airline, and worked out an agreement for the return of two other crewmen and the $60 million Boeing 747. Taipei insisted the talks amounted to nothing more than "businesslike" dealings over "a single aviation case," but for the first time since 1949 the biggest of the three noes had been breached. In other, smaller ways, Taipei now gives a nod to unofficial contacts between its citizens and those on the mainland. A burgeoning unofficial trade with Chinese companies, conducted mostly through Hong Kong middlemen, accounts for more than $1.2 billion in two-way trade each year.

Although the government would never acknowledge it, Taiwan now has little choice in dealing with the China issue. Peking's extensive formal relations with foreign governments give it a distinct advantage in the elaborate game of international diplomacy. Still, Taipei has found dozens of ways to compensate for the loss of official ties. Contacts with Washington, which broke ties with Taiwan in 1979, fall under the purview of the Coordination Council for North American Affairs, an aggressive, well-oiled lobbying group. The United States, in turn, operates the American Institute in Taiwan, staffed by career diplomats who temporarily "resign" from the diplomatic corps to avoid ruffling feathers in Peking. Taiwan's assiduous courting of the Americans pays off; until recently, for example, the U.S. Congress made little fuss over the big trade imbalance with Taipei.

"UNOFFICIAL" FRIENDS

Such attempts to maintain good relations overseas has helped to assure Taiwan a significant reservoir of good will, albeit from "unofficial" friends. The foreign outreach is led by a coterie of young, mostly Western-educated advisers who surround Chiang. These young technocrats, says Lu Ya-li, a political science professor at National Taiwan University, "are not theoretic, but pragmatic," and their cleareyed approach to statecraft "does not reflect liberalism of any kind." A decade ago Taipei felt obligated to pull out of any organization that recognized Peking. Now, although the government denies that there has been an official policy change, Taipei has stopped such knee-jerk reactions, preferring to remain in those organizations. Since China was admitted to the Asian Development Bank last March, for example, Taiwan curtailed its participation but has not officially withdrawn.

There is little question about the source of such reforms. They are the will of Chiang Ching-kuo," says one longtime foreign resident to Tapei. "He wants to bequeath a stable and long-lasting system before he dies." Chiang has only recently begun preparing for his succession. In 1985 he ruled out the possibility of a "Chiang Dynasty," vowing that none of his children would run for president. But Chiang has yet to point to a successor as head of the KMT, where real power lies. Officially, should anything happen to Chiang, Vice President Lee Teng-hui will take over. The 63-year-old Cornell-trained agronomist is one of the first Taiwanese to reach such a high government position. He enjoys enormous popularity among Taiwanese, but has little support within the KMT and the powerful military. For that reason, says Taiwan University's Lu, "he will be a titular ruler only." Academics and opposition leaders expect some sort of collective leadership after Chiang dies.

The possibility of political change in Taiwan many make it impossible for Chiang to handpick a successor. The KMT, says tangwai member Antonio Chiang, is only moving "from hard authoritarian to soft authoritarian." Yet even he concedes that an end to martial law may signal a new beginning for the country. "Martial law has handicapped our thinking," Chiang says. "There was supposedly a civil war going on. Once you remove martial law, that mentality will have to go." Chiang Ching-kuo has no doubt considered just that-and the other repercussions that inevitably accompany reform. Now, in the autumn of his life, he has apparently concluded that the advantages of moving forward outweigh the risks of standing still.

TRIBUTES TO RETIRING SENATORS

SENATOR EAGLETON

Mr. SASSER. Mr. President, politicians are often criticized for speaking out on issues only when they know it's politically safe to do so. But I cannot recall anyone ever accusing TOM EAGLETON of such reticence. He is a man who is unafraid to speak his mind. More important, when he does he is usually right.

TOM EAGLETON came to the Senate when this Nation was bitterly divided over the Vietnam war. He could have

played it safe and stayed in the background on one of the most controversial political issues of this century. Instead, he became one of the most outspoken critics of America's involvement in the war. Senator EAGLETON believed in his heart and in his mind that America was in the wrong war, at the wrong place, at the wrong time; and he did everything in his power to extract us from that troubling conflict. In fact, his amendment to a 1973 appropriations bill effectively ended U.S. involvement in the Indochina war by cutting off all funds for combat activity in Cambodia and Laos.

TOM EAGLETON has displayed this remarkable talent for speaking out with a clear voice of reason time and time again throughout his 18 years in the Senate. He has never been one to lie low on matters of vital importance to the American people—whether it be the Vietnam war, civil rights, abortion, or school busing. His candor and forthright style have brought him much deserved respect and admiration from both sides of the aisle. No one, even those who disagree with him, can help but admire his enormous political courage.

I am going to miss TOM EAGLETON and I am sure the Senate will miss this extraordinary man as well. But our loss is Washington University's gain. The students at this fine St. Louis university will have the unique opportunity to learn from an experienced politician and 18-year veteran of the U.S. Senate who has not lost his youthful idealism and candor.

Thus, it is with mixed feelings that we say farewell to TOM EAGLETON. His presence in the Senate will be sorely missed. However, I take solace and comfort in knowing that TOM EAGLETON will be a living example of true statesmanship to his students at Washington University. I am confident that TOM's example will prompt others to follow his path of public service. And for that we can all be grateful.

SENATOR LONG

Mr. SASSER. Mr. President, with the closing of the 99th Congress, the Senate will lose one of its true legislative giants, RUSSELL LONG. Since his arrival in the Senate in 1948, RUSSELL LONG has been at the forefront of many important issues. Indeed, over a 36-year career of service in the Senate, RUSSELL LONG has witnessed a parade of critical events and issues in this Chamber. Many times he has been at the center of these historic debates.

Impressive as this record of service is, we all know what RUSSELL LONG will be best remembered for. For over 20 years, RUSSELL LONG has played a central role in shaping tax policy for this country. It is these significant contributions to the critical area of tax policy for which RUSSELL LONG will stand out as a historic figure for years to come.

RUSSELL LONG became the chairman of the Senate Finance Committee in 1966. He served as chairman of this important and very influential committee for the next 15 years. During that tenure and in the capacity of the ranking minority member on the Finance Committee, RUSSELL LONG has molded many a tax bill.

Among the host of tax bills that RUSSELL LONG has seen during his years in the Senate, several major issues stand out. Some suggest that tax reform was a new idea this year. Well RUSSELL LONG has helped push through the Senate not one, but three separate tax reform bills. In 1969, 1976 and again this year, RUSSELL LONG has shephered tax reform measures through this Chamber. In addition, he can point with pride to his landmark efforts in establishing the Revenue Sharing Program.

The one issue for which RUSSELL LONG will be most fondly remembered is employee stock ownership plans. Quite literally, Mr. President, RUSSELL LONG is the father of this important concept. It is through ESOPS that we actually see democratic ownership of capital throughout America. It is through ESOPS that more Americans are able to more fully reap the fruits of their labor.

ESOPS are saving thousands of jobs across America. They are giving American workers a greater sense of pride and interest in their work. Something we desperately need as we strive to compete in today's world markets. As I pointed out earlier this year, ESOPS are doing much for many workers in Tennessee and other States.

For championing this important program, we are all indebted to RUSSELL LONG. We will miss his leadership on this and many other important issues of the day. I join my colleagues in thanking RUSSELL LONG for all that he has brought to this body. I wish him well in the days ahead.

SENATOR HART

Mr. SASSER. Mr. President, when we pay tribute to a retiring Senator, we normally reflect on the end of a political career. However, I feel sure the remarks my colleagues and I make about GARY HART in the final days of this session will not show up in the final chapter of his political career. Senator HART is too talented, too energetic, and too interested in America's well-being to remove himself permanently from the political arena and the policymaking process.

GARY HART exemplifies a generation of Democratic leaders who feel unbound by the ideas and the policies of the past. Building on the base within our party established by Franklin Roosevelt and John Kennedy, he has helped rekindle a sense of compassion and commitment to innovation. His 1984 Presidential campaign helped inspire the belief among young and old Americans that the Federal Government should have a positive impact on people's lives.

But GARY HART has brought more than vitality and new ideas to the political process. In his 12 year career in the Senate, he has developed a level of knowledge and expertise on the issues that is unsurpassed. Nowhere is his expertise more evident than on defense issues. On the Armed Services Committee, he is an acknowledged expert on military tactics and strategy. He helped found the military reform caucus and has become one of the Senate's most knowledgeable spokesmen on arms control.

GARY HART's years of public service will likely not end as the 99th Congress comes to an end. But, even in the unlikely event that that the Senator from Colorado does retreat forever to a private life in his beautiful State, he can take great pride in his major accomplishments over the last 12 years. He has done much to set the agenda of his party and the Nation for years to come.

I congratulate Senator HART on an excellent career in the Senate and thank him for his outstanding service to the American people.

JAPANESE JOINT VENTURE JOURNALISM

Mr. HEINZ. Mr. President, it has been some time since I took the floor to criticize the Japanese for the one-sided nature of our trade relationship and their failure to act to rectify current inequities. I might say that my voluntary restraint on harsh criticism or even on incendiary rhetoric was based in part on my belief that limiting public attacks on the Japanese might encourage the resolution of some of our serious and outstanding trade problems. But now I have learned that the Japanese would rather manipulate American attitudes about Japan through public relations gimmicks than deal with our concerns seriously.

The best evidence of this comes from a recent article in the Japanese daily Mainichi, which details the plans of the Japanese Government's Ministry of International Trade and Industry, [MITI] to hire American reporters to promote the image of Japan as a benevolent ally and trading partner.

I repeat that: To hire members of the American news media to manipulate American opinion in favor of the Japanese.

Apparently, the Ministry of International Trade and Industry has decided to pursue a joint venture in journalism, one that would paper over with propaganda the serious differences be-

tween our nations instead of trying to resolve them.

It seems that now that the Japanese have established themselves in every market, MITI and the Japanese are going to market a "new and improved" image of Japan, a Japan that is supposed to really care about its major trading partners.

Mr. President, I am not buying that, and I do not think the American people are either. Leaving aside the implications this effort to manipulate American public opinion has for the integrity of American journalism, by even proposing such a scheme the Japanese demonstrate to this Senator that they are not interested in taking the difficult steps necessary to promote improved and equitable and fair trade relations. Instead, MITI likes the present state of affairs and wants to paper over any disagreements.

Japanese filmmaker Akira Kurosawa pointed out in his award winning film, "Rashomon," that reality is a matter of perception and perspective. It is past time that the Japanese realize that our perception of Japan will not change until our perspective changes. The only way this can occur is if the Japanese pursue, in good faith, an improved, balanced trade relationship. A $200,000 investment in the fourth estate will not undo the damage of a $70 billion trade imbalance. As Americans, we value action over words. If MITI and the rest of the Japanese Government were smart, they would invest in real improvements in Japan's relationship with the United States, rather than trying to buy a positive image by buying American journalists and opinion makers.

Mr. President, I ask unanimous consent that the article detailing this ill-inspired effort be printed at this point in the RECORD.

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

"FRICTION REPORTERS" TO BE ASSIGNED TO US; MITI PLANNING "LOCAL HIRE" IN 10 STATES WITH STRONG CRITICISM AGAINST JAPAN

MITI will consolidate a "grass-roots information network" in the US to cope with the intensifying economic friction. It is a local-reporter system, which MITI will carry out through the Japan External Trade Organization (JETRO) as a new project from the next fiscal year, and MITI will conclude contracts directly with US local economic-world persons and will take up live voices closely connected with local communities. In the initial year, MITI plans to establish it in ten states, including states which have deep-rooted criticism against Japan. In this connection, MITI has submitted a budget estimate of 30 million yen.

MITI and JETRO are both entertaining a sense of crisis, because Japan's trade surplus with the US this year is likely to break the level of 70 billion dollars. Also, there is self-reflection upon the fact that the Japanese side was driven into difficult negotiations, due to its lack of US local information, on such occasions as the inter-governmental semi-conductor consultations since last year, and partly because of this, MITI and JETRO decided to set about hiring foreign reporters for the first time.

As reporters, MITI and JETRO have already prepared a listing of enterprise managers, executive officials of local chambers of commerce and industry, lawyers, and newspaper editorial staff members in local areas. MITI and JETRO are planning to have one reporter in each of ten states, including Missouri, Oregon, and Michigan, in which JETRO has no branch office.

Making a contract with Japan is a side-job for reporters, but the Japanese side is aiming at collecting information about local enterprises while making use of their "faces." MITI and JETRO are attaching expectations on them, while thinking that it will be possible to probe the background of the US Congressional bill for retaliation against Japan and it will also be possible to collect information for the purpose of helping Japanese enterprises advance into the United States. Also, MITI and JETRO will try to persuade American citizens who are angry at the expanding of the trade imbalance, by asking these reporters to conduct PR on Japan's market-opening measures.

THE 10TH ANNIVERSARY OF NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Mr. STEVENS. Mr. President, the North Pacific Fishery Management Council recently celebrated its 10th anniversary. The North Pacific Council is one of eight regional councils which develop management plans and policies for our domestic fisheries.

Attendees at the historic 10th anniversary celebration were treated by the presence of a very special person, Elmer Rasmuson. As the first chairman of the North Pacific Fishery Management Council, Elmer began a tradition of effectiveness and dedication which subsequent chairmen were able to continue. Elmer delivered insightful remarks on his impressions of the first 10 years of the regional fishery management process which provide us with valuable suggestions for future improvements.

Mr. President, I request that the following remarks by my good friend Elmer Rasmuson be submitted for publication in the CONGRESSIONAL RECORD.

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

REMARKS BY ELMER RASMUSON ON THE OCCASION OF THE 10TH ANNIVERSARY OF THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Dr. Calio, Chairman Campbell, ladies and gentlemen: This is a birthday party and, having just returned from Harvard's 350th, I am very conscious of the occasion. It is a point in time for both a recollection of the past and appraisal of the future.

Now, looking backwards and forwards at the same time is not only hard on the neck but is probably the most difficult task in public service—keeping the right balance.

As we observe this decennial, it is indeed appreciated that a comprehensive review of the council system is taking place to consider needed improvements.

The council system, created under the Magnuson Act, is unique in that for the first time in the history of our nation, the Federal Government entrusted management decisions to a lay body and on a decentralized basis. It did this in response to the needs of the great and growing diversity of fishing interests. Recognizing that the differences were legitimate and complex, there was nevertheless a necessity to provide for some apparatus that would mold them in an agreeable course of action.

Conceptually the council system is ingeniously simple. It funnels through the wants and wisdoms of all the interested parties on a localized basis because this is where the decision impact falls. The necessary coordination with state responsibilities is provided for in council membership and selection. Then to recognize national and international interests and maintain some degree of unity in policy, a review procedure is provided for in Washington.

I doubt many people would want to scrap this arrangement. It is only in the administration of the Act that disagreements and sometimes friction arise. The overall success depends upon the degree of cooperation extended by the participants.

I share the feeling that the early success of the North Pacific Council was due to the training and association so many of us had on the International North Pacific Fisheries Commission. Most of us had worked together. Stability and longevity on a council is not adequately appreciated. We had accepted the biologists' findings as a foundation. We were raised in the principle of extended jurisdiction because that is basically the meaning of the abstention line. We understand the importance of working together as between states and the Federal Government and sovereign nations. In setting up the council, we adopted the advisory committee system that had worked so well under INPFC. In other words, when we organized the North Pacific Council, we hit the decks running.

Certainly the council concept is worth keeping. Because the acceptability of any legislative Act depends upon the men and women who administer it, the composition of the attendant officials in both Washington and the states is extremely important and should not be treated as political plums. Nor in council decisions is there any place for strictly parochial voting.

However, there are certain technical changes that can be helpful in achieving the desired cooperation. A shortening of the review time in Washington would be desirable. This can be achieved in two ways without weakening the benefits of the national overview. The first is by having the fishery and environmental authorities work earlier and more closely in the drafting of the management plans. The second is to have all reviews as concurrent as possible.

A second suggestion is to borrow a concept from our judicial system. That is to regard the council as the sole determinant of the management facts and leave the Washington review to matters of policy and law. This can be done if the recommended early participation in the development of a management plan is adopted.

A statutory distinction between voting and non-voting members on the council has always bothered me. If an individual is qualified for membership, he should actively participate in the deliberations and not just as an observer. If qualified to help

shape the dialogue, he should participate in the final decision process which is voting.

I have appeared before your Council as a member of the U.S. Arctic Research Commission. This Commission has no operational or funding authority but was created by the Congress to achieve a cooperation in Arctic research between the various cabinet offices, state and local authorities, indigenous peoples and foreign countries. Because the enabling Act defines the Arctic in such broad terms as to encompass the western coast of Alaska, including the Aleutian Islands, fishery research is of prime concern. As a matter of fact, the first agreed direction for joint research between the state of Alaska and the Commission is in fisheries. This is another vehicle for bridging the gaps between disciplines and line authorities.

My concluding comment is that we live in a shrinking world where separateness has ever decreasing importance. We must respect the integrity of diverse views but nevertheless achieve a working unity. In my experience, this is best accomplished by concentrating on long range goals for the greatest public benefit but administered with patience and through the use of informed common sense.

TRIBUTE TO J. BATES GERALD

Mr. THURMOND. Mr. President, I was saddened to learn of the recent death of my good friend J. Bates Gerald of Charleston, SC. Mr. Gerald was a fine man, who accomplished much in the service of his State during his lifetime.

He was born August 30, 1894, in Manning, SC, and earned two degrees from the Blackstone School of Law. Among his many enterprises, he was a very successful businessman, and retired president of North State Lumber Co.

Mr. Gerald was elected to the South Carolina General Assembly in 1928. During his brief term in office, he was instrumental in helping to create the State highway department, which later became the South Carolina Department of Highways and Public Transportation. He also helped to write the bonds bill which led to the paving of highways in South Carolina.

The achievement for which he was best known, however, was the founding of the South Carolina Republican Party in 1938. He was a dedicated Republican, not only serving as the chairman of the South Carolina party for 12 years, but paying for its certification; serving as chairman of the State delegation to four national conventions; and working as a member of the Republican National Committee for 8 years.

Mr. Gerald's warmth and good humor were constantly evident to those around him, to whom he was fond of saying that he had been a Republican when there were only two in the State, and he had lit a lantern and walked down Broad Street looking for a third.

Always active, he helped to organize the Veterans of World War I and the American Legion, and was a member of the Episcopal Church.

His political activities and his many personal attributes brought him numerous friends, including several Presidents. I will remember Bates for his integrity and energy, and his true kindness and concern for his fellow man.

I will always be grateful that I had the opportunity to know Bates Gerald, and I would like to extend my deepest sympathy to his fine family.

DEATH OF J. WILLIS CANTEY OF COLUMBIA, SC

Mr. THURMOND. Mr. President, on October 15, 1986, South Carolina lost one of its most outstanding citizens. J. Willis Cantey, a heavily decorated veteran of World War II and a dedicated citizen, died after a lengthy battle with cancer.

Willis Cantey was my good friend, a man in whom I had the greatest confidence. However, he was a friend to everyone in my State who knew him. His accomplishments, as a soldier and as a civilian, helped him develop a reputation as an individual who served his State and his Nation with honor and distinction in war and peace.

While his contributions to the fields of banking and financial management were very noteworthy, Willis Cantey is best known for his distinguished military service. At 25, he became the youngest battalion commander in the U.S. Army, serving in World War II and winning three Silver Stars for gallantry in action, four Bronze Stars for heroic achievement, a Purple Heart, the Legion of Merit for exceptional meritorious service, and the French Croix de Guerre.

He was later promoted to the rank of colonel and in 1981, retired from military duty. I had the high privilege and great pleasure in recommending Willis to be the civilian aide to the Secretary of the Army for my State in 1981, and he was reappointed to that post 2 years later. After resigning for health reasons, Willis served as civilian aide emeritus.

As a civilian, Willis Cantey fought hard for improvements in higher education and was one of the most public-spirited people I have ever known, serving on the South Carolina Ports Authority Board, the last 2 years as its chairman; and as director of the National Safety Council. His love for his State, his Nation, and his fellow citizens was boundless. So was the love and devotion he had his lovely wife, Nancy, and his devoted family.

All who knew Willis Cantey will miss him greatly. Our State, and indeed our entire Nation, have lost a true friend, a devoted patriot, a brave soldier, and distinguished citizen.

So that my colleagues might know more about the accomplishments of Willis Cantey, I ask unanimous consent that a newspaper story about his life be printed in the RECORD.

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

[From The State (Columbia, SC), Oct. 16, 1986]

COLUMBIA LEADER CANTEY, 69, DIES

Businessman, banker and much-decorated World War II hero James Willis Cantey died Wednesday at the age of 69.

Born March 3, 1917, in Columbia, Mr. Cantey was a son of John Manning and Elizabeth Childs Cantey.

Mr. Cantey, of 1400 Westminster Drive, joined Columbia Outdoor Advertising Co. during the 1940s and served as its president until 1958, when he became chairman of the board. In 1960, he was named president of Citizens & Southern National Bank of South Carolina. He served as chairman of C&S from 1971 until 1974, and later served as a director of the bank.

Mr. Cantey was a decorated combat veteran of World War II. At 25, he became the youngest battalion commander in the U.S. Army. He was later promoted to colonel. In 1981, decades after he retired from military service, Mr. Cantey was appointed the Civilian Aide for South Carolina to the Secretary of the Army. He was reappointed to the post in 1983. After resigning for health reasons, Mr, Cantey was made Civilian Aide Emeritus.

For his leadership in banking and financial affairs, his efforts to improve higher education, and for his work in the public interest, Mr. Cantey was awarded an honorary doctor of laws degree by the University of South Carolina in 1985.

His accomplishments and public service were praised Wednesday by Sen. Strom Thurmond, R-S.C., and James B. Holderman, president of USC.

"I am deeply saddened by the death of my good friend, J. Willis Cantey," Thurmond said.

"He was a man who served his nation with honor in both war and peace. South Carolina and, indeed, our entire nation have lost an outstanding leader."

Holderman said Mr. Cantey's death was a loss to Columbia and USC.

"From his childhood days when his father was part of the university family through his distinguished later years, Mr. Cantey was an important part of the Carolina community," Holderman said.

"We will miss the wisdom and keen intelligence he brought us through his active participation in a variety of university groups."

He attended the University of South Carolina, where he enlisted in the S.C. National Guard in 1935. He graduated and was commissioned as an infantry lieutenant in 1938. His unit was mobilized in 1940 as part of the 30th "Old Hickory" Division, which distinguished itself in Europe.

As an infantry troop leader in combat, Mr. Cantey was awarded three Silver Star medals for gallantry in action, four Bronze Star medals for heroic achievement, a Purple Heart, the Legion of Merit for exceptional meritorious service and the French Croix de Guerre (War Cross) for bravery.

At the war's end, Mr. Cantey joined Columbia Outdoor Advertising Co., which he later purchased.

He joined C&S bank as assistant to the president in 1958.

During his tenure with C&S, the bank grew substantially. In 1958, loans were $56 million, deposits were $110 million and total assets were $121 million. There was a net operating profit of $950,000. C&S then operated in five cities.

By 1974, loans totaled $344 million, deposits were $464 million and assets were $604 million. There was a net operating profit of $5,170,000. C&S Corp. had been formed, with seven subsidiaries operating in four states. There were 76 branches in 25 cities. Mr. Cantey was credited with negotiating seven mergers.

While with C&S, Mr. Cantey served as president of the S.C. Bankers Association and president of the association's Past Presidents' Club. He was a member of the Banking, Monetary and Fiscal Affairs Committee of the U.S. Chamber of Commerce and served as a director of the Federal Reserve Bank of Richmond, Va., Charlotte Branch, 1967-72.

The Southern Banker named him "Banker of the Year" in 1971.

Mr. Cantey also was active as a director of various companies in South Carolina, including The State-Record Co., Standard Savings and Loan Association, Liberty Life Insurance Co. and Carolina Freight Carriers with headquarters in North Carolina.

He served for eight years on the board of the South Carolina State Ports Authority, acting as chairman for the last two years of his tenure. He also served as director of the National Safety Council.

Mr. Cantey was committed to advancing higher education in South Carolina. He was a founding member of the USC-Business Partnership Foundation and served as chairman and secretary-treasurer of the Investment Committee of the foundation. He served on the President's Council at USC Alumni Association, where he was awarded the Algernon Sidney Sullivan Award in 1970 and the university's Distinguished Alumni Award in 1984.

Mr. Cantey also was active in civic affairs. He served as president of the United Way campaign in Columbia and worked to bring business and investment to his home city. The Columbia Chamber of Commerce named him Ambassador of the Year in 1972, and he was chairman of Capital City Development Foundation.

He was a member of the Cotillion, the Centurion Society, Forest Lake Club, the Summit Club, the Palmetto Club, Sigma Alpha Epsilon, Omicron Delta Kappa, Kappa Sigma Kappa, Beta Gamma Sigma, the Kiwanis Club and Trinity Episcopal Cathedral.

Surviving are his wife, the former Nancy Moorer, formerly of Walterboro; three sons, James W. Cantey, Jr., Joseph M. Cantey and John C. Cantey; a brother, Dr. William C. Cantey, all of Columbia; a sister, Mrs. Stewart W. (Elizabeth C.) Heath of Spartanburg; grandchildren; and nieces and nephews.

Services, with military rites, will be held at 4 p.m. today in Elmwood Cemetery, conducted by the Very Rev. John E. Banks and the Rev. Susan Heath.

Memorials may be made to the Charity of one's choice.

THE NOBEL PRIZE FOR ECONOMICS

Mr. DOLE. Mr. President, I want to bring to the attention of my colleagues an outstanding decision by the Royal Swedish Academy of Sciences. The Academy announced this morning that the 1986 Nobel Prize in economics will be awarded to Dr. James Buchanan of George Mason University.

This is an extraordinary and groundbreaking decision, and not just for reasons of civic and regional pride. Of course, we are proud that Dr. Buchanan is working right here in the Washington area. But more importantly, his work has vital lessons for those of us in the Congress, lessons that have profound significance, as the Nobel award recognizes.

POLICY AND POLITICS

James Buchanan has made a big, big difference in the way we look at economic policy and at the political leaders who shape that policy. His unique contribution has been to focus our attention on why political leaders come to certain decisions, and on the forces that shape political decisionmaking. In other words, Dr. Buchanan emphasizes the rules that shape the political game, and goes on to analyze what those rules mean for economic policy.

When you think about it, Mr. President, that is a logical, commonsense way to looking at economic policy—but it was not obvious at all, until men like Jim Buchanan moved so-called public choice theory to a leading position in the world of economics. And for those who think this is a matter only of interest to the academic world, let's look at some of the implications Dr. Buchanan's work has for the work we do in the Senate, each and every day.

THE WAY WE ARE

Jim Buchanan tends to believe that politicians vote their self-interest, and that more often than not, a politician's self-interest won't be the best thing for the public as a whole. For that reason, the Buchanan approach is to look at ways to restrain the actions of politicians.

And that, Mr. President, is what constitutions are all about. The Bill of Rights is probably the most celebrated text in the world that serves to restrict the power of the Government, in order to protect the freedoms we all enjoy. In the sphere of economics, Dr. Buchanan's public choice approach is the driving force behind the campaign for a balanced budget amendment to the Constitution—a discipline we dearly need, in the opinion of this Senator. And public choice analysis also is keenly relevant to initiatives like the line-item veto, the Gramm-Rudman law, and limits on tax rates and on the scope of taxation in general.

These are not just important economic issues, Mr. President. They are critical pocketbook issues for each and every American. That's why the work of Jim Buchanan and his colleagues is so important to all of us, and to the American voter. Dr. Buchanan has changed the way we try to shape economic policy; in my view, our thinking on economic subjects is sounder as a result of his work.

I congratulate Dr. James Buchanan on his award—and I congratulate the Nobel Prize Committee for its exceptionally good judgment.

TRIBUTE TO SENATOR MATHIAS

Mr. LAUTENBERG. Mr. President, I rise to bid farewell to the senior Senator from Maryland [Mr. MATHIAS] who will retire from the Senate after this session of Congress.

MAC MATHIAS has served three terms in this body. His record is one that has the respect not just of the people of Maryland, whom he has so ably represented, but also of the Nation as a whole.

Mr. President, during the years he has served in the Senate, political tides have changed, Presidents have changed, and control of the Senate has changed. But, in the face of these changes, Senator MATHIAS has stood firm in his convictions.

MAC MATHIAS has stood firm in support of civil rights and civil liberties. He has stood firm in support of the Constitution and the separation of powers. He has stood firm in support of a judiciary that is above reproach. In defense of his convictions, he has at times stood alone in his party. At times he has stood alone in the Senate.

His convictions have cost him opportunities that would otherwise have been his. But, they have won him a place in history.

Mr. President, I have worked most closely with MAC MATHIAS on issues concerning intellectual property. That is an interest of mine. It is one I have shared with the Senator from Maryland.

As chairman of the Subcommittee on Patents, Copyrights and Trademarks, Senator MATHIAS has helped revise and modernize our law, to protect innovative ideas, and to preserve to their authors the fruits of their invention. The effective protection of intellectual property provides a critical incentive to invest in research and to expand our knowledge. There are few steps we can take that can have a greater impact in maintaining America's economic competitiveness than rewarding and encouraging technological innovation.

Just in the years I have served with Senator MATHIAS, he has played a leading role in the enactment of legislation to create a new form of intellectual property protection for semiconductor masks; to extend the patent term for pharmaceuticals, to compensate for time lost because of regulatory review; and to strengthen the law against counterfeiting of trademark goods.

I have worked most closely with Senator MATHIAS in our continuing effort to revise the law on process patents. Our goal has been to make it an infringement of a U.S. process patent to make, use, or sell a product in the United States made outside the United States through the unauthorized use of a process patent. Our legislation would bring American law in line with that of our major trading partners. It would provide important protection against foreign piracy of our most innovative processes.

Mr. President, Senator MATHIAS' persistence and wisdom brought the legislation through Senate passage last week. And if, as I hope, the Congress completes action on the legislation and sends it to the President for enactment, it will be due in large part to the work of the Senator from Maryland.

Mr. President, I will miss the Senator from Maryland. The Nation will miss him as well. I will miss his thoughtfulness, and his insights. His service to the Senate and his service to American ideals has been and will remain a model to us all.

RETIRING SENATORS

TRIBUTE TO SENATOR BARRY GOLDWATER

Mr. INOUYE. Mr. President, it is with great difficulty that I say farewell to one of our great statesmen and one for whom I hold a deep and abiding affection. As he departs this great body of the Senate, the gentleman from Arizona—the Honorable BARRY GOLDWATER—leaves with us a magnificent friendship, his unfailing good humor, and his wise and excellent counsel.

He leaves us uplifted and so much the better for having served with him. He leaves the U.S. Senate a classier institution than when he entered it.

And what does he leave the rest of America?

Voting rights for 18-year-olds.

Overseas and absentee ballot voting rights.

Awareness of the plight and special status of the American Indian and ultimately all native Americans.

His wisom as a student of history and an abiding belief that the "Past is Prologue."

Comprehensive DOD reorganization.

Grand Canyon Park Enlargement Act.

I cite these few, of the many achievements of the great Senator because I know they are especially dear to his heart.

Above all, we will be left with his inspirational gifts of courage and devotion.

I recall graffiti scribbled many years ago during his Presidential campaign which gave the chemical formula for gold and water: "AU H20=formula for courage."

At a time during the Vietnam-era when it was politically disastrous, he dared to pique the conscience of America and questioned our involvement in the war. At a time when it was not mandatory for him to resign from Senate office to run for the Presidency, he set precedent by his own example in order that his beloved State of Arizona would not be served less as a result of his higher political aspirations.

I will miss the courage of this great man in the Senate. Whether we fought together or on opposite sides he was always honorable, always courageous and always my friend.

A TRIBUTE TO SENATOR GARY HART

Mr. INOUYE. Mr. President, I wish to pay tribute to a great American and a fine leader, GARY HART, who in the coming days will be ending an outstanding 12-year career in the U.S. Senate.

While Senator HART's insight and leadership will be solely missed upon his departure from this body, I do not feel great sadness at this occasion, as I feel he is moving forward to new frontiers of service for this Nation. I am certain that although we are losing a strong and creative voice in the Senate, the country will continue to gain from Senator HART's vision and leadership.

During his tenure in the Senate, GARY HART has been an inspiration to us all through his thoughtful and creative approach to matters of national importance. By going beyond stereotyped responses and established positions, Senator HART has opened our eyes to fresh and promising avenues of endeavor. His willingness to make hard choices and take tough but necessary positions has forced us all to recognize and address the new challenges this Nation faces in the modern world.

In his work on the Armed Services Committee, Senator HART has delved deeply into the military policy of the United States, looking for the most effective approaches and strategies for the defense of our Nation. By broadening the debate on military strategy, he has encouraged the military leaders of this Nation to consider different options and prepare for different scenarios. In this role, Senator HART's contribution has been invaluable and his dedication to the task extraordinary. Indeed, it was demonstrative of GARY HART's commitment that, at the age of 44, he joined the Naval Reserve to serve the country in yet another capacity.

In conclusion, I know I am joined by all my colleagues in wishing GARY HART the best as he leaves the Senate to pursue other avenues of public service. Although his absence will leave a void in the Senate, I hope that he will continue to provide us with the benefit of his wisdom and insight when issues of supreme national importance are debated in these Chambers. I am certain GARY HART will continue his keen interest and involvement in these matters, and I feel the Nation will be the greater for it.

TRIBUTE TO SENATOR CHARLES MCC. MATHIAS, JR.

Mr. INOUYE. Mr. President, every 2 years, the press of business at the end of another Congress and the happiness of returning home is overshadowed by the sad task of saying farewell to some of our colleagues. This year is especially difficult since the U.S. Senate is losing one of its most respected and prominent Members, Senator CHARLES MCC. MATHIAS from Maryland.

It has been an honor and a privilege to work with Senator MATHIAS over the last 18 years, and I view his departure with deep regret. Popular with his constituents, esteemed by his colleagues, and admired by his staff, MAC MATHIAS contributed greatly to the business of this Nation. Democrats and Republicans alike sought his counsel and benefited from his advice. During his tenure on the Foreign Relations Committee, the Rules Committee, and the Judiciary Committee, our Nation's legislation passed through the hands of an individual who had a keen sense of the rule of law, fairness, and the place of the United States in a modern world. He made significant contributions to both our domestic and foreign policy, a fact rewarded by the people of Maryland who ignored party registration and returned this man to the Senate by ever-widening margins. As chairman of the Rules Committee, he has also made unique contributions to the Senate by overseeing its transition to the electronic age. His constituents and fellow Senators would have welcomed him back next year, but he has chosen new horizons, a decision we can all appreciate and admire.

Mr. President, I look forward to hearing about the future accomplishments of this great man and trust that I may benefit from them. The U.S. Senate will not be the same without MAC MATHIAS, and I join my colleagues in wishing him Godspeed.

SENATOR RUSSELL B. LONG

Mr. INOUYE. Mr. President, in 1948, Harry Truman was President of the United States, the Nation was in the process of recovering from World War II, and RUSSELL B. LONG, at the age of 30, was elected to the U.S. Senate from the State of Louisiana.

In the 38 years since that time, the world has changed a great deal, but at least one thing has remained constant, the people of Lousiana have had the wisdom and good fortune to return RUSSELL LONG to the U.S. Senate. Few who have served in this body during

this period of time would question that wisdom.

This year my good friend has decided to deprive the people of Louisiana of that privilege. While none can fault that decision, I personally look upon it with great regret because RUSSELL LONG has come to represent not only what the Senate was, but what it might be at its best.

Included among the values that RUSSELL LONG's senatorial career has manifested is a commitment to maintaining the dignity of this body and comity among its Members. He has relied for his substantial success, not upon image creation or demogagory, but rather upon knowledge, courtesy, respect, and patience. These values and traits reflect the Senate that RUSSELL LONG has believed in and constantly tried to make real. By these traits and values he has earned the respect and trust of every Member of this body.

To those of us who have had the privilege of serving with him between 1965 and 1980, RUSSELL LONG will be remembered as the chairman of the Senate Finance Committee. No chairman has ever had a better grasp of his subject matter or greater ability to efficiently and effectively manage a complex pastiche of interests and personalities. And as ranking minority member of this same committee, no one would deny that his abilities and knowledge have been invaluable in our current tax reform efforts.

The State of Hawaii owes a special debt to fairness and foresight of RUSSELL LONG. For in 1959, a concern regarding the abilities and inclinations of our multiracial society was shared by many Senators. RUSSELL LONG took the time to learn and had the courage to enable Hawaii's statehood bill to be considered by the full Senate. In the minds of those of us who were involved in Hawaii's quest for statehood, Senator LONG's courage and fairness was firmly established. And in the 27 years since, I have never been disappointed.

Mr. President, by the retirement of RUSSELL LONG, this body will lose the accumulated wisdom and ability gained by almost four decades of hard work and commitment. I hope that as we attempt to fill this void, we do so in a manner which reflects the genuine affection and great energy that the great Senator from Louisiana invested in this institution and Nation.

TRIBUTE TO SENATOR PAUL LAXALT

Mr. INOUYE. Mr. President, I wish to express my sentiments on the impending retirement of PAUL LAXALT from this body. We will lose a respected and able Senator, and I will lose a dear friend.

Senator LAXALT and I have both served on the Appropriations Committee throughout the past 12 years of his service in the Senate. During that time we have on most occasions been on the same side of issues, but frequently found ourselves in opposite positions. I would speculate that our voting records are probably as divergent as any other two Senators.

I point out our contrasts as an illustration of how the U.S. Senate can and should serve as a deliberative body that places the interests of our Nation above political differences. Where we have differed, we have done so within the Senate rules of discourse and debate that encourage the full discussion of legislation, and done so within a spirit of collegiality that promotes rather than hinders the work of this body.

Senator LAXALT has left his imprint in the legislative record in domestic and international affairs. His sensitive handling of a diplomatic mission to the Philippines earlier this year helped to avoid bloodshed while preserving United States relations with this ally. He is a man of his word; an individual of integrity.

Mr. President, I am certain that we have not seen the last of PAUL LAXALT. Wherever his future endeavors may lead him, I wish to express my good wishes to PAUL LAXALT and the sense of loss that will be felt by his departure.

UNMASKING THE FACE OF TERROR

Mr. DENTON. Mr. President, as many in this body may know, the Security and Terrorism Subcommittee on the Committee of the Judiciary, has held numerous hearings on terrorism related security issues. One series of hearings has dealt very specifically with the Palestine Liberation Organization and its support for, and practice of the most heinous terrorist acts.

In the past 20 years, the PLO has fashioned a cult of righteous violence, an ideology of terrorism. Terrorism has not only been justified as a military necessity but has been glorified as a reclamation of Arab dignity. But where is the dignity of taking innocent lives, whether it be the murder of Leon Klinghoffer aboard the *Achille Lauro*, the murder of 15 innocent bystanders in the Rome and Vienna airports or the murder of five passengers aboard TWA flight 840, including an 8-month baby and a yet-to-be-born child or the murders of helpless worshipers in an Istanbul synagogue?

It is clear that the PLO is a terrorist organization. As then candidate Ronald Reagan stated on September 3, 1980, "President Carter refuses to brand the PLO as a terrorist organization. I have no hesitation in doing so." During the same campaign, GEORGE BUSH noted:

> The PLO—and let there be no doubt this—is nothing more or less than international Ku Klux Klan, pledged to hatred, violence and the destruction of the values and free institutions we hold dear.

More recently, on April 8, 1986, Attorney General Edwin Meese declared:

> We know that various elements of the PLO and its allies and affiliates are in the thick of international terror. And the leader of the PLO, Yasser Arafat must ultimately be held responsible for their actions.

Referring to the fight against terror, Mr. Meese states:

> You don't make real progress until you close in on the kingpins.

Mr. President, there is no mistake about it, Yasser Arafat is one of the kingpins of world terror. He is ultimately responsible for terrorism committed by Fatah the main wing of the PLO directed at Americans, Israelis and other innocent citizens. For example:

According to the public record, Arafat's wing of the PLO and affiliated factions have been responsible for the murder of at least 35 Americans, the wounding of at least 40 Americans and the kidnaping of at least 6 Americans.

Arafat is directly linked, through his top aides, to such major atrocities as the murder of U.S. Ambassador Cleo Noel, the *Achille Lauro* piracy and the murder of Leon Klinghoffer, and the terror campaign of the Black September. Black September is nothing more than a non d'guerre for the PLO.

Over the past year, Arafat's anti-American threats have been explicit. On November 13, 1985, he stated:

> We are on the threshold of a fierce battle—not an Israeli—Palestinian battle but a Palestinian—U.S. battle. (*AL-Ahali*, 11/13/85).

This past January, Arafat reasserted his hostile position on the United States:

> The Arab "strategy should take into consideration that . . . the enemy is the same, be he Israeli or the United States." (*KUNA*, 1/3/86).

Arafat has continued to call for the destruction of Israel through terrorism. Recently, he reiterated these orders;

> I don't simply want, I demand, more (commando) operations, and more resistance against this occupation. (*Arab News*, 11/11/85).

As President Reagan noted in a July 8, 1985, address to the ABA:

> We must act against the criminal menace of terrorism with the full weight of the law, both domestic and international. We must act to indict, apprehend and prosecute those who commit the kind of atrocities the world has witnessed in recent weeks.

Mr. President, yesterday PLO terrorists struck again. They hurled hand grenades near the western wall of King Solomon's Temple in Jerusalem. These grenades were thrown at a group of 300 new Israeli Army recruits of the Givanti Infantry Brigade who had just completed a swearing-in ceremony at the wall, the last remnant of

the temple that was effectively destroyed by the Romans in 70 AD.

These grenades killed one civilian and injured 66 people gathered for the ceremony. Among those injured were 32 civilians, including 13 women and 7 children.

Full responsibility for this despicable attack was claimed by the military spokesman for the PLO from the Palestine Center in Cairo. He said:

> This heroic act confirms the decision on escalation adopted by the Palestinian leadership at its last meeting when it undertook to continue the policy of armed struggle against the Zionists and colonialist cancer throughout our Palestinian soil.

The PLO representative in Cairo, Tayat Abd Al-Rahim, told the French News Agency on October 15, that the decision under which the Jerusalem attack was carried out was taken by the Supreme Military Council of the Palestinian Center in Baghdad 10 days ago.

Mr. President, we must recognize the PLO for what it is—we must deny it acceptance or legitimacy at every turn. We should make every effort to close its office in the Nation's Capital and treat its representatives and leaders with the contempt and disdain they so richly deserve. This is an issue which I will continue to follow closely and I urge my colleagues to do likewise.

Thank you, Mr. President.

RETIRING SENATORS

TRIBUTE TO SENATOR HART

Mr. LAUTENBERG. Mr. President, with the retirement from this body of the senior Senator from Colorado [Mr. HART], the Senate will lose one of its most creative thinkers. But, fortunately, the Nation will continue to hear from the Senator. His will be a voice to be reckoned with in the next Presidential elections.

The Senator has distinguished himself as a critic of our Nation's military policy. He has been a leader in the so-called military reform movement. He has raised important questions about whether buying increasingly expensive and complex weaponry necessarily buys us a more effective defense. He has stressed the importance of high morale, cohesion, skill, and the readiness of our troops to successfully fight when called upon.

I have served with Senator HART on the Senate Budget Committee. There have been few voices in the Senate who have spoken more clearly about what this Nation's budgetary priorities ought to be. Senator HART has been an advocate for investment in this Nation's future. That means investment in education, science, and research. It means investment in the infrastructure upon which economic activity depends. We cannot leave the generations to follow impoverished by a mountain of debt. But, we cannot leave them impoverished, by failing to make the necessary investments, to equip them for the future.

To make these investments, we will need the people's approval, because they will bear the cost. That takes leadership of the kind that Senator HART has offered.

He has been willing to take tough political positions. He has proposed taxes to pay for the spending he believes we need. He has cautioned the Senate to resist the temptation to accept substitutes for the exercise of our own judgment. He was a leader in what, unfortunately, proved to be the unsuccessful opposition to the Gramm-Rudman-Hollings budget law.

Mr. President, the Senate will miss Senator HART's contribution to the development of our Nation's budget policy.

It will also miss his contribution to the development of an economic policy that will ensure this Nation's competitiveness. Part of that depends upon investments in science and education. Senator HART has proposed new approaches to enhance the education of our youth, to retrain our work force, and to encourage technological innovation. He has advocated a trade policy that is built on opening markets and boosting world economic growth.

Senator HART has consistently applied fresh insights and imagination to the problems this Nation faces. He has not been afraid to question the accepted wisdom. He has recognized that among our responsibilities is the responsibility to lead, to marshall the public's support for the choices that must be made.

We have known each other since 1972 when we worked together to support the Democratic nominee for President. History acknowledges the defeat of a candidate and the birth of an ideal that propelled GARY HART into the national spotlight.

Mr. President, while the Senate will be without Senator HART's voice, it is my hope that the Nation will continue to hear from him for many years to come.

TRIBUTE TO SENATOR LONG

Mr. LAUTENBERG. Mr. President, the end of the 99th Congress will mark the end of the Senate career of Senator RUSSELL LONG of Louisiana. Elected in 1948 at the young age of 30, Senator LONG has become a Senate institution. I know that for me, he has been a source of valuable advice and information about the Senate and its traditions.

Senator LONG is well known for his contribution to the formation of the Nation's tax laws. While I did not serve in the Senate during his tenure as chairman of the Finance Committee, he continued to make his mark from his position as ranking Democratic member. His important contribution to the development of the tax reform legislation that passed the Senate this year is viewed as a critical factor in its enactment.

RUSSELL LONG also has been a leader in the development, through the tax laws, of employee stock ownership plans. I was pleased to support his efforts to provide employees a greater stake in a company's success. When I was in the private sector, as chairman of a large company, I saw firsthand the benefits of employees investing in their company and sharing in its growth. The company gains from increased employee commitment and productivity and employees gain from their share in the company's success.

Mr. President, Senator LONG has accumulated a legislative record that is difficult to categorize. He is neither a conservative nor a liberal. But, he has cast key votes, perhaps unusual for a Senator from his region of the country, that have had a broader national impact than the impact of a single vote. I have heard my colleague from Hawaii, Senator MATSUNAGA, describe the key role Senator LONG played in securing statehood for Hawaii. Senator LONG also played a pivotal role in the debate on the ratification of the Panama Canal Treaty.

Mr. President, I would like to share with the Senate a personal story, that says a lot about the man, RUSSELL LONG. He and I happened to cross paths during separate visits to Israel. We met in Jerusalem where he was seeking understanding of the situation there. He later met with representatives of the Arab community. They were making a case on behalf of the Arabs in the West Bank. They argued that the Arabs there had just grievances. And the Senator from Louisiana was giving them a fair hearing. But, one Arab gentleman then sought to persuade the Senator that these grievances excused, if not justified, the violence that has plagued the West Bank. Terrorist acts continue to plague not only Israel but many nations of the world.

At this suggestion, Senator LONG responded. He responded by rejecting this justification for violence, as I think any Member of this body would have responded. But, he responded also as no other Member of this body could. He responded with the personal knowledge and experience of politically motivated violence. We can only hope that the eloquence of his message will someday be heeded.

Mr. President, RUSSELL LONG has enriched this body with his wisdom, his knowledge, his humor and his respect for its traditions and institutions. I have gained from his contribution and so has every present or past Member of the U.S. Senate who has served with him. While he will no longer serve in this body, I will continue to count him as a friend.

I wish him and his wife Carolyn well on their return to Louisiana.

200 MONTAGNARD REFUGEES TO RESETTLE IN NORTH CAROLINA

Mr. HELMS. Mr. President, admirable efforts are being made in North Carolina to assist a group of 200 Montagnard refugees who will be settling there in mid-November. The 200 Montagnards are originally from Vietnam but are coming to North Carolina from the Philippines.

Lutheran Family Services in Raleigh and Greensboro, with assistance from Catholic Social Services in Charlotte, is coordinating and administering the search for appropriate sponsors, willing volunteers, housing, jobs, and donations of cash and household goods. These groups will also oversee lessons in acculturation and training in English as a second language.

In assisting the Montagnards settle in the United States, the American people are fulfilling commitments made 25 years ago in the course of our military campaign in Vietnam. The Montagnard tribes were told that if they supported our efforts and the Government of the Republic of South Vietnam and denounced the Vietnamese Communists, we in turn would help secure their long-term interests.

Tragically, when the war ceased, the Montagnard people were left to suffer and die at the hands of the Communists on account of their support of our efforts to win freedom in Vietnam. Today, after 25 years, thousands of Montagnards continue to be persecuted by the Vietnamese Communists. The 200 Montagnards coming to the United States from the Philippines next month represent in a real sense the thousands of Montagnards who fought and gave their lives along with American and South Vietnamese soldiers. We, as a people and a nation, owe them a tremendous debt of gratitude. The Montagnards, in every sense, are Vietnam veterans.

Mr. President, many in North Carolina are ready and eager to make the upcoming resettlement of the Montagnards an answer to previously overlooked promises. But they cannot do it alone. They need the help of other Americans, and I urge my fellow citizens to assist in the North Carolina effort.

Readers of the CONGRESSIONAL RECORD who would like to help should contact Lutheran Family Services Refugee Program, P.O. Box 13147, Greensboro, NC 27415; telephone 919-275-2719.

OMNIBUS ANTIDRUG BILL

Mr. ROCKEFELLER. Mr. President, I applaud last night's action—the passage of what I hope will serve as the final version of major antidrug legislation. I urge my colleagues in the House of Representatives to also approve this bill and send it to the President for immediate enactment into law.

As I have said on the floor before, the American people expect, and should expect us to respond to the country's drug abuse problem. Thanks to the leadership on both sides of the aisle and in both bodies of Congress, comprehensive antidrug legislation was developed in the past 2 months swiftly and, for the most part, cooperatively.

I stress, again, that many of the proposals in this bill stem from years of thought and analysis—their chief proponents, however, had to wait for the time when drug abuse was recognized as an urgent priority by the President and Congress. Other measures represent more recent efforts to address aspects of the drug problem. But they also are the result of indepth research and deliberations. For example, I have been actively involved in drafting education provisions of this bill which were developed through a process of talking with numerous educators, experts in drug abuse prevention, and members of the Senate and the House about the best approach to take in supporting drug education programs nationwide.

Because of my overriding commitment to insuring the passage of this antidrug legislation during this Congress, I voted against cloture yesterday. I did so with the understanding that the failure to achieve cloture would provide the necessary signal to the majority leader and to the House leadership to persuade them to drop those measures which continue to stand in the way of enacting this legislation. It was clear to me that we were not going to pass a comprehensive drug bill with provisions that are strongly opposed by some of our Democratic and Republican colleagues. In my view, the responsible thing to do is to save the controversial questions for early next year when we have far more time for debate, discussion, and action. We must not—and thankfully, will not—miss the opportunity to adopt this year those measures which enjoy a consensus and should have a significant impact on curtailing drug abuse.

I sincerely hope that we will see the Anti-Drug Act become law in the next several days. Across the country and in my State of West Virginia, elected officials, law enforcement officers, school administrators, teachers, parents, and many others are anxiously waiting to know whether more Federal support is on its way to combat the drug problem. There is a great deal of work to do to curb the supply and use of illicit drugs—with this legislation, the Senate is taking essential action to assist in getting the job done.

STATE TERRORISM IN INDIA

Mr. HELMS. Mr. President, the recent assassination attempt against President Rajiv Ghandi of India has not yet been satisfactorily explained to the public. It is not clear whether the assassin was a deranged man, acting alone, as appears from the circumstances, or whether he was the instrument of a larger plot to destabilize the Indian Government. Nevertheless, the incident serves as a reminder that Mr. Ghandi has been marked for death by those who killed his mother, Indira Ghandi.

Political assassination is a technique of terrorism which is abhorred by all men, and is rightly condemned in the modern state. Indeed, even though Mrs. Ghandi's assassins were Sikh extremists, the Sikhs themselves condemn terrorism and do not support such measures in their struggle to retain their national and cultural identity. Nevertheless, the Sikh nation itself has been the victim of organized State terrorism by the Government of India. Thousands of Sikhs in India, innocent of any antistate plotting, have been brutalized, tortured, and even murdered by the State security apparatus in its attempt to assimilate and destroy Sikh religious, cultural, and economic achievements.

It is only recently that most Americans are coming to understand the distinctive achievements of the Sikh people, particularly with the arrival of many Sikhs to the United States where they have set to work with energy and dedication to become citizens of this country. A number of Sikhs have settled in North Carolina, and I have been impressed in talking to them by the ways in which they have contributed their formidable talents to our economic and political system.

Indeed, Mr. President, as Americans get to know the Sikhs better, they understand why the Sikhs have played such a dramatic role in the affairs of India, far out of proportion to their numbers. It is well-known that Sikh farmers have vastly out-produced their Hindu neighbors, that Sikh officers and soldiers have been the backbone of the Indian military, that Sikh civil servants have kept the Indian Government service operating despite the bureaucratic burdens imposed, and that Sikh lawyers and doctors stand at the very top of their professions. The Sikh people are strong for private property, individual initiative, and anticommunism.

These qualities have not made them beloved among their Hindu neighbors, for whom the vague, Third World, pro-Soviet socialism of Rajiv Ghandi

holds an inexplicable attraction. Moreover, the fact that the religion of Sikism believes strongly in one God, like the monotheism of Islam and Christianity, stands in stark contrast to the infinite array of Hindu gods and goddesses. Although Hindus and Sikhs have historically lived in mutual peace, the fact remains that the Sikhs are a national group, marked by their faith, and set aside from the religion and culture of the Hindu majority. The failure of the secular state to dominate the Sikhs economically and politically has made the Sikhs appear to be a threat to the unchallenged rule of the Congress I party, the party of the late Mrs. Ghandi and her son.

Indeed, the attempts of the Ghandis to exploit the Sikhs' economic power, to crush them politically, and to control and infiltrate the Sikh religion through penetration have accentuated the division. The Sikhs have reacted by asserting their individuality, greater autonomy and freedom in their affairs, and even political independence. It was Mrs. Ghandi's oppressive tactics which resuscitated and gave credence to the Sikh dreams of reviving the ancient Sikh republic of Khalistan.

In order to crush the Sikh spirit, Mrs. Ghandi conceived and organized the assult on the holiest of Sikh religious shrines, the Golden Temple in Amritsar, Punjab, on June 4, 1984. On that date, the Indian Army mounted an armed offensive against a group of Sikh militants who had taken refuge in the Temple. Despite the fact that thousands of religious pilgrims—men, women, and children—the Indian Army launched an artillery and tank attack that resulted in the death of thousands of innocents. Even the official version admitted by the Indian Government placed the dead at over 900. It was thought that the truth would never be known, since the Indian Government immediately placed Punjab under tight military rule, with a total news blackout. Only a handful of government-favored journalists were allowed in.

However, in April 1985, a factfinding team of five distinguished citizens, sponsored by the Citizens for Democracy, spent 13 days in the Punjab, taking firsthand accounts from eyewitnesses of what happened. The participants were Mrs. Amiya Rao, Mr. Aurobindo Ghosh, Mr. Sunil Bhattacharya, Mr. Teijinder Singh Ahuja, and Mr. N.D. Pancholi. The result was an account of atrocities, murder, and deception that amounted to a bill of indictment against the so-called democracy of India. Indeed, it is an account not just of repression, but of genocide.

It is noteworthy that only one of the five members of the team was a Sikh. The foreword was written by a distinguished Indian jurist, Justice V.M. Tarkunde. No sooner was the report published than the Indian Government, on September 13, 1985, immediately sought the arrest on sedition charges of the five authors, along with Justice Tarkunde. Justice Tarkunde wrote:

> The report * * * describes the inhuman barbarities to which the people of a particular community in Punjab were subjected. It is a terrible tale, carefully documented, of sadistic torture, ruthless killings, fake encounters, calculated ill-treatment of women and children, and corruption and graft on a large scale.* * * The story shows that although the relations between the Hindus and Sikhs in Punjab are not as cordial as before, the basic unity even in villages where the Hindus were in a hopeless minority * * * The story gives the impression that such extremism as one finds among the Sikhs is largely the result of the acute dissatisfaction and resentment caused by army and police atrocities.

Mr. President, this statement by Justice Tarkunde, gives the lie to the claim of India that it operates a democracy that protects minority communities. Indeed, I believe that the United States should reexamine its relationship with India, and use what influence we may possess to work for the restoration of freedom and civil liberties in that country.

Mr. President, I ask unanimous consent that the introduction to this report, "Oppression in Punjab," be printed in the RECORD at the conclusion of my remarks.

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

INTRODUCTION

In 1923 the National All India Congress had rushed a three-member fact-finding team to Punjab when hundreds of Sikhs protesting against the illegal takeover of the Nabha State by the British administration were sent to jail without any warrant and tortured inside the Nabha prison. Jawahar Lal Nehru, who had headed the team and his two colleagues were also jailed after their arrival in Nabha; all the facts they had gone to find they found inside the jail itself. After India attained independence, however, the All India Congress lost this admirable zeal for probe for verification of truth; and with the passing of time fact-finding teams were considered by it as irrelevant, since the Congress party was in power and the "Congress Government could do no wrong"; thus even after the massacre of the Muslims in Moradabad, blinding of prisoners in Bihar, killing of political activists in Kerala, dishonour of a woman in the open marketplace of Bagphat by the police in broad daylight and now after the incredible violence in Gujarat, the Congress party has not thought it necessary to send a team to any of these places.

The onerous duty of reaching the oppressed people at their hour of trial, and equally important, to present after meticulous investigation a correct picture to the public of hundreds of men, women and children living under duress; has fallen on those who staunchly believe that no violation of civil liberty and human rights can be tolerated and democratic principles India swears by must be observed in action and not merely remain on paper. They do not share the comfortable notion that because a prestigious party is in power things cannot go wrong.

Now in 1984 after the Operation Blue Star, suddenly the Government clamped down on Punjab an undeclared emergency. Punjab was cut off from the rest of the country for days, censorship was declared, all press men-both foreign and Indian—were expelled. There was total black-out of news excepting what was told by the Government-run All India Radio and Doordashan, again bringing back the unpleasant memories of Emergency days. One heard that "there was unprovoked firing from inside the Golden Temple on June 1 and the Security Forces showed extreme restraint and did not fire a single shot, a variety of Government sponsored news items informed us how the Army took the Golden Temple complex with the utmost care bordering on reverence (they even took their boots off while entering the Temple), how the city remained untouched and undamaged. Without a scrap of evidence we were expected to believe that it was Pakistan which was responsible for the growth of terrorism in Punjab and there was a seizure of highly sophisticated weapons. In July 1984 the White Paper carried the story of a modern Arms Factory located inside the Complex. Days after when we were assured of calm and normalcy in the Temple, the expulsion order regarding the foreign press was not withdrawn and even the Indian Press was not allowed to move about freely, a guided tour was arranged for them as if Amritsar had been an enemy territory recently captured. It is only on July 26 this year that there has been a temporary and partial relaxation of the ban on some foreign correspondents to enter Punjab for the specific purpose of covering the Akali Dal meeting after the announcement of the award of Chandigarh to Punjab. Obviously the Government has a lot to hide still.

That the ruling party was anxious to hide something earlier also was amply clear from the Government vendetta which the foreign correspondent of the Associated Press Mr. Brahma Chellany had to face. He was under intensive interrogation by the Police and the Army Intelligence Bureau and was charged with sedition, because he was the first pressman of standing who exploded the myth of Army's "human behaviour" towards the "militant" Sikhs who were arrested, unturbaned, hands tied behind their backs and then at least 13 of them shot in cold blood; and it was again he who gave some tentative figure of the dead—both the Sikhs and the Army—since the number of the Sikhs killed "was not of much concern to the authorities and the number of the army men killed was, Chellany's 200 soliders dead had to be whittled down to 96, but Shri Rajiv Gandhi while addressing the Nagpur session of the National Students Union in September 1984 raised the figure to 700; so far it has not been contradicted; it could be like his other famous utterance that Sant Jarnail Singh Bhindranwale was a religious teacher.

Under these circumstances rumours held sway—so much so that thousands of Sikh soldiers far away from home imagined the worst and became emotionally overwhelmed and today are undergoing painful punishment for no fault of theirs excepting that they had placed their faith above everything else in the world.

Extremely harsh laws have been promulgated covering the whole country but ever since the President's rule in Punjab and particularly after the Army Action, some of

these laws have been devised specially for Punjab—to teach the Sikhs a lesson: Punjab Disturbed Areas Act, Chandigarh Disturbed Areas Act, Armed Forces (Punjab & Chandigarh) Act, Terrorist Affected Areas (Special Courts) Act, 1984. The Code of Criminal Procedure (Punjab Amendment) Act. All these have given enormous power to the police and the Army. How vindictive the Government meant to be towards the Sikhs would be clear the way Punjab Government violated the National Security Act (NSA) provisions. In a number of cases the serving of revocation order recommended by the Advisory Board was held up for over 2 months. According to a report the Home Department in a letter marked "secret" to the I.G.P. (Intelligence) stated that while forwarding orders of revocation of some detenues, to the District Magistrates, the S.D.M. should be asked to consider re-detention if necessary and "serve revocation and fresh detention orders simultaneously". The Home Department of the police were keen on over-ruling the opinion of the Advisory Board recommendation releasing an Akali leader. The Home Department also issued instructions to the District Magistrates to keep a "close watch" on all those who had been detained under NSA but released and "apprehend such people without any loss of time" if they were found indulging in prejudicial activities, a list of such released persons was sent to the District Magistrates. Even the Supreme Court's order to Punjab Government for the immediate release of 22 minor children and 4 women held in Ludhiana jail since Army Action in 1984 was not given effect to. The minors continued to remain in jail and later when released again under orders of the Supreme Court two were rearrested and sent to Nabha jail. It was obvious that in Punjab violation of the rule of law had become the norm. The District & Sessions Judge, Patiala, Mr. Cheema's report on torture of detenues in Ladha Kothi in Sangrur District was too shocking for words. (Annexure No. 5).

The Government propaganda was perfect. The Punjab had become a dangerous place because of extremists roaming around with rifles and pistols and hand-grenades ready to kill and had been fairly accepted by the people; reports of encounter deaths were fairly frequent—the dead were always the Sikh terrorists; though no particular communal incident could be reported, the media never tired of communalism in Punjab. One heard how thousands of Sikhs were demanding Khalistan but for some reason the Khalistan flag was never described though it had been hoisted by those who are out to destroy the country! Even the national dailies had succumbed to the propaganda. Though they had no means of verifying the truth—the Temple being out of bound, one of them wrote in an impressive editorial about "the very magnitude and calibre of the weapons found in the Temple complex, some of foreign origin, the eleborate fortifications discovered within the holy temple." Terms like "Command Headquarters", "trained guerillas" used in real wars were just dropped casually like small pebbles in reams of learned articles.

One had a tremendous urge to rush to Punjab, to Amritsar's Golden Temple, to other Gurdwaras where army action had taken place, to various towns and villages in Punjab and using one's eyes and ears try to reach the truth. The team was expected to find out if there had been any erosion of civil liberty after the promulgation of the oppressive laws and the Operation Blue Star; if the Army's mopping up operations which was extended to the villages—known by the pretty name "Woodrose" Operation, which had begun simultaneously with the Army Action in Golden Temple, had affected the lives of the rural people adversely; how far the communal virus had spread and if the Hindus were really migrating from Punjab out of fear of the Sikhs; how deep was the alienation of the Sikhs from the Hindus, and if Khalistan was just a vague concept or if people were preparing for a new State called Khalistan—for that would obviously mean a bloody civil war.

The report has attempted to cover mostly these points. It is based entirely on interviews, which were held mostly on village common, sometimes under a tree or in a school compound—but always in the open. It was only after talking to these people we realise with a shock that most of the facts on which we had been fed for the last one year through articles and the media were highly exaggerated or mostly false; many vital facts touching the common man's daily life had been totally suppressed. Truth, it is well known, is the biggest casualty in war and few may be aware or though aware would not like to admit that a war is on—an undeclared, unilateral ruthless war—against hundreds of innocent defenceless men and women in far-away tiny villages of Punjab from where their voices do not reach the rest of India.

Though many of these villagers were on bail and some had come out of jail only a couple of days before they met us, they showed amazing self-control and fearlessness and without any hesitation told us their story mentioning the names of police officers who had tortured them and had demanded and in several instances accepted huge bribes, if they wanted their women not to be molested or their sons and brothers not to be killed in "encounters."

The Report has gathered that in the name of curbing terrorism unabashed State terrorism has been unreleased on the Sikhs branding them as criminals, arbitrary arrests and McCarthy style witch-hunt, sadistic torture of Amritdhari [1] Sikhs and cold-blooded shooting down of youngmen in false encounters, are common occurrences; even village women are not spared, they are being harassed and beaten up, dishonoured and taken away to Police Stations or to unknown destinations and kept there, sometime for more than a month. It is all male-police—there was no sign of woman-police in the villages. The demand is that the women must produce their missing or absconding husbands and sons; women after women came to meet us from different villages to tell us what they had been facing for the last one and half year; fields are not cultivated, the police whisk away the servants, cattle is not fed, crops cannot be harvested; a woman saddled with children with no man in the house to help and all the time the police-fear haunting her is a common story in the villages.

The Army never made a list of the dead after the Operation Blue Star nor returned the bodies—so none knows whether these men who had gone to the Guru Parb on June 3 either as pilgrims or with gifts of corn for the 'langar'—are dead or have absconded for fear of being arrested and tortured. Swinging between hope and hopelessness, afraid of the police, in many villages women have locked up their houses and have disappeared; in Verka village, for instance, houses were not even locked—they were lying empty, deserted. The situation is really desperate and it will be surprising if the brutal torture by the police does not encourage retaliation and fresh violence and create fresh terrorists. People who had undergone terrible torture came to see us and described these to us in detail. With these gruesome details reminding one of the medieval days we are marching toward the 21st century. Who can tell what is in store? We have included some of these descriptions in our appendix for better comprehension of what the army and the police have been doing to our people. There is a distinct pattern in the atrocities committed by the police; repeated raids in a particular house, repeated arrests of a particular person, removal of his agricultural implements, carrying away of the women to some unknown destination, threats to set on fire the house and the crops, harassment of relations, and finally extortion of money. Amritdhari Sikhs are not "dangerous criminals" as the obsessed Army has declared, but the Amritdhari Sikhs are in danger—their fate is uncertain.

We have pointed out, perhaps for the first time and with proper evidence, that the story about the so called "highly sophisticated arms" which were used to fight back the Army is totally baseless. A number of responsible men and women who were inside the Golden Temple throughout the Army action, described to us how innocent people were slaughtered like rats—first letting them enter the Complex and then declaring the curfew which prevented them from going out—thousands were thus caught unawares; finally when the survivors were asked to surrender they were shot in cold blood; our photograph would show how the hands of men were tied at their back with their own turbans, some of whom were shot. The post mortem reports show how the bullets had pierced their bodies. The eye witnesses witnessed the use of gas by the Army, the pile of dead bodies on the 'parikarma', the arrival of tanks which some of them thought were the ambulance, the hovering of helicopter at night, throwing their search-light on targets which were bombed, the wanton destruction of the Akal Takht, the Research Library and the Museum, and finally the killing of the 4 Sikhs of the Bunga Jassa Singh Ramgarhia in the basement of the Akal Takht—Bhindranwale was not definitely one of them. Of these eyewitnesses some were arrested and one is still inside jail, one was on the point of being shot but was saved almost miraculously. The facts have exposed the Army's 'restraint' we heard so much of and have proved conclusively that the White-paper is after all not so white. We learnt for the first time with amazement that the Red Cross

[1] Amritdhari. This tradition of Amritdhari was started by Guru Gobind Singh when he initiated "Panch Pyaras" (Five Beloved ones) as true Khalsas. Water and 'Batashas' (Sugar tablets) were put in a steel pot and it was mixed with a Khanda (two edged 'Kirpan'). Gurbanis were recited and this mixture was called Amrit (nectar). 'Panch Pyaras' stood in one line and drank the said 'Amrit' one by one from the same pot. This tradition is followed and all those Sikhs who are baptised in the above manner are called 'Amritdharis. They have to follow strict rules of discipline and a rigorous life. They have to keep always five things on their body *i.e.* 'Kachha', 'Kada', 'Kesh' and 'Kangha' (Underwear, steel ring on hand, sword, hair and comb.) They are required not to take any wine or any other intoxicant, never to look at other's women with bad intentions, never to eat 'Halal Meat', never to tell lies, never to attack first. They are also required to defend the oppressed and the exploited, and never to tolerate injustice.

was not allowed even to enter the Complex to attend to the wounded, many not allowed any water to drink died of thirst; on June 7,28 people were pushed inside a strong room without any ventilation and locked up, and when the room was opened, 14 of them were dead. Bodies were left to rot, inside the room and then burnt. This was free India's Jallianwala Bagh—leaving the old Jallianwala Bagh of the British days far behind in the number of killed and in the manner of killing.

We interviewed the sorrowing parents of some youngmen who are now in Jodhpur Jail as 'dangerous terrorists'. They showed us the photographs of these 'guerillas' gentle, innocent faces—all between 20 and 23, looked at us through the framed photos. One was a good musician, fond of books, a serious student in college—completely apolitical' another an excellent chess player, well qualified, looking for job in the State Bank of India, yet another a designer of steel furniture—there is not even a shred of evidence against most of these boys. Some were arrested because they happened to live in the Golden Temple Complex and were young.

We visited some special courts from outside and met a few who were being tried under the Arms Act. We were told that there were about 5,000 such cases—contemptuously called pen-knife cases. To make the cases look more prestigious revolvers and pistols are sometimes planted on the boys; even one cartridge would do the job; One of these extremists we met in the court holding up his tattered 'banyan' asked us "where could I have hidden a revolver?" Under the Terrorists Affected Areas (Special Courts) Act, the accused had to prove his innocence and virtually there was no appeal since the appeal was only to the Supreme Court, as far off as the moon in the heaven for the rural poor; so he had to rot in jail—much longer than the punishment called for. But the Government was happy with performance of the police—it is the number that counted—being utterly oblivious of the hardship the families had to face during absence of the men. Thus circumstances have forced many of these innocent people to stand before the Court and "confess their guilt", only to have the period of their detention reduced and then released. The Black Laws have virtually nullified the functioning of ordinary criminal laws ensuring fair trial and some kind of level justice.

For months the civil authorities had almost ceased to function. It is only under a military dictatorship, army officers could drag a Sarpanch to the Army Camp—and order him to produce some weapons which he was suspected to possess and when he could not, made to stand in a deep pit and earth piled inside till it reached his neck. We found that the Army was hated not only by the common villager but by their own retired Havaldars and Captains, for in several cases they were the targets being Amritdharis. Today the image of the Army is of a communal, corrupt, cruel and a grossly insensitive force. Its drunken revelry did not amuse the villager either. We have included some interviews in the Appendix on the behaviour of the Army—they are revealing and ask for no further comment.

Regarding communalism in Punjab we had interviewed several people both Hindus and Sikhs—excepting a few Hindus who appeared to communal and made some unsavoury remarks about the Sikhs, we never came across any positive evidence of communal feeling and there certainly was no migration of the Hindus from Punjab; but what we did find was alienation—that old trust, that spontaneous affection is gone, just now there is distrust and bitterness; unfortunately some Congress (I) when are fomenting this distrust. In the villages, on the other hand, there is harmony and friendship—as a villager remarked "bad things always come from cities". The interviews held in different villages gave us ample proof that the villages have still remained unspoilt.

As regards Khalistan it is on record that even Bhindranwale did not have a clear conception of Khalistan. According to a recent report, Harminder Singh Sandbu—a close associate of Bhindranwale has stuck to his statement that Bhindranwale never wanted a separate state called Khalistan. Those who are asking for a separate state they do not live in Punjab; and one must not take their words as the words of those who are here and all that they mean by Khalistan is to be able to live, with dignity and honour, inside India. We have recorded some interview on this subject—which has been falsely projected to lower down the Sikhs—who are no less patriotic than any other Indian.

In our Report we have not made any comment on the Anandpur Sahib Resolution, since reporting truthfully is our primary function, we have to say that those days when we were in Punjab, nobody talked about the Resolution. It could be because the people were much too harassed by the police and the army to think about the Anandpur Sahib Resolution.

But now that Sant Longowal and the Prime Minister Rajiv Gandhi have signed an agreement which includes transfer of Chandigarh to Punjab and also a reference of the Anandpur Sahib Resolution to the Sarkaria Commission, it is necessary perhaps to write a few words.

The 'historical accord' as it has been hailed could have been reached 4 years ago without much trouble at all—without destroying the holy shrine Akal Takht causing so much pain and anguish to those who hold their faith above everything else in life. One could have reached Chandigarh without having to wade through blood of thousands of men, women and children since 1982.

But all this did not happen. What has happened one might perhaps examine with some care.

While efforts to achieve the accord should be appreciated, it cannot be disputed that no accord can bring lasting peace in Punjab which ignore the burning issues over which the Sikhs feel deeply agitated. The Rajiv-Longowal accord has seemingly forgotten.

(1) The thousands of so-called Army deserters.

(2) and thousands of Sikh youth languishing in different jails of the country,

(3) and also the families of those—again running into thousands—who have allegedly gone to Pakistan but actually have been killed by the police and the Army.

(4) The problem of absconders who are underground, and who have fled under duress;

(5) Rajiv-Longowal accord has not said one word about the Police-Lawlessness or the repeal of most of the Black Laws; nor has it dealt with the withdrawal of the Army from Punjab.

(6) The accord is silent about adequate compensation for the November '84 riot victims.

Will the accord bring solace to those hundreds of men and women who have lost their peace of mind because of the constant terror of police they have been living in? As a poor village woman told us in Dera Baba Nanak—it is the poor who suffer when big people fight for their 'Kursi'.

We place our report before the Government and the people and demand that to bring back normalcy in Punjab, a General Amnesty must be declared without much delay, police repression should be stopped and all the black laws should be repealed forthwith.

THE PROMOTION OF AMBASSADOR CORR

Mr. HELMS. Mr. President, yesterday the Senate confirmed the nomination of Mr. Edwin G. Corr to the rank of Career Minister in the Foreign Service. Ambassador Corr's nomination was received by the Senate on October 25, 1985, and has remained there until the Senate acted yesterday.

Some of my colleagues have wondered why Ambassador Corr's promotion in the Foreign Service was delayed so long. The fact is that Ambassador Corr's promotion was delayed because the Department of State has been attempting for 15 months to evade the law with regard to the appointment of an independent Inspector General at the Department of State.

Indeed, it is a law which the Congress passed, and the President signed, not once but twice in that period. Yet it is just now that Congress has received satisfaction from the Department that it no longer considers itself above the law, and that an independent Inspector General will actually be named. It is too late, of course, for the Senate actually to receive the nomination for Inspector General, to hold hearings, and to get assurances from the nominee of the way in which he will conduct the office. At least he will be named, and the State Department is no longer claiming, as it did in an official letter, that Gramm-Rudman reducitons left no funds to for the appointment of an independent Inspector General.

A week ago, I wrote to President Reagan, and outlined the reluctance of the State Department to submit to independent inspection under the provisions of the law. I pointed out the dangers of the situation which has existed up to the present time, namely, that the State Department was the only agency of Government which claimed the right to have colleagues examining the actions of colleagues.

Mr. President, I ask unanimous consent that my letter to President Reagan be printed in the RECORD at the conclusion of my remarks.

However, I have been assured by Deputy Secretary of State John Whitehead, that the New Inspector General will actually be named in a few days.

Mr. President, I raised this issue on July 15, 1985, when Mr. Corr's name was before the Senate as the nominee to be the U.S. Ambassador to El Salvador. At that time, I said:

A large number of responsible people have come to me in recent weeks to tell me they do not believe that Mr. Corr deserves the President's trust. They have raised very serious charges. They have told me of incidents involving Mr. Corr's actions which go far beyond a question of philosophy or capability, if these reports are accurate, and I am inclined to believe they are, Mr. President, because the people who have come to me are responsible Americans, they are knowledgeable Americans, and they know what has been going on.

It gives me no pleasure, Mr. President, to raise such questions on the floor of the Senate when there has been no independent investigation of charges against Mr. Corr. The key word is "independent." There has been no independent investigation of the charges. That is precisely the point. Why is the Senate acting on this nomination when there has been no independent investigation?

I could go into detail concerning these issues on the Senate floor. I would have the protection of Senate immunity. But I do not want to do that. And I should not. But I say, Mr. President, that the charges should be examined by competent, independent authority.

I regret to say that has not been done. Just this afternoon I have been informed that the matters to which I refer have already been investigated by the Inspector General of the State Department. But the Inspector General's report has not been sent to the committee, nor is the Inspector General of the State Department a truly independent authority. Of course he is not. The State Department's Inspector General office is the only such office in the Government which is under the authority of the Cabinet officer in charge of the Department.

Moreover, the head of the Inspector General's office—that is, the State Department, and get this, Mr. President—is the former President of the Foreign Service Association, the State Department union. So you see, Mr. President, why I find suspect any benign report from this gentleman. In my judgment he is part of the problem, a problem that has existed for a quarter of a century.

Mr. President, as I pointed out in these remarks last year, it was only at the last moment that I had access to the Inspector General's report on Mr. Corr. After that speech, I had an opportunity to consider the report more carefully, and I was appalled—not only at the methodology of the investigation, but at the slipshod and erroneous work involved. Moreover, in addition to the issues which the Foreign Service-connected Inspector General had looked at, there were other, even more serious allegations which called into question not only Mr. Corr's performance in his former post in Bolivia, but also actions which would reflect adversely upon Mr. Corr and upon the United States.

The case of Mr. Corr, then, is a perfect example of why an independent Inspector General is needed. I cannot prejudge any independent investigation, but, in fairness to Mr. Corr, I am willing to accept the outcome of any investigation that is independent and complete. Indeed, as soon as the new Inspector General is named, as promised by Mr. Whitehead, I intend to submit a formal request that the long-delayed investigation of Mr. Corr be undertaken. Perhaps the new Inspector General will be able to submit a progress report when the name is officially submitted to the Senate in January and the nominee is brought before the committee.

It is unfortunate that the State Department delayed action on Mr. Corr's nomination so long by declining to obey the law. Indeed, the delay itself ought to be the subject of another investigation by the incoming Inspector General. It is curious that the former Inspector General, Mr. Harrop, who so botched the report on Mr. Corr, and who reportedly resisted the appointment of an independent Inspector General, was rewarded by his colleagues with a $20,000 bonus, courtesy of the U.S. taxpayer. That inspection could also study the role of the Under Secretary for Management, Mr. Spiers, in opposing the appointment of an independent Inspector General, and who received a $20,000 bonus voted by his colleagues the year before.

However, the prospect of an Independent Inspector General does seems to be close at hand at last. Therefore, I no longer had any objections to the consideration of Mr. Corr's promotion.

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

October 8, 1986.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: It has been 15 months since you signed into law Public Law 99-93, the Foreign Relations Authorization Act for fiscal year 1986-87. This legislation included provisions requiring the establishment of an independent Inspector General at the Department of State under the terms of the Inspector Generals Act of 1978. No action was taken by the Department of State to implement these provisions.

Congress once again passed legislation this year requiring the Department of State of appoint an independent Inspector General as part of Public Law 99-399, the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986. Mr. President, you signed this bill into law on August 27, 1986, but the Department of State, 6 weeks later, still has not moved to send a nominee for Inspector General to the Senate.

This failure of the Department of State to act when under a specific statutory mandate by Congress, not once, but twice, constitutes a grave dereliction of duty. Under the Inspector Generals Act, incorporation by reference into the recent directives by Congress, the head of the agency involved is required to recommend the name of an Inspector General nominee directly, without the participation of subordinates who might in the future come within the purview of the IG's investigations.

Although the State Department in the past has had an official with the title of Inspector General, that position was an internal position only, and not regulated by the strict standards of independence mandated by the Inspector Generals Act. A number of practices called out for reform:

—the old IG's office was staffed with career State Department employees, many of them not qualified as auditors or investigators, rotated in and out of the office from other State Department positions. Because these employees were called upon to investigate former and future colleagues and superiors, they were placed in a situation of actual or potential conflict of interest.

—furthermore, when these investigators were themselves Foreign Service officers, and member of the American Foreign Service Association (AFSA, the State Department union), they faced a further conflict of interest problem in attempting to separate individual wrong-doing from the needs of an organization dedicated to furthering career advancement. Non-union employees of the Department particularly doubted the objectivity of investigations conducted under such circumstances. This problem became particularly acute when the most recent occupant of the Inspector General's post was the past President of AFSA.

—finally, Inspectors General were formerly chosen not directly by the Secretary of State, but by the same career apparatus that controlled administration and career advancement throughout the Department. Thus any nominee for the post was inevitably open to the suspicion of being part of an insider's network, with professional and collegial ties that excluded the majority of State Department employees.

It is to avoid situations such as these that every other agency of government has an independent Inspector General. That is why the abolition of the old Inspector General's office, and the creation of an independent Inspector General is a very important reform in the State Department. It is deeply disturbing that the State Department has not only failed to act, but has actively resisted implementing the law. We have now come almost to the end of the 99th Congress, and no nominee has been sent to the Senate to fill this important position.

Mr. President, since the Secretary of State has failed to act on this important matter, I urge you to act directly and send a name of a qualified Inspector General for the State Department to the Senate in the hours that remain. While it is perhaps too late for the Senate to give its advice and consent in this matter, your nominee at least can be made known, and appointed an interim until the convening of the 100th Congress. Alternatively, I suggest that you designate the Inspector General of the Department of Agricultural, an independent and eminently capable individual known to many members of the Committee on Foreign Relations and the Committee on Agriculture, to handle matters involving the State Department, until an appropriate nominee to the State Department slot is nominated and confirmed next year.

There are a number of reform issues pending at the State Department which require immediate, thorough, and independent investigation, including issues relating to the State Department's unreasonable resistance to implementation of this legislation. I will be happy to discuss these in detail with whomever you designate to act as Inspector

General for the State Department. However, if we are to retain public confidence in our government, we cannot postpone reform for another 4 months until the new Congress convenes.

Sincerely,

JESSE HELMS

THE SEARCH FOR PEACE IN NORTHERN IRELAND

Mr. MOYNIHAN. Mr. President, I rise today to share with this body an insightful analysis of the search for peace in Northern Ireland. Mark J. Hurley, bishop of Santa Rosa, CA, has written an essay examining the attempts made in this century by Great Britain to resolve the Irish Question, including the most recent effort: the November 15, 1985 agreement signed in Hillsborough by Prime Minister Margaret Thatcher of the United Kingdom and Prime Minister Garret FitzGerald of Ireland.

That agreement—commonly referred to as the Anglo-Irish agreement—includes the acceptance of three fundamental principles. First, that "Any change in the status of Northern Ireland would come about only with the consent of a majority of the people of Northern Ireland." Second, that "the present wish of a majority of the people of Northern Ireland is for no change in the status of Northern Ireland." And third, that "if in the future a majority of the people of Northern Ireland clearly wish for and formally consent to the establishment of a united Ireland—the Governments of Ireland and the United Kingdom—will introduce and support in the respective Parliaments legislation to give effect to that wish."

The agreement also established the Anglo-Irish Intergovernmental Council to give the Government of Ireland a consultative role in dealing with political matters, the administration of justice, and other affairs in Northern Ireland. And in signing this agreement, both Governments reaffirmed "their total rejection of any attempt to promote political objectives by violence" and "their determination to insure that those who adopt or support such methods do not succeed."

But in testimony to the moderation—and the promise—of this agreement, extremists on both sides of the conflict are intensifying their efforts to destroy the accord. The Irish Republican Army has redoubled its campaign of terror. On August 5, 1986, the IRA announced that its gunmen would henceforth target telephone technicians, civil servants, and other workers deemed to be cooperating with the British "war machine" or doing business with the Royal Ulster Constabulary. The IRA advised displaced workers to find "alternative sites of employment."

This was described as a "sick joke" by Terry Carlin, nothern executive of the Irish Congress of Trade Unions, who pointed out that massive unemployment already exists in Northern Ireland. Indeed, the Irish Government estimates that Northern Ireland suffers from an unemployment rate of 21 percent, and that unemployment in some Catholic areas reaches 60 percent.

Irish Prime Minister Garret FitzGerald also denounced the new IRA threats as a "most indiscriminate and wholesale onslaught on the right to life of decent people." Mr. FitzGerald added that it was evident that the IRA was fearful that progress was being made toward peaceful reconciliation under the Anglo-Irish agreement.

As Bishop Hurley makes clear in his essay, Unionist extremists have also been doing their utmost to destroy this agreement. The virulence of their opposition stems in part from Unionist fears of being abandoned by the rest of Great Britain—more, than the rest of Great Britain does not consider Unionists truly British. Bishop Hurley quotes the Lord Mayor of Belfast, Sammy Wilson, as stating that "We've always had it lorded over us. They're—that is, the British—so superior * * * their accents and everything. * * *" And in a May 1986 poll, 61 percent of mainland Britons stated that they saw Northern Ireland's future as lying outside the United Kingdom.

We must not dismiss the potential impact of Unionist opposition to the agreement. As Bishop Hurley points out, Unionists have succeeded in overturning previous attempts to negotiate a political settlement to the conflict, including the Home Rule Bill of 1914 and the Sunningdale Agreement of 1973.

Yet, Bishop Hurley also reports that there are grounds for hope. The agreement has survived the "marching season" in Ulster; there is evidence that the British Government is working to meet some longstanding concerns of the Catholic community, including that of establishing tighter control over the Ulster Defense Regiment.

Mr. President, I ask that Bishop Hurley's essay be entered into the RECORD.

The essay follows:

THE THIRD TRY, THE CHARM?

The Hillsborough Treaty, that Anglo-Irish agreement, forged between the Thatcher government of Great Britain and the Fitzgerald government of Ireland, now eight months ago, has just survived, some say "just barely," the "marching season" in Ulster. The Orangemen's 1986 celebration of the Battle of Boyne where, in 1690, the forces of King William the Protestant defeated the forces of King James the Catholic, has dictated caution to any prophecy of the future survival of the treaty itself.

Predictably the extremists have pronounced it dead, with only proper burial left. Both the Provisional IRA and the Paisleyite Democratic Unionist Party, the DUP., bitterly oppose it but for utterly contrary reasons: the former because it will keep Britain in Ulster indefinitely, the latter because it will keep the Irish Republic there indefinitely. As the French proverb puts it: "The more things change, the more they are the same."

The Hillsborough Treaty is the third attempt in this century in which Great Britain has seriously attempted to meet the "Irish Question," which has bedeviled it not for years but for many centuries. Will the third time be the charm? or is it three strikes and you're out?

THE FIRST AGREEMENT, 1914

The British parliament toyed with the notion of Home Rule for Ireland from 1886 onwards, with the hopes of the Irish being regularly raised and regularly dashed. In 1912 under Prime Minister Asquith, who relied on Irish members of parliament to keep him in power, the Home Rule Bill came to maturity, with Royal Assent granted on Sept. 18, 1914.

From all over the world came a chorus of praise: Irish overseas rejoiced; Irish in Ireland sang the anthem "A Nation Once Again." Winston Churchill had already enthused that Ireland would no longer be the same "fierce and tragic" island because "rebellion, murder, and dynamite, these have vanished from Ireland." There seemed to be a true balance of interests even in Ulster where a 1910 vote in its nine counties was 103,367 Unionist and 94,073 Nationalist. But the cultural descendants of the victors at Boyne were irredentist and implacably so.

Led by the Masonic Orange Lodges, by Edward Carson and Sir James Craig, who later was to say as Grand Master of the Orange Lodge of County Down: "far more than I do being Prime Minister . . . I have always said that I am an Orangeman first and a politician and member of parliament afterwards . . . all I boast is that we are a Protestant parliament in a Protestant state," the Unionists mounted a counter-offensive to Irish Home Rule.

Carson proposed cutting six counties off from the nine in Ulster; to back up his intention he even imported rifles to arm civilians. Caparisoned with black bowler hats, walking sticks, broad orange stoles and phylacteries around their shoulders, to the tune of fifes and drums, the Unionists paraded through the streets in a determined campaign against the law. Carson even put the newly organized Ulster Defense Force of some 100,000 "on a war footing."

Meanwhile, General Hubert Gough, the commandant of the Curragh Brigade (near Dublin) and 57 of his officers publicly proclaimed that they would resign their military commissions rather than coerce Ulster to obey the new law. Strictly speaking, no direct orders from London were disobeyed but the event became commonly known as "The Mutiny of the Curragh." Some parliamentarians called for prosecution of the rebellious leaders but in vain.

Asquith and his government backed down, condoning the "mutiny" and winking at the mass importation of firearms for the UDF which, on April 25, 1914, consisted of 24,600 rifles and three million rounds of ammunition purchased from Germany. Even in the face of this retreat 132,454 Irishmen of whom 79,511 were Catholic, joined the British armed forces in the war against Germany in 1915, at the same time that Catholic Bishop Fogarty was pronouncing the obsequies: "Home Rule is dead and buried."

The 1916 Easter armed rebellion which ultimately secured freedom for 26 of the 32

counties in Ireland seemed fore-ordained and quite predictable in the sequence of events. Strike one, the umpire might have signaled.

THE SECOND AGREEMENT, 1973

The second attempt at an "Irish settlement" came in the 1973 Sunningdale Agreement. Not only had Ireland been partitioned in the meanwhile, but Carson's initiative to partition Ulster itself with six of the nine counties excised, had been implemented.

Ulster became a gerrymandered constituency without "one man, one vote," a paradigm of religious, judicial, and political oppression wherein not a single Catholic was ever chosen to be in the government, e.g. as a cabinet member, in over fifty years, where religious and political discrimination in housing, employment, and commerce could not have but eventually brought Great Britain into disrepute.

Civil rights associations such as the European Human Rights Commission, the London based Amnesty International and others began to raise serious questions about the legal system, the police and public security, the treatment of political prisoners, the denial of suffrage and assembly. Nationalist peaceful marches were banned; Unonists were police-protected. The seeds of yet another explosion like that of 1916 were sowed. The new Provisional IRA was born; The British Army, some 16,000 troops, was moved into Ulster on Aug. 14, 1969 "to protect both sides." In 1971 the Provo IRA had killed their first British soldier in the streets of Belfast; 1972 saw the British army wantonly shooting down 13 innocent unarmed civilians in their Bogside ghetto in Derry. The results again were predictable.

The Stormont government of Ulster was suspended by Westminster; Great Britain itself took over direct rule of the six counties, a rule which has perdured to the present day.

In 1973 the second major attempt at settlement was made. The Sunningdale Agreement proposed a sharing of power between majority and minority populations. One man one vote became law, the Royal Ulster Constabulary police were disarmed and the para-military "B" specials officially disbanded. A new Council of Northern Ireland, to seek cooperation with the Irish Republic, was proposed, as was a "devolved" local government sharing cabinet posts and administrative positions between Unionists and Nationalists, between the Protestant majority in the six counties and the Catholic minority. Of such proposals demagogues are born in Ulster; Ian Paisley, described as "a brilliant mob orator" rode to power, fame, and election to the London Parliament and the DUC became a source of power.

For the second time in the 20th century Great Britain had taken an initiative to bring at least a modicum of democracy into what it calls its "province." But the question then (as now) was not its willingness to pass legislation and to formulate agreements but whether it had the will power to enforce them. The clear answer, in the face of the Unionist recusant onslaught, was in the negative.

With relative ease in 1974 the whole scheme was subverted by a political strike called by the Workers Union of Ulster. This act of massive resistance and civil disobedience paralyzed the Province for about a week. The RUC police force and the British Army stood idly by unwilling to move against the Unionist protesters. Power-sharing which had been the notable feature of Sunningdale was not acceptable; good will was not translated into commensurate action. Northern Ireland had once again reverted to type, drifting aimlessly into more violence, murder, terrorism and heart-break on all sides.

Again folk heroes were born. Bernadette Devlin, to be shot by Unionists in her own home; Bobby Sands on hunger strike at the Long Kesh prison were elected to the Westminster Parliament in London. Policemen, British soldiers, judges, among each group some Catholics, were ruthlessly murdered by the Provo who publicly "took credit." Just seventeen days after Bobby Sands died on May 5, 1981 Carol Ann Kelly, aged 12, was shot down by British troopers just outside the Sands' family home in Twinbrook, Belfast, with plastic bullets, the allegedly "non-lethal" missiles which had already killed twelve people, all of them Catholics.

On April 5, James Prior, the British Secretary for Northern Ireland, issued a "white paper proposing to put an end to bloodshed, a proposal which he called "novel, fair, and flexible." It was repudiated by all sides.

Sunningdale with all its works and promises was dead and buried. The Unionists still held de facto veto power over the British Parliament; Great Britain would not enforce its own laws, treaties, and agreements in a divided Ulster.

"Strike two" the umpire might have signaled.

THE THIRD ATTEMPT, 1985

A new dynamic was at work in the beautiful green village of Hillsborough, near Belfast, in Dec. 1985 as the third agreement of this century was signed by the two prime ministers, Mrs. Margaret Thatcher for the United Kingdom and Dr. Garret Fitzgerald for the Republic of Ireland. For the first time in the tortured history of a partitioned Ulster, the Irish government had been conceded a role, albeit a consultative one only, in the affairs of the Province.

Violence as a policy and coercion as a means were ruled out by the Hillsborough Agreement. Thatcher promised to support a United Ireland when and only when "the majority" (unfortunately not specified as to meaning) so wished; Fitzgerald foreswore any use of force as licit for the reconciliation of the two sides. The U.K. and the Republic pledged to cooperate jointly to build a just society as prelude to peace wherein both majority and minority rights were respected and sustained. A joint commission from north and south of the border would work together to revive the local legislature at Stormont as a step towards good government.

As usual, the extremists on both sides violently opposed Hillsborough but for contrary reasons: Paisley and the DUP because it would keep Dublin in Ulster's future indefinitely; Adams and the IRA because it would keep London there. On June 26 Paisley declared that "we are on the verge of civil war;" at the same time the Provo IRA took "credit" for the killing of two British soldiers. The Unionists replied with the murder of a young Catholic man, Brian Leonard, aged 20 of the Shankhill area of Belfast, "in retaliation."

Paisley dipped back into history urging the officers of the Royal Ulster Constabulary to resign their commissions rather than enforce the law; he called up the ghosts of General Gough and the "Mutiny of the Curragh." He suggested that he would lead hand-to-hand fighting in the streets, with blood flowing as in 1914. The newspapers were quick to label his actions: "Paisley Urges RUC Revolt." Hours later he said he was not fomenting revolution or mutiny but merely predicting them.

Councilwoman Dodie McGuinness in defiance of the RUC addressed an illegal assembly of 1,000 on June 30 in Derry (Derry Journal, July 1). A Sinn Fein city official, she openly supported violence and the IRA, heaping scorn on the supporters of the Hillsborough Agreement:

"Thatcher only started to take Ireland seriously when the IRA put a bomb under her backside in Brighton, and history has shown that Britain like all colonial aggressors only listens to force." On July 10, the IRA admitted yet another killing: of John McVitty of the RUC in front of his 10 year old son.

The Lord Mayor of Belfast, Sammy Wilson, called for a repudiation of the British as well as the Irish governments: "We've always had it lorded over us. They're (i.e. the British) so superior . . . their accents and everything . . . Unionists see the role of the Irish government and the SDLP (the Nationalist party) as being not too far from the position of the Sinn Fein (Provisional IRA). Instead of using IRA guns, they're using British guns." (Sunday Tribune, July 13, Belfast).

Editorials both north and south of the border grew increasingly pessimistic as "the marching season" came into the spotlight. July 12 did not come off exactly as in the past. There were the customary marches under the patronage of the Masonic lodges; the black bowler hats, the walking sticks, the broad orange stoles, and the fife and drum corps a la 1914, but the Unionists were not granted carte blanche to do as they pleased.

Parades were routed around and away from Catholic areas in many cases; compromises were effected. John Hume, the moderate leader of the SDLP vigorously protested the "compromise" in Portadown on July 12, which kept the Orange marchers out of their customary parade through the Nationalist Tunnel area, but which permitted the marchers to strut their stuff in a much larger Catholic area Hume interpreted this "compromise" a "victory for Paisley" and "a boost for bully boys."

Editorialists were cautious in their assessments of the situation, and somewhat on the pessimistic side. The Irish Times, July 10, accused Paisley of dangerous words in calling on "the police, in effect, to mutiny, picturing him as having spent "a good part of his life skating on the fringes of the law . . . coming very close to sedition—and incitement to violence." The Derry Journal, July 11, noted that "today the police and the British army are threatened by forces on both sides of the divide. The people in general are threatened by security forces and paramilitaries within their respective communities. In such conditions is it any wonder that more and more people ask, despairingly, what are the chances for peace?"

The Sunday Tribune, July 10, entitled its editorial "Meaningless Agreement," expressing disappointment: "There nonetheless must be concern that the means of political resolution of the problems of Northern Ireland have begun to appear a good deal less effective than we had been led to believe some eight months ago. The Anglo-Irish Agreement was welcomed largely on a perception of how it would resolve the grievances of the minority. The reality is that since its signing it has done almost nothing on that account."

The Irish Press, July 10, in its editorial "Powder Keg," put its finger on the key point: "We will discover whether the British

government's writ still runs and whether the RUC is willing and able to enforce the law."

There are some signs of hope contrary to the pessimism engendered by the last eight months; some things have indeed changed. All of Ireland and Great Britain saw with their own eyes, Dr. Paisley being hauled bodily and unceremoniously out of the Stormont legislature kicking and shouting, and twenty-one of his legislative associates with him. Protestant mobs attacked the RUC police with sticks and stones and, more ominously, with petrol bombs formerly known as Molotov cocktails—Protestant against Protestant. Perhaps the most startling of all was the use of plastic bullets by the RUC against the Unionist protesters, bullets which were reserved only for Nationalist marchers in early times. The "marching season" did not follow previous patterns of untrammeled flaunting of Orange ascendancy. The Orange Order in Belfast, for example, refused to cooperate with Paisley's call for massive marches "bad tactics," they said.

Britain's BBC presented, June 30, a documentary on the Unionist mentality in Portadown, re-enforcing the perception, as the polls in Great Britain clearly indicate: the British people are sick and tired of Northern Ireland, its toll on British troops, and its cost to British taxpayers. They don't feel drawn to defend more Portadowns.

Many leaders in state and church in Ireland, North and South, have not yet given up on the Anglo-Irish Agreement of Hillsborough. They see clear signs that the Thatcher government means to stand by it and up to it. Parliament at Westminster also sees its "ultimate authority" (Great Britain has no written Constitution) being seriously challenged and eroded.

Moderate politicians are looking for speedy amelioration of some classic grievances which are not *ex professo* addressed in the Agreement but can help support it if ameliorated or even solved.

They expect that the current practices of the Diplock courts, with its single judge sitting without jury, can now be changed to a three judge court. Snorted the IRA Provos: "What's the difference between one Unionist judge and three Unionist judges?" There is a bill introduced in Westminster by Seamus Mallon of Armagh to curb the use of "supergrass," the convicted paid informers whose uncorroborated testimony, which would never be accepted in England, is in Northern Ireland.

New measures of control of security forces are also expected, particularly the mode of operations of the Ulster Defense Regiment. Under present arrangements these reserve officers, weekend police, and auxiliaries to the regular RUC are not supposed to work or engage in police actions without the presence of a fully professional policeman of the RUC. When asked how this assignment was working a prominent politician said "about one-third of the time;" a Catholic bishop assured "about half the time."

It seems fair to say that most leaders still think it is too early to judge whether Ulster will for the third time hold veto power over the Westminster Parliament. Nationalists and Unionists of moderate stripe are skeptical, but in most cases not cynical; give the Hillsborough Agreement a chance for at least one year but not more than two, they say.

Will the third time be the charm? Or is it three strikes and you're out?

It's too early to tell.

MESSAGES FROM THE HOUSE

At 9:10 a.m., a message from the House of Representatives, delivered by Mr. Allen, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 738) making continuing appropriations for the fiscal year 1987, and for other purposes; it recedes from its disagreement to the amendment of the Senate numbered 60 to the joint resolution, and agrees thereto; it recedes from its disagreement to the amendments of the Senate numbered 19, 59, 117, and 124 to the joint resolution, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate; and it insists upon its disagreement to the amendment of the Senate numbered 23 to the joint resolution.

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

H.J. Res. 753. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes.

At 10:30 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1128) to amend the Clean Water Act, and for other purposes; and that the House insists upon its amendment to the title of the bill.

The message also announced that the House agrees to the amendments of the Senate numbered 1 through 4, and 6 through 11 to the bill (H.R. 5028) entitled "The Lower Colorado Water Supply Act"; and that the House disagrees to the amendment of the Senate numbered 5 to the bill.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 3614) to restrict the use of Government vehicles for transportation of officers and employees of the Federal Government between their residences and places of employment, and for other purposes.

The message also announced that the House has passed the bill (S. 1374) to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 3004) to amend section 3006A of title 18, United States Code, to improve the delivery of legal services in the criminal justice system to those persons financially unable to obtain adequate representation, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 5495) to authorize appropriations to the National Aeronautics and Space Administration and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 411. Concurrent resolution to correct a technical error in the enrollment of the bill S. 475.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:56 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 bills and joint resolution:

H.R. 2067. An act to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Company;

H.R. 3113. An act to implement the Coordinated Operations Agreement, the Suisun Marsh Preservation Agreement, and to amend the Small Reclamation Projects Act of 1956, as amended, and for other purposes;

H.R. 3352. An act to transfer certain real property to the city of Mesquite, Nevada;

H.R. 4175. An act to authorize appropriations for fiscal year 1987 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission; and

H.J. Res. 753. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. THURMOND].

At 4:57 p.m., a message from the House of Representatives, delivered by Mr. Allen, one of its clerks, announced that the House has passed the following bills and joint resolutions, without amendment:

S. 511. An act to change the name of the Loxahatchee National Wildlife Refuge, Florida, to the Arthur R. Marshall Loxahatchee National Wildlife Refuge;

S. 2864. An act to provide for a Deputy Secretary of Labor, an Assistant Secretary of Labor for Administration and Management, three additional Assistant Secretaries of Labor, and for other purposes; and

S.J. Res. 427. Joint resolution reaffirming our friendship and sympathy with the people of El Salvador following the devastating earthquake of October 10, 1986.

The message also announced that the House has agreed to the following

concurrent resolutions, without amendment:

S. Con. Res. 168. Concurrent resolution authorizing a technical correction to be made in the enrollment of the bill S. 2250; and

S. Con. Res. 171. Concurrent resolution to correct the enrollment of H.J. Res. 626.

The message further announced that the House agrees to the amendment of the Senate to the amendments of the House to the amendment of the Senate to the bill (H.R. 4350) to amend the Wild and Scenic Rivers Act, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the following bills and joint resolution:

H.R. 4244. An act to authorize funds to preserve the official papers of Joseph W. Martin, Jr.;

H.R. 4961. An act to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1987, 1988, 1989, and for other purposes; and

H.J. Res. 626. Joint resolution to approve the "Compact of Free Association" between the United States and the Government of Palau, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 5167) to declare that the United States holds certain public domain lands in trust for the Pueblo of Zia.

The message also announced the House has passed the joint resolution (S.J. Res. 43) 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, with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 4899) to amend title 35, United States Code, with respect to patented processes and the patent cooperation treaty; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the title of the bill (H.R. 5595) to amend title XVI of the Social Security Act to make necessary improvements in the SSI Program with the objective of assuring that such program (including the work incentive provisions in section 1619 of such act) will more realistically and more equitably reflect the needs and circumstances of applicants and recipients thereunder; and that the House agrees to the amendment of the Senate to the text of the bill, with amendments, in which it requests the concurrence of the Senate.

At 9:17 p.m., a message from the House of Representatives, delivered by Mr. Allen, one of its clerks, announced that the House has passed the following bills, without amendment:

S. 485. An act to amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the treatment of submerged land and ownership by the Alaska Native Corporation; and

S. 2648. An act to improve the public health through the prevention of injuries.

The message also announced that the House agrees to the amendment of the Senate to the following bills:

H.R. 2776. An act to amend the District of Columbia Stadium Act of 1957 to direct the Secretary of the Interior to convey title to the Robert F. Kennedy Memorial Stadium to the District of Columbia; and

H.R. 4208. An act to authorize appropriations for the Coast Guard for fiscal year 1987, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2482) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (H.R. 2057) to establish the President's Council on Health Promotion and Disease Prevention; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 1311) to authorize the Smithsonian Institution to plan, design, and construct facilities for the National Air and Space Museum; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House to the title of the bill (S. 991) to provide authorization of appropriations for certain fisheries activities; and that the House agrees to the amendment of the Senate to the amendment of the House to the text of the bill, with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills, in which it requests concurrence of the Senate:

H.R. 2127. An act to establish a United States Boxing Commission, and for other purposes; and

H.R. 5705. An act to protect and provide for the enhancement of the resources of the Columbia River Gorge, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 414. Concurrent resolution to correct the enrollment of the bill S. 1200.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5705. An act to provide for the enhancement of the resources of the Columbia River Gorge, and for other purposes.

The Committee on the Judiciary was discharged from the further consideration of the following bill; which was placed on the calendar:

H.R. 2652. An act for the relief of Kumari Rajlakshmi Bais.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, October 16, 1986, she had presented to the President of the United States the following enrolled bills and joint resolutions:

S. 209. An act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services on the case of indebtedness owed the United States;

S. 1895. An act for the relief of Marlboro County General Hospital Charity of Bennettsville, South Carolina;

S. 2266. An act to establish a ski area permit system on national forest lands, and for other purposes;

S. 2506. An act to establish a Great Basin National Park in the State of Nevada, and for other purposes;

S. 2750. An act to establish a property tax fund for the Houlton Band of Maliseet Indians in furtherance of the Maine Indian Claims Settlement Act of 1980, and for other purposes;

S.J. Res. 169. Joint resolution to commemorate the bicentennial anniversary of the first patent and the first copyright laws;

S.J. Res. 232. Joint resolution to designate October 6 through October 10, 1986, as "National Social Studies Week";

S.J. Res. 299. Joint resolution to designate the week of December 7 through December 13, 1986, as "National Alopecia Areata Awareness Week";

S.J. Res. 304. Joint resolution to designate the week of November 16 through November 22, 1986, as "National Arts Week";

S.J. Res. 306. Joint resolution to designate the week beginning November 23, 1986, as "National Adoption Week";

S.J. Res. 308. Joint resolution to designate March 25, 1987, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy";

S.J. Res. 311. Joint resolution designating the week beginning November 9, 1986, as "National Women Veterans Recognition Week";

S.J. Res. 322. Joint resolution to designate December 7, 1986, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor;

S.J. Res. 392. Joint resolution to designate the month of December 1986 as "Made in America Month";

S.J. Res. 396. Joint resolution to designate the week October 26 through November 1, 1986, as "National Adult Immunization Awareness Week";

S.J. Res. 410. Joint resolution to designate the period commencing February 9 and ending February 15, 1987, as "National Burn Awareness Week";

S.J. Res. 414. Joint resolution to designate March 16, 1987, as "Freedom of Information Day"; and

S.J. Res. 418. Joint resolution to designate February 4, 1987, as "National Women in Sports Day".

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATFIELD, from the Committee on Appropriations;

Special report entitled "Revise Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1987 (Rept. No. 99-540).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

Treaty Doc. 99-12. 1984 Protocols amending the Civil Liability and Fund Conventions on Oil Pollution Damage (Exec. Rept. 99-28); and resolutions of advice and consent to ratification thereto:

TEXT OF RESOLUTION OF RATIFICATION PROTOCOL OF 1984 TO AMEND THE INTERNATIONAL CONVENTION OF CIVIL LIABILITY FOR OIL POLLUTION DAMAGE, 1969

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol of 1984 to Amend the International Convention on Civil Liability for Oil Pollution Damage, 1969 (Civil Liability Convention), subject to the following reservation, understandings and declaration:

RESERVATION

Notwithstanding Article III, paragraph 4, of the Convention of Civil Liability for Oil Pollution Damage, 1969, as amended, to the extent that oil pollution damages in respect of any one incident may exceed the total amount recoverable under said Convention (Liability Convention), the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (Fund Convention), as amended, and the applicable U.S. Federal oil pollution liability and compensation statute, claimants may seek recovery of their uncompensated damages in courts of competent jurisdiction of the States of the United States, including its territories and possessions and the District of Columbia, pursuant to applicable State statutes and common law, after remedies available under the Liability Convention, the Fund Convention, and the applicable U.S. Federal Oil pollution liability and compensation statute have been exhausted, except that in any such section under a State statute or common law for such uncompensated damages, no claimant shall be entitled to assert any substantive or procedural right based on any provision of the Liability Convention for the Fund Convention.

UNDERSTANDINGS

(1) The United States understands that the definition of pollution damage in Article I, paragraph 6 of the International Convention of Civil Liability for Oil Pollution Damage, 1969, as amended by Article 2, paragraph 3 of the 1984 Protocol thereto, does not exclude reasonable and directly related loss of tax revenue to the United States, its States and territories and subdivisions thereof, and the District of Columbia.

(2) The United States understands that nothing in the Protocol of 1984 to Amend the International Convention of Civil Liability for Oil Pollution Damage, 1969, prevents any claimant from combining damage awards from two or more incidents which have injured the same or adjacent resources to fund a restoration project which addresses those incidents.

(3) The United States understands that the definition of pollution damage in Article I, paragraph 6 of the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended by Article 2, paragraph 3 of the 1984 Protocol thereto, includes loss of profit or impairment of earning capacity caused by damage of the environment by an oil pollution incident.

(4) Any damages not compensable due to the definition of pollution damage in Article I, paragraph 6 of the International Convention on Civil Liability for Oil Pollution Damage, as amended by Article 2, paragraph 3 of the 1984 Protocol thereto, or by any future interpretation of the Liability Convention as so amended, may be provided for by laws of the United States, its States, territories or the District of Columbia.

(5) The United States understands the definition of pollution damage in Article I, paragraph 6 of the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended by Article 2, paragraph 3 of the 1984 Protocol thereto, to include loss of use of subsistence resources.

(6) The United States understands the definition of pollution damage in Article I, paragraph 6 of the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended by Article 2, paragraph 3 of the 1984 Protocol thereto to include directly related and reasonable costs of investigation, assessment of damage and court costs, excluding defense costs.

DECLARATION

In accordance with Article 13 of the Protocol of 1984 to Amend the International Convention on Civil Liability for Oil Pollution Damage, 1969, the United States declares that its instrument of ratification of that Protocol shall be deemed not to be effective for the purpose of said Article 13 until the end of the 6-month period described in Article 31 of the Protocol of 1984 to Amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971.

TEXT OF RESOLUTION OF RATIFICATION PROTOCOL OF 1984 TO AMEND THE INTERNATIONAL CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL FUND FOR COMPENSATION FOR OIL POLLUTION DAMAGE, 1971

Resolve, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol of 1984 to Amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, (Fund Convention), subject to the following understandings and declarations:

UNDERSTANDINGS

(1) The United States understands that nothing in the Protocol of 1984 to Amend the International Convention on the Establishment of an International Fund for compensation for Oil Pollution Damage prevents any claimant from combining damage awards from two or more incidents which have injured the same or adjacent resources to fund a restoration project which addresses those incidents.

(2) Any damages not compensable due to the definition of pollution damage in Article I, paragraph 6 of the International Convention on Civil Liability for Oil Pollution Damage, as amended by Article 2, paragraph 3 of the 1984 Protocol thereto, or by any future interpretation of the Liability Convention as so amended, or of the International Convention on the Establishment of an International Fund for Compensation of Oil Pollution Damage, as amended by the 1984 Protocol thereto, may be provided for by laws of the United States, its States, territories or the District of Columbia.

DECLARATIONS

(1) In accordance with Article 30 of the Protocol of 1984 to Amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, the United States declares that its instrument of ratification of that Protocol shall not take effect for the purpose of said Article 30 until the end of the 6-month period described in Article 31 of that Protocol.

(2) In accordance with Article 14 of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, as amended, the United States declares that it assumes itself all obligations that are incumbent under the Convention on all persons who are liable to contribute to the International Oil Pollution Compensation Fund 1984 (the Fund) in accordance with Article 10, paragraph 1, in respect of oil received within, the territory of the United States. The Fund shall be entitled to enforce all such obligations exclusively under the applicable U.S. Federal oil pollution liability and compensation statute.

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. BYRD (for Mr. INOUYE (for himself and Mr. RUDMAN)):

S. 2928. A bill to provide for more effective regulation of vehicles not originally manufactured to meet Federal safety standards; ordered held at the desk.

By Mr. MOYNIHAN:

S. 2929. A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber ammunition; to the Committee on the Judiciary.

By Mr. HATFIELD:

S. 2930. A bill entitled the Department of Energy Environmental Compliance Act of 1986; to the Committee on Environment and Public Works.

S. 2931. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Umatilla Basin Project, Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2932. A bill to establish the El Malpais National Monument, the Masau Trail, and the Grants National Conservation Area in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MOYNIHAN (for himself and Mr. HEINZ):

S. 2933. A bill to charter the National Academy of Social Insurance; to the Committee on the Judiciary.

By Mr. DOLE:

S. 2934. A bill to establish a Commission and National Advisory Committee to study a constitutional amendment regarding impeachment; to the Committee on the Judiciary.

By Mr. CHAFEE:

S. 2935. A bill to prohibit the use of subtherapeutic doses of penicillin, chlortetracycline, and oxytetracycline in animal feed; to the Committee on Labor and Human Resources.

By Mr. PELL (for himself, Mr. CHAFEE and Mr. WEICKER):

S. 2936. A bill granting the consent of Congress to the Connecticut, Rhode Island, Massachusetts, and New York Rail Improvements Compact; to the Committee on the Judiciary.

By Mr. NUNN (for himself and Mr. COCHRAN):

S. 2937. A bill to amend the Food Security Act of 1985 to increase the number of acres placed in the conservation reserve program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SPECTER:

S. 2938. A bill entitled the "Logan Relief Act"; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROCKEFELLER:

S. 2939. A bill to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMPSON (for Mr. MATHIAS (for himself, Mr. SARBANES, Mr. WARNER, and Mr. TRIBLE)):

S.J. Res. 428. A joint resolution granting the consent and approval of Congress for the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact; considered and passed.

By Mr. HARKIN (for himself, Mr. KENNEDY, Mr. KERRY, Mr. BYRD, Mr. MELCHER, and Mr. LEAHY):

S.J. Res. 429. A joint resolution to require a report by the President on possible involvement by U.S. government personnel in the provision of military support by American citizens to the Nicaraguan democratic resistance.

By Mr. DOLE (for himself, Mr. BYRD, Mr. THURMOND, Mr. CRANSTON, Mr. SIMPSON, Mr. COCHRAN, Mr. SARBANES, Mr. BOSCHWITZ, Mr. HATCH, Mr. BOREN, Mr. BENTSEN, Mr. LEAHY, Mr. WILSON, Mr. GOLDWATER, Mr. LUGAR, Mr. FORD, Mr. HEINZ, Mr. STAFFORD, Mr. DOMENICI, Mr. CHILES, Mr. NUNN, Mr. LEVIN, Mr. DECONCINI, Mr. BROYHILL, Mr. BURDICK, Mr. DODD, Mr. DURENBERGER, Mr. INOUYE, Mr. GORE, Mr. HOLLINGS, Mr. TRIBLE, Mr. WARNER, Mr. PACKWOOD, Mr. STEVENS, Mr. LAUTENBERG, Mr. WEICKER, Mr. GRASSLEY, Mr. MURKOWSKI, Mr. EAGLETON, Mr. ANDREWS, Mr. ABDNOR, Mr. D'AMATO, Mr. JOHNSTON, Mr. ROCKEFELLER, Mr. SIMON, Mr. RIEGLE, and Mr. PRYOR):

S.J. Res. 430. Joint resolution to commemorate the United Way of America on its centennial; considered and indefinitely postponed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMPSON (for Mr. ROTH (for himself, Mr. DOMENICI, and Mr. CHILES)):

S. Res. 509. A resolution providing for a point of order against extraneous material in certain reconciliation measures; considered and agreed to.

By Mr. SIMPSON (for Mr. DOLE (for himself and Mr. BYRD)):

S. Res. 510. A resolution authorizing the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate to make certain appointments after the sine die adjournment of the present session; considered and agreed to.

By Mr. BOSCHWITZ:

S. Res. 511. A resolution expressing the sense of the Senate that the Joint Political-Military Group should develop policies and programs which promote strategic cooperation between the United States and Israel; to the Committee on Foreign Relations.

By Mr. SIMPSON (for Mr. DOLE) for himself and Mr. BYRD)):

S. Res. 512. A resolution to direct the Senate Legal Counsel to represent the staff of Senator DOLE and to authorize the testimony of such staff in the case of United States v. Michael Evan Bardoff, et al.

By Mr. SIMPSON (for Mr. MCCLURE):

S. Con. Res. 171. A concurrent resolution to correct the enrollment of H. J. Res. 626; considered and agreed to.

By Mr. SIMPSON (for Mr. THURMOND (for himself, Mr. DOLE, Mr. BYRD, Mr. STENNIS, Mr. HATFIELD, Mr. SIMON, and Mrs. KASSEBAUM)):

S. Con. Res. 172. A concurrent resolution to convene the Congress in Philadelphia, Pennsylvania, on July 16, 1987, in order to commemorate the 200th anniversary of the Great Compromise creating the basis of representation between the Senate and the House of Representatives; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOYNIHAN:

S. 2929. A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber ammunition; to the Committee on the Judiciary.

VIOLENT CRIME PREVENTION ACT

● Mr. MOYNIHAN. Mr. President, handgun control has not worked. The Gun Control Act of 1968 has been evaded by foreign imports. On top of that, the Firearms Owners Protection Act of 1986 repealed provisions of the Gun Control Act restricting the sale of guns. Now, we learn from the FBI this week that serious crimes reported to police rose 8 percent in the first half of 1986. Violent crimes led the way with a 14-percent jump.

Today there are an estimated 60 million handguns in this country a number which is likely to climb to 100 million by the turn of the century. Handgun control has not worked and it cannot work. A handgun is a simple machine with a technology worked out before the Civil War. The average "Saturday Night Special" has some 40 parts. The Model T, on the other hand, had 5,000 parts, and the antiques still operate today. Unless it wears out, which is surely rare, or seizes up with rust, which is easily prevented, a handgun has a near infinite lifetime. Let us say the United States now has something like a two century supply of firearms.

On the other hand we have about a 7-year supply of handgun ammunition. Each year 4 billion rounds of ammunition are manufactured and approximately 2 billion rounds are consumed. If ammunition has a shelf life of 5 to 10 years this gives us around a 7-year supply of ammunition. But mind you my statistics are somewhat sketchy. Recordkeeping has always been restricted and following passage of the Firearms Owners Protection Act it is now nonexistent for ammunition sales. With only 7 years of ammunition out there at any one time, and 60 million hand guns, is it not a more realistic hypothesis to control ammunition as a means of controlling violent crime than it is to control handguns.

This is a simple proposition: A handgun without ammunition is out of commission. Why not try this strategy? It could just work.

In 1986, the same year the Congress passed the Firearms Owners Protection Act, Congress passed the first legislation in history forbidding the manufacture, import, and sale of a particular type of handgun ammunition, armor-piercing ammunition—the so-called cop-killer bullet. This round jacketed with tungsten alloys, steel, brass, or any number of other metals, has been demonstrated to penetrate no less than four police flak jackets and an additional five Los Angeles County phone books at one time. In 1982 the New York Police Benevolent Association came to me and Representative BIAGGI and asked us to do something about this. The result was the Law Enforcement Officers Protection Act, which we introduced in 1982, 1983, and for the last time during the 99th Congress. In the end, with the tacit support of the National Rifle Association the measure passed the Con-

gress and was signed by the President as Public Law 99-408 on August 28.

Now it is time to do something about the Saturday Night Special, a phrase coined by Detroit police to describe the weekend traffic in cheap guns from Ohio. Saturday Night Specials, or snubbies, are for the most part of small caliber, .22, .25, and .32, and they are easily concealed. As Cox Newspapers ably documented in 1981, these small caliber weapons are the overwhelming choice of criminals. They are not the choice of sportsmen as trail guns, and marksmen don't use them in competition.

Back to my proposition about controlling ammunition as a means of controlling violent crime. Let us ban the manufacture and importation of the ammunition for these weapons, and here I speak specifically of .25 and .32 caliber ammunition. In 5 or 7 or 10 years anywhere from 10 to 20 percent of the crime guns in the United States will be out of commission. Will there be others? Of course. But President Reagan survived a .22 caliber wound. President Ford very likely would not have survived the .32 round that was fired at him. President McKinley, Huey Long, and George Moscone did not. The armed services are just now switching over from their .45 pistol (those 1911 automatics work well to this day) to a .9 millimeter round, about the size of a .32 and intended of course to be a deadly weapon. The .22 is too small to be automatically deadly, the .45 too large to conceal (and Alaskan guides need them for bear attacks). In between we could just save a couple of thousand lives a year.

It is a new thought. But remember, we have already passed one ammunition bill. Why not a second. It is called the Violent Crime Prevention Act introduced on what appears to be the next to last day of the 99th Congress, which enacted the first, and is due to be introduced on the first day of the 100th.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD at this point.

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

S. 2929

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 "Violent Crime Prevention Act".

SEC. 2. Section 922(a) of title 18, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (5);

(2) striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon; and

(3) adding at the end thereof the following:

"(7) for any person to manufacture, transfer, or import .25 or .32 caliber ammunition, except that this paragraph shall not apply to—

"(A) the manufacture or importation of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

"(B) any manufacture or importation for testing or for experimenting authorized by the Secretary; and

"(8) for any manufacturer or importer to sell or deliver .25 or .32 caliber ammunition, except that this paragraph shall not apply to—

"(A) the sale or delivery by a manufacturer or importer of such ammunition for use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

"(B) the sale or delivery by a manufacturer or importer of such ammunition for testing or for experimenting authorized by the Secretary.".

SEC. 3. Section 923(a)(1)(A) of title 18, United States Code, is amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices, or .25 or .32 caliber ammunition, a fee of $1,000 per year;".

SEC. 4. Section 923(a)(1)(C) of title 18, United States Code, is amended to read as follows:

"(C) of ammunition for firearms other than destructive devices, or .25 or .32 caliber ammunition for any firearm, a fee of $10 per year.".

SEC. 5. Section 923(a)(2) of title 18, United States Code, is amended to read as follows:

"(2) If the applicant is an importer—

"(A) of destructive devices, ammunition for destructive devices, or .25 or .32 caliber ammunition for any firearm, a fee of $1,000 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or .25 or .32 caliber ammunition for any firearm, a fee of $50 per year.".

SEC. 6. Section 923 of title 18, United States Code, is amended by adding at the end thereof the following:

"(k) Licensed importers and manufacturers shall mark all .25 and .32 caliber ammunition and packages containing such ammunition for distribution, in the manner prescribed by the Secretary by regulation.".

SEC. 7. Section 929(a)(1) of title 18, United States Code, is amended by—

(1) inserting ", or with .25 or .32 caliber ammunition" after "as defined in subsection (b),"; and

(2) inserting ", or .25 or .32 caliber ammunition" after "armor-piercing handgun ammunition".

SEC. 8. This Act and the amendments made by this Act shall take effect on the first day of the first calendar month which begins more than 90 days after the date of enactment of this Act.●

By Mr. HATFIELD:

S. 2930. A bill entitled the "Department of Energy Environmental Compliance Act of 1986"; to the Committee on Environment and Public Works.

DEPARTMENT OF ENERGY ENVIRONMENTAL COMPLIANCE ACT OF 1986

● Mr. HATFIELD. Mr. President, today I am introducing the Department of Energy Environmental Compliance Act of 1986. This legislation would reform the Department of Energy's [DOE] management of radioactive and hazardous wastes at all DOE installations, including the Hanford Nuclear Reservation in the State of Washington. The text of this legislation is identical to a substitute version of H.R. 4848 which was introduced by Congressman WYDEN from Oregon. The original text of H.R. 4848 was introduced in the House of Representatives on May 19, 1986.

The management of both radioactive and hazardous wastes at the DOE's defense facilities was regulated by the Department until a 1984 U.S. court ruling gave the Environmental Protection Agency [EPA] jurisdiction over hazardous waste management under the Resource Conservation and Recovery Act of 1976 [RCRA]. Consequently, the waste produced by the DOE's defense facilities currently is under dual management, with the Department self-regulating radioactive waste and the EPA regulating hazardous waste. Mixed waste, a combination of both radioactive and hazardous wastes, falls under the regulatory powers of both the DOE and the EPA. Needless to say, the current management strategy for the three types of waste causes confusion over the ultimate environmental responsibility.

At the Hanford Nuclear Reservation, the DOE has compiled a poor record of self-regulation regarding the proper disposal of radioactive and hazardous wastes. For example, the Department's own guidelines disapproving soil dumping of radioactive liquids have been set aside continuously at the Hanford site. According to a 1985 report by the Rockwell Corp., which operates Hanford's waste activities, the total volume of liquid wastes dumped on the ground at Hanford since 1943 is in excess of 200 billion gallons. That is enough liquid to cover Manhattan Island to a depth of 40 feet. It is obvious to me that such a practice never would be allowed at a commercial operation. Why then do we allow it at a federally operated facility?

The management of hazardous waste is another source of contention at Hanford. The State of Washington recently assessed fines in the amount of $49,000 against the DOE for violations in the handling of hazardous wastes at the Hanford site. The DOE allegedly falsely certified that it was in compliance with RCRA provisions at these facilities in a RCRA permit application. This incident led to a criminal investigation of the DOE's actions by the EPA, and marked the first time that a Federal facility has been under criminal investigation as a potential lawbreaker for hazardous waste management violations.

This legislation is designed to reform current radioactive and hazardous waste management techniques em-

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ployed by the DOE. The first title gives the EPA an extension of its current regulatory authority over the DOE's defense facilities waste management operations. The EPA would have authority to regulate public exposure to all radioactive wastes, including the radioactive component of mixed waste. By limiting annual public exposure to radiation from DOE sources and setting aggregate limits for lifetime exposure to radiation, the EPA could ensure a consistent management program at the DOE's defense facilities.

The legislation's second title requires the EPA to monitor the DOE's compliance with environmental laws and to report annually to Congress on this matter. The Department would be required to cease dumping radioactive wastes into the soil, as is the current method of disposal at Hanford. Also, the DOE would be required to estimate the cost for cleanup and safe disposal of its current waste output, and to provide quality assurance at all facilities, including Hanford.

Mr. President, the time has come for a more comprehensive approach to waste management at the Department of Energy's defense facilities. The proper management at the Hanford site is critical to the image that the Federal Government projects in the Pacific Northwest, as well as the eminent safety of the citizens of that region. This bill would ensure that both concerns would be properly addressed and subsequently carried out.

Mr. President, I ask unanimous consent that the text of this legislation appear at this point in the RECORD.

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

S. 2930

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Energy Environmental Compliance Act of 1986".

SEC. 2. DEFINITIONS.

For purposes of this Act;

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "environment" includes air, water, soil, rock, sediment, and living things, both on and off the premises of any facility.

(3) The term "Governor" means the chief executive officer of a State.

(4) The term "hazardous waste" has the meaning given such term in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(5) The term "monitoring" means sampling and measurement of environmental compliance parameters, or review, inspection, and testing of in-place sampling and measurement devices and methods adequate to establish the thoroughness and accuracy of such devices.

(6) The term "person" includes an individual, corporate entity, partnership, association, State, political subdivision of a State, Federal Government, and any department, agency, or instrumentality of the Federal Government.

(7) The term "radioactive" means spontaneously emitting ionizing radiation through a process of nuclear decay at a level detectable above the natural background level.

(8) The term "radioactive waste" means radioactive materials that are intended for discard or disposal, or radioactive materials that are sometimes discarded or disposed of and that must be reprocessed before being further used. Such term does not include material undergoing reprocessing.

(9) The term "Secretary" means the Secretary of Energy.

(10) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

TITLE I—STANDARDS FOR PROTECTION FROM RADIOACTIVE EMISSIONS FROM FACILITIES OF DEPARTMENT OF ENERGY

SEC. 101. ISSUANCE OF STANDARDS.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency shall, by rule, issue and periodically revise standards for the protection of the public health and safety and the environment from radioactive emissions from facilities of the Department of Energy not subject to regulation by the Nuclear Regulatory Commission, or by an agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021).

(b) LEVEL OF PROTECTION.—The standards under subsection (a) shall provide for a level of protection of the public health and safety and the environment at least as great as the level of protection provided by the standards regulating radioactive emissions at facilities licensed by the Nuclear Regulatory Commission, as such standards may be revised from time to time.

(c) SPECIFIC STANDARDS.—The standards issued under subsection (a) shall include—

(1) annual limits for whole body and organ exposure to radioactive emissions resulting from activities of the Department of Energy, which limits shall be issued not later than 6 months after the date of the enactment of this Act;

(2) aggregate limits for lifetime public exposure to such radioactive emissions, which limits shall be issued not later than 12 months after the date of the enactment of this Act; and

(3) models for calculating public exposure to such radioactive emissions, which models—

(A) shall assume that the public is not excluded from any location greater than 0.5 miles from the specific source of such emissions; and

(B) shall be issued not later than 24 months after the date of the enactment of this Act.

(d) NONPREEMPTION.—The issuance of standards under this section shall not preempt any authority of the Federal Government or a State under other Federal law to issue standards that are more protective of the public health and safety and the environment.

SEC. 102. MONITORING OF COMPLIANCE BY DEPARTMENT OF ENERGY.

Not later than 24 months after the date of the enactment of this Act, the Secretary of Energy shall conduct such monitoring as the Administrator determines is necessary to ascertain compliance with the standards issued under section 101.

SEC.103. INFORMATION AND INSPECTIONS.

(a) SUBMISSION OF INFORMATION.—Any owner or operator of a facility subject to the standards issued under section 101 shall, upon request of the Administrator, submit such information as the Administrator determines to be necessary to carry out this title.

(b) INSPECTIONS BY ADMINISTRATOR.—The Administrator may conduct such onsite and offsite inspections of facilities subject to the standards issued under section 101 as the Administrator determines to be necessary to carry out this title. The Administrator shall comply with such applicable legal procedures (including, if necessary, the obtaining of a warrant) as are necessary to obtain samples of wastes or discharges from public or private property.

SEC. 104. ENFORCEMENT.

(a) IN GENERAL.—Whenever the Administrator determines that any person is in violation of any standard issued under section 101, the Administrator may—

(1) issue an order assessing a civil penalty for such violation, requiring compliance immediately or within a specified time, or both, or

(2) commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief.

(b) CIVIL PENALTIES IMPOSED BY ADMINISTRATOR.—

(1) Any order issued under this section shall state the nature of the violation. Any civil penalty assessed in the order shall not exceed $1,000,000.

(2) After making a finding of a violation by any person, the Administrator may suspend action on any request for a permit or a license by the person or the Federal agency employing the person pending before the Administrator under any law. The Administrator may continue such suspension until the person is no longer in violation and has complied with all administrative and judicial orders issued under this section.

(3) Any order issued under this subsection shall become final unless, not later than 30 days after the order is served, the person or persons named in such order request a public hearing.

(4) The Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures in connection with any proceeding under this subsection.

(5) If a person in violation of any standard issued under section 101 fails to take corrective action within the time specified in a compliance order, the Administrator may assess a civil penalty of not more than $25,000 for each day of continued noncompliance.

(c) CIVIL PENALTIES IMPOSED BY COURT.—Any person who violates any standard issued under section 101 shall be liable to the United States for a civil penalty in an amount not to exceed $1,000,000.

(d) LIMITATION.—No amount assessed against any contractor of the Department of Energy (or any subcontractor or supplier of such contractor) under this section may be reimbursed directly or indirectly by the Secretary of Energy.

SEC. 105. APPLICABILITY OF STANDARDS TO FEDERAL FACILITIES.

Neither the United States nor any agent, employee, or officer of the United States shall be exempt or immune from any process or sanction of any Federal or State court

for violation of any standard issued under section 101.

SEC. 106. COOPERATION OF FEDERAL AGENCIES.

All Federal agencies shall assist the Administrator in carrying out the functions of the Administrator under this title and shall promptly make available any requested information concerning radioactive materials management activities in such form as is determined by the Administrator to be appropriate.

SEC. 107. COOPERATION WITH STATES.

(a) AGREEMENT.—The Administrator may, by agreement with the Governor of any State, authorize such State to exercise the powers of the Administrator under sections 103 and 104.

(b) LIMITATION.—The Administrator shall enter into an agreement under subsection (a) only if the Administrator finds that the State is able to devote adequate resources to the program to protect the public health and safety and the environment. The Administrator shall reserve the right to terminate such an agreement upon a finding by the Administrator that the State is not adequately protecting the public health and safety and the environment.

(c) STATE ENFORCEMENT AND INSPECTION POWERS.—A State acting under an agreement under subsection (a) shall share the inspection and enforcement powers and duties granted to the Administrator under this title, including—

(1) the power to make findings of violation;

(2) the power to issue an order assessing a civil penalty for such violation (payable to the Treasury of the United States), requiring compliance immediately or within a specified time, or both;

(3) the duty to hold hearings on any such assessment; and

(4) the power to commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief.

TITLE II—COMPLIANCE OF FACILITIES OF DEPARTMENT OF ENERGY WITH FEDERAL AND STATE ENVIRONMENTAL PROTECTION REQUIREMENTS

SEC. 201. MONITORING BY ENVIRONMENTAL PROTECTION AGENCY.

(a) IN GENERAL.—The Administrator shall conduct such monitoring activities as the Administrator determines to be necessary to assess the extent of compliance of all facilities of the Department of Energy with Federal and State environmental laws. If the Administrator has delegated the implementation of any Federal law to a State, the Administrator may also delegate to such State any monitoring functions necessary to ensure compliance with such law.

(b) SPECIFIC MONITORING ACTIVITIES.—The monitoring conducted under this section shall include the monitoring of—

(1) onsite stack, effluent, and leachate;

(2) offsite areas, including surface waters, for radiation;

(3) cumulative levels of radioactive or hazardous substances in sediments of offsite surface waters; and

(4) any additional parameters that the Administrator determines to be necesssary to protect the public health and safety and the environment.

(c) UNANNOUNCED INSPECTIONS.—The Administrator shall conduct unannounced, onsite inspections at each of the facilities subject to the standards issued under section 101.

(d) ANNUAL REPORT.—The Administrator shall annually submit to the Congress a report on the findings and conclusions of the Administrator as a result of the monitoring conducted under this section. Each report shall include—

(1) a brief description of the actions taken to comply with subsection (a);

(2) a summary of the data, findings, assessments, and characterizations made by the Administrator under this section;

(3) an analysis of the extent of compliance of facilities subject to the standards issued under section 101 with Federal and State environmental laws; and

(4) any recommendations of the Administrator for legislative or other action to ensure compliance with such laws.

(e) REIMBURSEMENT.—The Secretary shall reimburse the Administrator for any expense certified by the Administrator to have been incurred by the Environmental Protection Agency in carrying out the provisions of this section. The Secretary shall not be responsible for costs incurred by the States in carrying out any delegated duties under this section.

SEC. 202. TERMINATION OF USE OF SOIL COLUMNS FOR DISPOSAL OF WASTES.

(a) TERMINATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall terminate the use of soil columns as a method for the disposal of liquid radioactive waste or hazardous waste at facilities of the Department of Energy.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Congress an estimate of the cost of complying with this section and a report on technological alternatives to soil disposal of liquid wastes.

SEC. 203. ENVIRONMENTAL AUDIT AND DISCLOSURE OF COSTS.

(a) AUDIT AND DISCLOSURE OF PRESENT OBLIGATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report describing—

(1) all sites that present a threat to the public health and safety or the environment due to past disposal of hazardous wastes of radioactive wastes from activities carried out by the Department of Energy or its predecessors, including an estimate of the costs of abating the hazards posed by such sites and schedule under which the Secretary shall abate such hazards;

(2) the estimated costs of safe treatment, storage, and ultimate disposal of the current annual production of hazardous wastes and radioactive wastes at facilities of the Department of Energy; and

(3) for existing facilities of the Department of Energy, the estimated costs of safe disposal of any hazardous waste or radioactive waste, including contaminated structures, equipment, or soils, remaining after the end of the useful life of the facility.

(b) DISCLOSURE OF FUTURE COSTS.—

(1) When making a request to Congress for funds for the Department of Energy for an improvement to real property that may be used to generate either radioactive waste or hazardous waste, the President shall submit to the Congress—

(A) an estimate of the total cost of the safe disposal of such waste generated during the useful life of the improvement; and

(B) an estimate of the total cost of the safe disposal of such waste, including contaminated structures, equipment, or soils, remaining after the end of the useful life of the improvement.

(2) For purposes of this subsection, the terms "radioactive waste" and "hazardous waste" do not include materials contaminated—

(A) by military use of weapons;

(B) during an extraordinary nuclear occurrence, as defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014); or

(C) by unintentional release of hazardous substances, as such term is defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601).

SEC. 204. QUALITY ASSURANCE OF ENVIRONMENTAL COMPLIANCE.

(a) GENERAL AUTHORITY.—In order to maintain and improve safety and compliance with environmental laws, the Secretary shall establish and operate, for all activities of the Department of Energy that may affect the public health and safety or the environment, quality assurance programs that provide for internal independent reviews to identify problems that may affect the public health and safety or the environment, determine the causes of such problems, provide for remedies for such problems, and ensure that such remedies are carried out.

(b) PERSONNEL POLICIES.—

(1) The Secretary may not allow personnel performing an activity subject to a quality assurance program to also carry out the quality assurance reviews of such activity.

(2) The Secretary shall provide persons performing quality assurance functions sufficient authority and organizational freedom to identify problems, to initiate, recommend, or provide solutions, and to verify implementation of solutions. The Secretary shall ensure that persons and organizations performing quality assurance functions have sufficient authority and organizational freedom, including sufficient independence from cost, schedule, and production pressure, to effectively protect the public health and safety and the environment. Such authority shall include the power to order immediate cessation of an activity that poses an imminent threat to the public health and safety or the environment. Such orders may subsequently be rescinded by the Secretary, but the Secretary may not delegate the authority to rescind such orders to persons directly or indirectly responsible for carrying out the activity posing the threat.

(c) CHARTER OF QUALITY ASSURANCE PROGRAMS.—

(1) The Secretary shall establish written policies, procedures, or instructions governing quality assurance programs within the Department of Energy.

(2) For each quality assurance program, the Secretary shall identify in writing the activities to be overseen by the program, the persons or organizations responsible for carrying out the activities, and the persons or organizations responsible for the quality assurance program. If a quality assurance program is to be implemented by 2 or more independent persons or organizations, the Secretary shall also identify the designated functions of each implementor.

(d) REVIEW OF ACTIVITIES.—In implementing quality assurance programs, the Secretary shall examine activities affecting or potentially affecting the public health and safety or the environment to detemine, at a minimum—

(1) whether personnel are sufficiently indoctrinated and trained to ensure that they achieve and maintain proficiency in their duties;

(2) whether personnel are conforming with the documented instructions and procedures for accomplishing the activity;

(3) whether tools, gauges, instruments, and other measuring and testing devices are properly controlled, calibrated, and adjusted at specified periods to maintain accuracy within necessary, specified limits;

(4) whether the products, wastes, or other outputs from the activity are handled in a manner necessary to achieve compliance with applicable environmental quality standards; and

(5) whether accidents and unexpected events are duly recorded, documents, investigated, explained, and subject to adequate remedial actions.

(e) CORRECTIVE ACTION.—

(1) When a condition adverse to quality is identified (including accidents and unexpected events whose direct effect on quality is not apparent), the Secretary shall determine and make a record of the cause of the condition, including the root or programmatic cause.

(2) The Secretary shall—

(A) promptly correct any condition adverse to quality; and

(B) take reasonable steps to seek out and correct similar conditions and to preclude repetition of the problem at the facility involved and at any other facility of the Department of Energy where the finding may be applicable.

(f) RECORDS.—

(1) The Secretary shall maintain records, and indexes of records, furnishing evidence of activities affecting environmental quality. Such records shall include inspection and test records identifying the inspector or data recorder, the type of observation, the results, the acceptability, and the corrective and other action taken in connection with any deficiencies noted.

(2) The Secretary shall establish requirements concerning recordkeeping. Such requirements shall assign responsibility for creating and holding the records and shall specify how long and where the records will be retained.

(g) AUDITS.—

(1) The Secretary shall establish a comprehensive system of planned and periodic audits of departmental quality assurance programs to determine the effectiveness of the programs. The Secretary shall conduct such audits in accordance with written procedures using appropriately trained personnel not having direct responsibilities in the work or inspections of work being audited. As part of such audits, the Secretary shall invite public commentary on the quality of environmental protection efforts involved.

(2) The Secretary shall document and retain audit results, and indexes of such results, and shall require management in the area being audited to review and respond to the audits. The Secretary shall take follow-up action, including reaudit of deficient areas, where indicated.

SEC. 205. CITIZEN ADVISORY GROUPS.

(a) ESTABLISHMENT.—At the request of the Governor of any State, the Secretary shall establish a citizen advisory group to assist the Secretary in maintaining environmental quality at any Federal site at which there is located 1 or more facilities of the Department of Energy. An advisory group shall not be considered to be a Federal advisory committee or other Federal entity.

(b) MEMBERSHIP.—An advisory group established under subsection (a) shall consist of not more than 10 citizens appointed by the Governor of the State involved. If 2 or more States request to participate in an advisory group, the Governors of such States shall appoint such members jointly.

(c) MEETINGS AND EXPENSES.—The Secretary shall provide meeting space for monthy meetings of each advisory group established under subsection (a). The Secretary may require participating States to defray the expenses of an advisory group, except that the Secretary may not require reimbursement for services the Department of Energy provides to an advisory group.

(d) REPRESENTATIVE OF DEPARTMENT OF ENERGY.—The Secretary shall send a representative to the meetings of each advisory group established under subsection (a) to provide such advisory group with all possible information and to transmit to the Secretary the concerns and suggestions of the advisory group regarding the management of the facilities involved.

(e) WRITTEN RESPONSE.—The Secretary shall respond promptly in writing to all concerns of advisory groups transmitted to the Secretary in writing.

SEC. 206. GRANTING OF EXEMPTIONS.

(a) IN GENERAL.—The President may exempt any facility of the Department of Energy from any requirement established under this Act, if the President determines such exemption to be in the paramount interest of the United States. No such exemption may be granted due to lack of an appropriation, unless the President shall have specifically requested such appropriation as part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption under this section shall be for a period of not more than 1 year, but additional exemptions may be granted for periods not to exceed 1 year upon a determination by the President that an additional exemption is in the interest of the United States.

(b) ANNUAL REPORT.—The President shall submit to the Congress in January of each year a report setting forth all exemptions granted under this section during the preceding calendar year, together with the reasons of the President for granting each such exemption.

TITLE III—REGULATION OF SOLID WASTE MIXED WITH RADIOACTIVE MATERIALS

SEC. 301. FINDINGS AND PURPOSE.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the generation, transportation, treatment, and storage of solid waste mixed with radioactive material poses potential hazards to public health and safety unless carefully planned and managed;

(2) the Atomic Energy Act facilities of the Department of Energy are real or potential producers of such solid waste mixed with radioactive material; and

(3) the authority of the Environmental Protection Agency to regulate the disposal of solid waste mixed with radioactive material at the Atomic Energy Act facilities of the Department of Energy should be clarified.

(b) STATEMENT OF PURPOSE.—The purpose of this title is to clarify the intent of the Congress that—

(1) the generation, transportation, treatment, and storage of solid waste mixed with radioactive material is subject to the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.); and

(2) the disposal of solid waste mixed with radioactive material at the Atomic Energy Act facilities of the Department of Energy, and at other facilities not licensed for the disposal of radioactive materials, is subject to the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

SEC. 302. AMENDMENT TO SOLID WASTE DISPOSAL ACT.

Section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)) is amended—

(1) by inserting "(A)" after "(27)";

(2) by striking the following: ", or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923)"; and

(3) by adding at the end the following new subparagraphs:

"(B) Except as otherwise provided in subparagraph (C), the term 'solid waste' does not include source material, special nuclear material, or byproduct material, as such terms are defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

"(C) The term 'solid waste' includes materials described in subparagraph (B) if—

"(i) such materials are part of any mixture or combination, if the other constituent part of such mixture or combination is a solid waste within the meaning of subparagraph (A); and

"(ii) such materials (I) are in the stage of generation, transportation, storage, or treatment; or (II) are disposed of at an Atomic Energy Act facility of the Department of Energy or other unlicensed location;

except that this subparagraph shall not apply to wastes disposed of at a repository, as defined in section 2(18) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(18)).".

SEC. 303. APPLICABILITY.

The provisions of, and amendments made by, this title may not be construed—

(1) to alter the intent of the Congress as to whether the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), as in effect prior to the amendments made by this title, applies to mixtures and combinations of solid waste that contain radioactive materials that are disposed of at facilities licensed by a State or by the Nuclear Regulatory Comission;

(2) to alter the applicability of any standards or requirements issued pursuant to the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.); or

(3) to affect, modify, or amend the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 et seq.).●

By Mr. HATFIELD:

S. 2931. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Umatilla Basin project, Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

UMATILLA BASIN PROJECT ACT

● Mr. HATFIELD. Mr. President, today I am introducing legislation authorizing the Umatilla Basin Project in my home State. The Umatilla Basin lies in the northeastern section of Oregon, near the Columbia River, and is an area long known for its bountiful agricultural production. As with all other fertile areas on this Earth, the Umatilla Basin is dependent upon a fresh and abundant supply of water for irrigation. While this need has been met for the farming community through access to the water in the Umatilla River—a tributary to the Columbia River—the use of this vital re-

source has been the cause of considerable conflict for the past several decades between the irrigators and the Umatilla Indians, whose reservation lies within the Umatilla Basin.

This water distribution dispute stems from conflicting commitments made by the Federal Government over the last 131 years. In 1855, the U.S. Government, in exchange for vast areas of the Umatilla Indians' tribal land, promised to protect Indian hunting and fishing rights within the reservation and at the "usual and accustomed" places outside the reservation. However, at the turn of the century, the Department of the Interior's Bureau of Land Reclamation, began an irrigation project in the Umatilla Basin which strained the water resources of the area and has severely reduced the salmon and steelhead runs upon which the Umatilla Indians depend, and the Federal Government guaranteed.

The Pacific Northwest long has been known for its plentiful anadromous fish runs, and the Indian tribes in the area have based their traditional lifestyles, at least partly, on their ability to take advantage of salmon and steelhead runs in the Columbia River and its tributaries. Resource development in the Columbia and Umatilla River basins has adversely affected habitat once available to salmon and steelhead. These developments have reduced Umatilla River fish runs to a mere fraction of what they once were, and many of the traditional Indian fisheries throughout the area have been depleted.

Over the years, the Federal courts have confirmed the intent of Indian treaty reserved rights. For example, in 1980, the court held that a treaty right to fish is meaningless if most of the fish are destroyed by a hostile environment such as a dewatered stream channel. The court emphasized that the States, the Federal Government and others have the obligation to refrain from degrading habitat to the extent that tribes would be deprived of moderate living needs. With this in mind, it is admirable that the Umatilla Indians have continued to work together with competing interest groups to arrive at an acceptable solution for all involved parties. The Indians and other interested groups have cooperated in the development of this proposed project and see its implementation as a major step toward overcoming the water supply conflicts that trouble the Umatilla Basin.

The project authorized by this legislation would be completed in accordance with the recommended plan developed by the U.S. Department of the Interior, Bureau of Reclamation, and presented in the proposed planning report/draft environmental statement, "Umatilla Basin Project," dated July 21, 1986. Construction of this project would ease the tensions between the agriculture community and the Umatilla Indians by providing the mechanisms whereby approximately 38,000 acre-feet of water per year would be pumped from the Columbia River into existing irrigation storage and distribution facilities. This would permit some Umatilla River water now diverted or stored for irrigation to remain in the river to improve flow conditions for fish, while at the same time meeting Federal commitments to supply irrigation water.

The structural features authorized would include a major pumping plant on the Columbia River, a relift pumping station and water carriage facilities. Smaller pumping facilities would be installed downstream of the existing Three Mile Falls Diversion Dam to further improve flows in the lower section of the river. In addition to the pumping facilities, improvements would be made to fish passage and screen installations at several existing irrigation diversions, and a seasonal fish barrier would be installed at the mouth of McKay Creek.

Fishery agencies have reported that the projected level of flow in the Umatilla River and the fish passage and screen improvements resulting from this undertaking would make restoration fall and spring chinook salmon runs possible and improve steelhead runs. The economic benefits of reviving these salmon runs are substantial. The Umatilla Tribe would receive an estimated $4.9 million per year from restored fish runs, and sport and commercial fisheries on the Umatilla and Columbia Rivers and on the Pacific coast could expect $2.2 million per year in additional revenue. Moreover, by securing a water supply for the farmers of the Umatilla Basin, the project would support an $8 million per year farm economy.

Mr. President, I want to emphasize that substantial non-Federal funding commitments are being made for this project under the Pacific Northwest Electric Power Planning and Conservation Act of 1980 and programs of the State of Oregon and other entities. For example, the Bonneville Power Administration is considering a potential investment of approximately $15 million for fish passage and production measures under the Northwest Power Planning Council's Columbia River Basin Fish and Wildlife Program. To date, $1.7 million of non-Federal funds have been expended, and additional projects costing about $5 million are in the final design stages.

There is no doubt that this is a very ambitious project, Mr. President, but it is a vital blueprint for the well-being of the economy of the Umatilla Basin and the proper recognition of the original treaty rights of the Umatilla Indians. Both the farmers and the tribe are exercising patience in this matter while they wait for Federal aid to ease the situation. While I do not preclude the possibility that future input may make it necessary to amend some aspects of this bill, I do believe that this legislation provides a good starting point for discussion on this subject.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 2931

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Umatilla Basin Project Act".

SEC. 2. AUTHORIZATION OF PROJECT.

For the purposes of mitigating losses to anadromous fishery resources and continuing irrigation water service to lands of the Umatilla Project authorized on December 4, 1905, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, and Acts amendatory thereof and supplementary thereto), is authorized to construct, operate, and maintain the Umatilla Basin Project, Oregon, substantially in accordance with the recommended plan presented in the proposed planning report/draft environmental statement Umatilla Basin Project dated July 21, 1986. The principal works of the project shall consist of—

(1) pumping plants and related conveyance and distribution features;

(2) works incidental to the rehabilitation or modification of existing irrigation systems necessary to accomplish a water exchange;

(3) fish passage and protective facilities and other necessary fishery resources mitigation measures;

(4) a program to monitor and regulate project operations; and

(5) a program to evaluate fishery resource mitigation measures.

SEC. 3. INTEGRATION AND OPERATION OF PROJECT.

Project facilities and features authorized by this Act shall be integrated and coordinated, from an operational standpoint, into other features of the existing Umatilla Project, and shall be operated in a manner consistent with Federal reclamation laws and water rights established pursuant to State law including the contract rights of water users. Prior to the initiation of project construction, the Secretary shall secure the necessary State and local permits and other authorities for the operation of project facilities, and through the conclusion of appropriate agreements with the State of Oregon provide for the monitoring and regulation of project-related water supplies for the purposes herein identified.

SEC. 4. POWER FOR PROJECT PUMPING.

Power for project pumping shall be made available through the Federal Columbia River Power System at charges determined by the Secretary of Energy.

SEC. 5. RATE FOR CONSTRUCTION CHARGES.

The rate used for computing interest during construction, and where appropriate, interest on the unpaid balance of the reimbursable cost of the project, shall be deter-

mined by the Secretary of the Treasury, as of the beginning of the fiscal year in which funds for construction of the project are first disbursed, taking into consideration the computed average market yields on outstanding marketable obligations of the United States which are neither due nor callable for 15 years from date of issue.

SEC. 6. FISHERY RESOURCE FACILITIES.

Facilities and any other project features which furnish fishery resource benefits in connection with the project shall be constructed, operated, and maintained in accordance with the Federal Water Project Recreation Act (Public Law 89-72; 79 Stat. 213), as amended, except that costs allocated to the mitigation of anadromous fish species shall be nonreimbursable.

SEC. 7. NON-FEDERAL OBLIGATIONS.

The Secretary shall negotiate and enter into agreements which specify appropriate non-Federal obligations for the operation and maintenance of project facilities authorized in this Act. The Federal responsibility for operation and maintenance shall be limited to those costs in excess of non-Federal obligations as established by such agreements.

SEC. 8. INTERIM FLOW AUGMENTATION.

Until the facilities authorized in this Act are constructed and in operation, and as an interim measure to provide flow augmentation in the Umatilla River, funds are authorized to be appropriated to the Secretary for that portion of the operation and maintenance, including power, of the existing West Extension Irrigation District pumping facility allocated to anadromous fish and resulting from the interim operation.

SEC. 9. NON-FEDERAL COSTS.

(a) CREDIT FOR NON-FEDERAL FISHERY RESOURCE IMPROVEMENTS.—The Umatilla Basin Project authorized by this Act is a Federal action to improve streamflow and fish passage conditions, and shall be considered part of a comprehensive program to restore Umatilla River Basin anadromous fishery resource. Related fishery resource improvement facilities which utilize non-Federal funding sources under the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (Public Law 96-501; 94 Stat. 2697) and programs of the State of Oregon and other entities, shall be consolidated in any final calculation of required cost-sharing.

(b) TREATMENT OF NON-FEDERAL COSTS INCURRED BEFORE APPROPRIATION.—Where any public or private entity shares in the cost of or constructs any feature of the authorized project or portion thereof prior to the appropriation of funds for construction of such feature, the costs incurred shall be credited to the total amount of any non-Federal costs required to be borne for the project, except that no credit may be given without prior approval of the Secretary. The Secretary shall grant such approval upon a determination that the proposed action would be in connection with a feature that will constitute an integral part of the project. The Secretary is authorized to accept title to facilities appropriate to the project without compensation and thereafer to operate and maintain such facilities.

SEC. 10. STUDY ON GROUND WATER CONDITIONS.

The Secretary is directed to evaluate measures and programs to address ground water conditions within the Umatilla River Basin, including conjunctive uses of ground and surface waters, and to report findings and recommendations to the President and the Congress within three years after the date of enactment of this Act.

SEC. 11. AUTHORIZATION.

There is hereby authorized to be appropriated for construction of the Umatilla Basin Project, the sum of $37,700,000 (October 1985 prices), plus or minus such amounts as may be required by reason of changes in the cost of construction work of the types involved therein as shown by applicable engineering cost indexes. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of the project.●

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2932. A bill to establish the El Malpais National Monument, the Masau Trail, and the Grants National Conservation Area in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

MASAU TRAIL ACT

● Mr. DOMENICI. Mr. President, today, I am introducing the Masau Trail Act. This act, which will establish the Masau Trail, the El Malpais National Monument, and the Grants National Conservation Area, will provide protection to some of New Mexico's most unique natural resources and also will promote tourism in the Grants, NM area, which has suffered greatly from the decline in the energy industries, especially the uranium industry.

The act is named after Masau, the great God-Man who welcomed the Indian people to the Earth from the underworld as they came through the sipapu, or place of emergence. According to the history of the Pueblo Indians, mankind has existed since the beginning of time, but they lived for a long, long time underground. Eventually, they emerged from the underworld and were welcomed by Masau. The Pueblo people then followed Masau's huge footprints, which were as large as a man's arm, across the Earth.

It is fitting that the act be named after Masau, as modern day travelers will be able to follow in the footprints of the Indian people who traveled across northwestern New Mexico in ancient times as they travel along the Masau Trail, which will be created by this legislation.

Masau has characteristics similar to the legislation that I am introducing. Masau means many things to many people. He is god of life; the god of death; the god of travelers; the god of boundaries; the god of fertility; the god of war. Likewise, this legislation will mean many things to many people. It will accomplish several very important objectives for the State of New Mexico:

First. It will establish the Masau Trail, an automobile touring route linking a number of historic and cultural sites in northwestern New Mexico;

Second. It will provide a significant tourist attraction for the Grants area in the form of a new unit of the National Park Service to be called the El Malpais National Monument;

Third. It will provide Federal protection to over 379,000 acres of lands; and

Fourth. It will place over 115,000 acres of Federal land in wilderness status.

Mr. President, I am compelled to point out that renowned travel expert Arthur Frommer has recently declared New Mexico to be one of the 10 best vacation spots in the world. It is an area of magnificent beauty and proud history. This bill will increase New Mexico's attraction to travelers from all over the world. Additionally, this bill will help the community of Grants, NM, which has lost 7,000 jobs in recent years due to the collapse of the uranium industry.

THE MASAU TRAIL

The Masau Trail will be an automoble touring route which will link a number of prehistoric and historic sites in northwestern New Mexico. These sites will include Aztec Ruins, Bandelier, Canyon de Chelly, Chaco Canyon, El Malpais, El Morro, Salinas National Monuments, as well as other national, State, and local sites of interest. The trail is a multigovernmental, multiagency concept. On the Federal level, the National Park Service, the Bureau of Land Management, and the National Forest Service include lands under their control in the trail. The State of New Mexico and various local governments, as well as the Indian tribes in the area, will be invited to participate in the trail.

The purpose of this trail is to introduce visitors to the wealth of historic, cultural, and natural sites in northwestern New Mexico and to give them a comprehensive perspective on the history of the Indian peoples who populate the region. It will allow visitors to the region to appreciate the continuum of history and culture, from ancient times to modern day, which is represented in the region. The Masau Trail will emphasize the interrelationship of all of the sites along the trail.

The trail will be marked by signs with giant footprints, the footprints of Masau. One can see examples of Masau's footprints in the ancient petroglyphs which cover the volcanic escarpment on the west side of Albuquerque. I have been working on finding ways to provide protection to this area, which includes over 10,000 ancient Indian and Hispanic rock carvings in a 17-mile stretch, and hopefully in the coming year we will be able to incorporate the Albuquerque petroglyphs into the Masau Trail.

A multigovernmental, multiagency visitors center, bringing together all of the entities that are participating in the trail, will be constructed along

Interstate 40 near Grants. This center will introduce travelers to the Masau Trail and give them an overview of the history and culture of this fascinating region. It also will provide tourists with information on the various components of the trail and directions on how to reach those sites.

EL MALPAIS NATIONAL MONUMENT

This legislation will also create a new unit of the National Park Service, the El Malpais National Monument, at the lava flows south of Grants known as El Malpais.

Last summer, I had the opportunity to tour El Malpais with William Mott, the Director of the National Park Service. Following that visit, Mr. Mott recommended to me that Congress designate approximately 126,000 acres of the El Malpais lava flows and surrounding lands as a National Monument under the supervision of the Park Service. The bill I introduce today will do that. The Monument will encompass the Bandera, Laguna, and McCarty's lava flows, the ice caves, Bandera Crater, the Sandstone Bluffs overlook, the Dominquez-Escalante Trail, the natural sandstone arch, the Narrows, La Vieja rock formation, McCarty's Crater, and a multitude of other resources. A visitors center will be constructed in the vicinity of Bandera Crater and the ice caves, where most of the visitor use is expected to be concentrated.

El Malpais is a large volcanic region located near Grants, NM, approximately 75 miles west of Albuquerque. "El Malpais," which means "bad country," is the historic Spanish name for the lava formation.

El Malpais consists of at least 5 different lava flows, the most recent of which is estimated to be only 600 to 1,300 years old, making it one of the most recent lava flows in the continental United States. The lava flows contain a number of unusual and unique physical features of lava eruptions, including pahoehoe, aa, blocky flows, grooved lava, squeeze ups, collapsed depressions, pressure ridges, kipukas, spatter cones, lava tubes, ice caves, and large cinder cones. El Malpais contains the longest known lava tubes in North America. One tube has been measured to be 16 miles in length.

The Bandera Crater area and associated lava flows and ice caves have been characterized by many geologists as outstanding geological features with superior interpretive and educational value. Bandera Crater is nearly a half a mile wide, 1,000 feet deep, and is considered a classic example of its type of volcanic activity. Ice caves occur within the flow associated with the Bandera Crater area. Some ice caves have magnificent 30- to 50-foot ice crystals on the ceilings.

The eastern edge of the El Malpais area includes a high-sandstone ridge and bluff area which encompasses a highly scenic landscape with tremendous contrast between the black lava flows and the pink sandstone bluffs. This bluff area contains the largest and most dramatic natural arch in New Mexico. Also found in this area is the Las Ventanas site, an established unit of the Chaco Culture Archeological Protection Site System, and La Vieja ("The Old Woman"), a rock formation that looks like the profile of a woman.

The Dominquez-Escalante Trail crosses the lava flow. This was the route pioneered by Father Silvestre Velez de Escalante and his Franciscan superior, Francisco Atanasio Dominguez, as they sought a route from Santa Fe to California in 1776, in order to unite the northern and western portions of Spain's American empire. This marked trail offers interpretive opportunities and an excellent cross-lava trail corridor.

The establishment of the El Malpais National Monument will provide visitors with a magnificent window on the unique geologic, natural, and cultural features of the El Malpais area. I am happy that the National Park Service, the premier agency in the world for presenting natural resources to the public, will be administering this area. They will bring their expertise to this project and will assure that visitors to this area get a first-class experience.

THE GRANTS NATIONAL CONSERVATION AREA

The legislation I introduce today also will designate approximately 253,000 acres of land surrounding the El Malpais National Monument as the Grants National Conservation Area.

This area will be administered by the Bureau of Land Management. The Bureau has protected this area, including the area to be designated as a national monument, for a number of years. They have done an excellent job and this will allow them to continue to manage the majority of these lands.

The conservation area will encompass the string of volcanic craters known as Chain of Craters, portions of the various lava flows, the areas known as Hole in the Wall and Little Hole in the Wall, and surrounding grazing lands.

This area lies within the the zone known as the Acoma cultural province. It is aproximately 25 miles from the famed Acoma Pueblo and its Sky City. The conservation area contains extremely high value, high density archeological resources in thousands of separate archeological sites. Many of these sites are associated with the prehistoric Chacoan system and the related, but more recent, Acoma cultural province. This region was an area of interface between the prehistoric Mogollon and Anasazi cultures.

The conservation area contains numerous sites and site communities, including pithouses, single room field house, water control features, and abundance of rock art, Chacoan road segments, Chacoan outliers with attendant surrounding communities, great kivas, and large pueblo masonry strutures.

The high density and diversity of cultural resources along the east side of the lava combined with the relative short distances created by the physical features that concentrated settlement between the lava flows to the west and the high-rugged sandstone mesas to the east create a major research and visitor use opportunity. The bill provides direction to the Bureau of Land Management to develop special management plans for the protection and study of these archeological resources. A similar directive is provided to the National Park Service for those archeological resources within the El Malpais National Monument.

This legislation will designate approximately 115,000 acres of BLM wilderness within the conservation area. These areas, known as the Rimrock, Little Rimrock, Sand Canyon, Pinyon, and West Malpais Wilderness Study Areas, as well as the area known as Hole in the Wall. These areas contain some of the most stunning natural resources in New Mexico and deserve to be protected for the enjoyment of future generations.

Mr. President, I am extremely excited about this legislation. I believe that it will provide much-needed protection to one of the most unusual and unique natural and cultural areas of the United States. It also will provide visitors to northwestern New Mexico with an incredibly comprehensive and rewarding education on the history of this region. Finally, it will give an area of the State of New Mexico which has suffered much from the collapse of the uranium industry a much-deserved shot in the arm in the form of increased tourism. The magificient thing about this legislation is that it can do each of these things without excluding the others.

This proposal is the product of much work. My colleague from New Mexico, Senator BINGAMAN, and I have worked with the Representative from this area in order to fashion legislation which will achieve the ambitious goals that we have set. I am pleased that we have met these goals. This legislation is the product of some very tough negotiations and I think it is the better for it.

However, this proposal is by no means perfect. When hearings are held on this legislation in the next Congress, we must address the issue of water rights. Although very little, if any, water is present in this area, the withdrawal of lands for a national monument and for the creation of wilderness units brings into question the status of water rights in the area. This

has become a very contentious issue. I am aware that some Members of the Senate feel that any legislation creating a national monument or wilderness units must include language addressing water rights. The bill that I am introducing today, however, does not address the issue of water rights. Therefore, as I introduce this legislation today, I am also filing an amendment (No. 3478) to clarify the status of existing water rights in the lands covered by this bill. Hopefully, this amendment will serve as the basis of further discussions on this issue.

Another area that will need close examination is grazing. A number of individuals have historically conducted grazing in the areas covered by this bill. The Park Service boundaries have been drawn so as to exclude grazing areas to the maximum extent possible without diminishing the resource to be protected, as grazing within the national monument will be phased out within 10 years. However, we must closely examine the boundaries to make sure that we haven't overlooked anything in this area.

Additionally, this legislation does not address the future of subsurface mineral rights which underlie lands to be designated as wilderness. The creation of wilderness effectively denies the owner of the subsurface estate the possibility of ever developing the mineral potential of the land or even of discovering what minerals are present there. I believe that Congress must treat the owners of the subsurface estate fairly and provide an efficient process for exchanging mineral rights which underlie wilderness lands for other Federal mineral rights.

Of course, I am under no illusion that we can enact this legislation into law in the short time left in this Congress. This is a major piece of legislation and it deserves to have full hearing and an opportunity for refinement. I intend to reintroduce this legislation in the 100th Congress when it convenes in January. I look forward to holding hearings in New Mexico, so that all interested parties, including the citizens of the Grants area, local landowners, ranchers, the environmental community, the State of New Mexico, Indian tribes, and others, have the opportunity to contribute to this legislation. I am pleased that the staff of the Senate Energy Committee will be travelling to the Grants area after Congress recesses in order to view the area and pave the way for quick approval of this legislation next Congress.

Finally, Mr. President, I would like to thank Mr. Mott and his staff at the National Park Service and Robert Burford, the Director of the Bureau of Land Management, and his staff for their assistance in putting this package together. Without their help, it would not have been possible to create this legislation.

Mr. President, I ask unanimous consent to print the bill in the RECORD.

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

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

TITLE I—EL MALPAIS NATIONAL MONUMENT

SECTION 101. (a) In order to preserve for the benefit and enjoyment of present and future generations that area in western New Mexico containing the nationally significant Grants Lava Flow, the Las Ventanas Chacoan Archeological Site, and other significant natural and cultural resources, there is hereby established the El Malpais National Monument (hereinafter referred to as the "monument"). The monument shall consist of approximately 126,000 acres as generally depicted on the map entitled "Boundary Map, El Malpais National Monument" numbered NM-ELMA-80000-A and dated October 1986. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) As soon as practicable after the enactment of this Act, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall file a legal description of the monument designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (a). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 102. Lands and waters, and interests therein, within the boundaries of the monument which were administered by the Forest Service, United States Department of Agriculture, prior to the date of enactment of this Act are hereby transferred to the administrative jurisdiction of the Secretary to be administered as part of the monument in accordance with this Act. The boundaries of the Cibola National Forest shall be adjusted accordingly.

SEC. 103. The Secretary, acting through the Director of the National Park Service, shall administer the monument in accordance with the provisions of this Act and the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.). The Secretary shall protect, manage, and administer the monument in such a manner as to preserve the scenery, the natural, historic, and cultural resources of the monument and to provide for the public understanding and enjoyment of the same in such a manner as to perpetuate these qualities for future generations.

SEC. 104. Where any lands included within the boundary of the monument on the map referred to in section 101(a) are legally occupied or utilized on the date of enactment of this Act for grazing purposes, pursuant to a lease, permit, or license which is—

(1) for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, and

(2) scheduled for termination before December 31, 1996,

the Secretary shall allow, notwithstanding any other provision of law, the persons holding such grazing privileges (or their heirs) to retain such grazing privileges until December 31, 1996, subject to such limitations, conditions, or regulations as the Secretary may prescribe to insure proper range management.

TITLE II—MASAU TRAIL

SEC. 201. In order to provide for public appreciation, education, understanding, and enjoyment of certain nationally significant sites of antiquity in western New Mexico which are accessible by public road, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary"), with the concurrence of the agency having jurisdiction over such roads, is authorized to designate, by publication of a description thereof in the Federal Register, a vehicular tour route along existing public roads linking prehistoric and historic cultural sites in western New Mexico. Such route shall be known as the Masau Trail (hereinafter referred to as the "trail"), and shall be marked with an appropriate marker to guide members of the visiting public. With the concurrence of the State or local entity having jurisdiction over such roads so designated, the Secretary may erect thereon and maintain signs and other informational devices displaying the Masau Trail Marker.

SEC. 202. The trail as initially designated shall include public roads linking El Malpais National Monument as established pursuant to title II of this Act, El Morro National Monument, Chaco Culture National Historical Park, Aztec Ruins National Monument, Salinas National Monument, Bandelier National Monument, and Canyon De Chelly National Monument. The Secretary may, in the manner set forth in section 201, designate additional segments of the trail from time to time as appropriate to link the foregoing sites with other cultural sites or sites of natural significance when such sites are designated and protected by Federal, State, or local governments, Indian tribes, or nonprofit entities. With respect to sites linked by segments of the trail which are administered by other Federal, State, local, tribal, or nonprofit entities, the Secretary may, pursuant to cooperative agreements with such entities, provide technical assistance in the development of interpretive devices and materials in order to contribute to public appreciation of the natural and cultural resources of the sites along the trail.

TITLE III—GRANTS NATIONAL CONSERVATION AREA

SEC. 301. (a) In order to protect for the benefit and enjoyment of future generations that area in Western New Mexico containing the unique and nationally important geological, archeological, ecological, cultural, scenic, scientific, and wilderness resources of the public lands surrounding the Grants Lava Flow, there is hereby established the Grants National Conservation Area (hereinafter referred to as the "conservation area"). The conservation area shall consist of approximately 253,000 acres of publicly owned land as generally depicted on a map entitled "Grants National Conservation Area—Proposed", dated October 1986.

(b) As soon as practicable after the enactment of this Act, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall file a map and legal

description of the conservation area designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such map and legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such map and legal description. The map and legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

SEC. 302. (a) In order to protect for the benefit and enjoyment of future generations that area in Western New Mexico containing the unique and nationally important geological, archeological, ecological, cultural, scenic, scientific, and wilderness resources of the public lands surrounding the Grants Lava Flow, the Secretary, acting through the Director of the Bureau of Land Management, shall administer the conservation area as a unit within the Albuquerque District in accordance with this Act and in accordance with the laws pertaining to the public lands managed by the Bureau of Land Management, including those provisions relating to grazing on public lands.

(b) The Secretary shall permit hunting and trapping within the conservation area in accordance with applicable laws and regulations of the United States and the State of New Mexico; except that the Secretary, after consultation with the New Mexico Department of Game and Fish, may issue regulations designating zones where and establishing periods when no hunting or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment.

(c) Collection of green or dead wood for sale or other commerical purposes shall not be permitted in the conservation area.

TITLE IV—WILDERNESS DESIGNATION

SEC. 401. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 131), there is hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System, approximately 115,000 acres as generally depicted on the map entitled "Grants National Conservation Area—Proposed Wilderness and dated October 1986.

(b) As soon as practicable after the enactment of this Act, the Secretary shall file a map and legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such map and legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such map and legal description. The map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, Department of the Interior.

SEC. 402. (a) Subject to valid existing rights, each wilderness area designated under this section shall be administered by the Secretary, through the Director of the Bureau of Land Management, in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(b) Within the wilderness area designated by this Act, the grazing of livestock, where established prior to the enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and section 108 of Public Law 96-560 (16 U.S.C. 1133 note).

TITLE V—GENERAL PROVISIONS

SEC. 501. (a) Within two years from the date of enactment of this Act, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate separate general management plans for the monument and the conservation area which shall describe the appropriate uses and development of the monument and the conservation area consistent with the purposes of this Act. The plans shall include but not be limited to each of the following:

(1) Implementation plans for a continuing program of interpretation and public education about the resources and values of the monument and the conservation area.

(2) Proposals for public facilities to be developed for the conservation area or the monument, including a visitors center in the vicinity of Bandera Crater and a multiagency orientation center, to be located in or near Grants, New Mexico, and adjacent to Interstate 40, to accommodate visitors to western New Mexico.

(3) Natural and cultural resources management plans for the monument and the conservation area, with a particular emphasis on the preservation of archeological resources, giving high priority to the enforcement of the provisions of the Archeological Resources Protection Act of 1979 and the National Historic Preservation Act within the monument and the conservation area.

The natural and cultural resources management plans shall be prepared in close consultation with the Advisory Council on Historic Preservation, the New Mexico State Historic Preservation Office, and the Pueblo of Acoma and their traditional cultural and religious authorities, and shall provide for long-term scientific use of archeological resources in the monument and the conservation area, including the wilderness areas designated by this Act.

(b)(1) The general management plan for the conservation area shall review and recommend the suitability or nonsuitability for preservation as wilderness those lands comprising approximately 16,600 acres, identified as "Bureau of Land Management Wilderness Study Area 020-001C" (hereinafter in this title referred to as the "WSA") in the Draft Environmental Impact Statement and Wilderness Study Report for Wilderness Designation of El Malpais, as filed with the Environmental Protection Agency on August 9, 1981.

(2) Pending submission of a recommendation and until otherwise directed by Act of Congress, the Secretary, acting through the Director of the Bureau of Land Management, shall manage the lands within the WSA so as to maintain their potential for inclusion within the national wilderness preservation system.

(c)(1) The general management plan for the monument shall review and recommend the suitability or nonsuitability for preservation as wilderness those roadless lands within the boundaries of the monument.

(2) Pending the submission of a recommendation and until otherwise directed by Act of Congress, the Secretary, through the Director of the National Park Service, shall manage those roadless lands within the boundaries of the monument so as to maintain their potential for inclusion in the National Wilderness Preservation System.

SEC. 502. (a) Within the monument and the conservation area, the Secretary is authorized to acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency, except that lands or interests therein owned by the State of New Mexico or a political subdivision thereof may be acquired only by donation or exchange.

(b) The Secretary of the Interior shall exchange such public lands or interests in lands, as are of approximately equal value and selected by the State of New Mexico, acting through its Commissioner of Public Lands, for any State lands or interests therein located within the boundaries of the monument or the conservation area.

(c) Within 6 months after enactment of this Act, the Secretary of the Interior shall notify the New Mexico Commissioner of Public Lands what State lands or interests therein are within the monument or the conservation area. The notice shall include notice of the Secretary's duty to exchange public lands selected by the State for any State land contained within the boundaries of the monument or conservation area. The notice shall contain a listing of all public lands within the boundaries of the State, which have not been withdrawn from entry and which the Secretary identifies as available to the State in exchange for State lands within the monument or the conservation area.

(d) After the receipt of the list of available public lands, if the Commissioner of Public Lands gives notice to the Secretary of the State's selection of lands, the Secretary shall notify the State in writing as to whether the Department of the Interior considers the State Federal lands to be of approximately equal value. In case of disagreement between the Secretary and the Commissioner as to relative value of the acquired and selected lands, the Secretary and the Commissioner shall agree on the appointment of a disinterested independent appraiser who will review valuation data presented by both parties and determine the amount of selected land which best represents approximate equal value. Such determination will be binding on the Secretary and the Commissioner. The transfer of title to lands or interests therein to the State of New Mexico shall be completed within 2 years after the enactment of this Act.

SEC. 503. Subject to valid existing rights, all Federal lands within the monument and the conservation area, and all Federal lands and mineral rights acquired within the monument and conservation area, are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, and from location, entry, and patent under the United States mining laws, and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Any activity carried out pursuant to valid existing mineral rights shall be conducted in accordance with applicable Federal and State law.

SEC. 504. In recognition of the past use of the monument and the conservation area by Indian people for traditional cultural and religious purposes, the Secretary shall insure nonexclusive access to the monument and the conservation area by Indian people for such traditional cultural and religious purposes, including the harvest of pine nuts. Such direction shall be consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996). As a part of the plans prepared pursuant to section 501, the Secretary shall, in consultation with appropriate Indian tribes and their traditional cultural and religious authorities, define the past cultural and religious uses of the monument and the conservation area by Indian people.

SEC. 505. In order to encourage unified and cost effective interpretation of prehistoric and historic civilizations in western New Mexico, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State, and local public departments and agencies, Indian tribes, and nonprofit entities providing for the interpretation of prehistoric and historic civilizations in western New Mexico. The Secretary may, pursuant to such agreements, cooperate in the development and operation of a multiagency orientation center and programs on lands and interests in lands inside and outside of the boundaries of the monument and the conservation area generally, with the concurrence of the owner or administrator thereof, and specifically in or near Grants, New Mexico, adjacent to Interstate 40 in accordance with the plan required pursuant to section 501.

TITLE VI—APPROPRIATION AUTHORIZATION

SEC. 601. There is hereby authorized to be appropriated such sums as may be necessary for the purposes of this Act.●

● Mr. BINGAMAN. Mr. President, I am pleased to join the distinguished senior Senator from New Mexico in introducing the El Malpais/Masau Trail bill.

This legislation is identical to legislation being introduced in the House of Representatives today by Congressman RICHARDSON. The bill is the result of several weeks' work to reach compromise language.

The proposal establishes a 126,000-acre El Malpais National Monument to be administered by the National Park Service. It includes an El Malpais Visitor Center. It calls for the designation of the Masau Trail, an auto-touring route to link prehistoric and historic cultural sites in western New Mexico. It authorizes a Masau Trail Visitors Center in Grants, NM.

The bill creates a 254,000-acre National Conservation Area to be administered by the Bureau of Land Management. Grazing, hunting, trapping, and noncommercial wood gathering would be permitted in the BLM area. The bill also creates 115,000 acres of BLM wilderness, including Rimrock, Little Rimrock, Sand Canyon, Pinon, and West Malpais wilderness study areas, and an area known as the Hole-In-The-Wall. The bill calls for the study of roadless areas of the National Monument and the restudy of the Chain of Craters Wilderness Study Area for possible designation as wilderness. The legislation also protects Native American uses and directs the BLM and the Park Service to develop management plans for the protection of areas with valued archeological resources.

This bill is a delicate balance which will foster important economic development and increased tourism in the Grants area and provides important environmental protection of this region of the country.

The Malpais is a unique area of the State of New Mexico and the Nation and it is deserving of Park Service and wilderness protection. The name Malpais is the historic Spanish name meaning "bad country." It is the name of the lava formation located in western New Mexico also known as the Grants Lava Flow. It actually consists of three flows which have been described by the Park Service as "a beautiful, fresh, black lava flow * * * as fresh and unweathered as the historic flows of the Hawaiian Islands, Vesuvius and other areas." It also contains a variety of "beautiful volcanic features, including some of the largest and most extensive lava tubes reported in the United States; many cinder cones of classic symmetry; and some astonishingly magnificent ice caves, full of ice stalagmites crystalline ceilings, and other unique formations." It also contains lava tube sinkholes and uniquely angled formations not found anywhere else on the North American Continent.

The surrounding wilderness areas are also deserving of protection as they shield beautiful natural areas of tall pines and pinons, as well as sandstone bluffs and extinct volcanoes.

There is much local, public support for protecting these scenic areas. The package that has been developed takes the best features of the proposals by the Park Service and the BLM and combines them into a well-organized management plan for the area.

I strongly support the measure and I encourage its immediate passage.●

By Mr. MOYNIHAN (for himself and Mr. HEINZ):

S. 2933. A bill to charter the National Academy of Social Insurance; to the Committee on the Judiciary.

NATIONAL ACADEMY OF SOCIAL INSURANCE

● Mr. MOYNIHAN. Mr. President, I rise today to offer a bill to grant a Federal charter to the National Academy of Social Insurance. The Academy was established in May 1986 by a distinguished group of individuals from business, labor, government, and the academic community. Although their professional backgrounds are diverse, each has achieved distinction in the field of social insurance. I am honored to serve as a member of the Academy's organizing committee, together with my colleague, and the cosponsor of this bill, Senator HEINZ.

Mr. President, the Social Security Act of 1935 is perhaps the greatest piece of domestic legislation of this century. The original act and its subsequent amendments—including Survivors, Disability, and Health Insurance—affect nearly every American family.

In 1986, our Social Security System will pay nearly $200 billion in benefits to an average of 37 million retired and disabled individuals, their spouses and children, and to survivors of deceased workers. Annual payroll tax contributions of some $210 billion will be collected this year from about 125 million workers and 6 million employers. Together, the Old Age, Survivors, Disability, and Health Insurance [OASDHI] programs account for approximately 48 percent of all domestic expenditures made by the Federal Government.

The Social Security Act, Mr. President, represents a deliberate Federal policy to strengthen American families. In the not-so-distant past, the family that lost a breadwinner through death, disability, or advanced age was left to fend for itself. The very fortunate might manage on their own savings or with the help of relatives and friends. Charitable contributions and locally funded public assistance, if available, might help. But when these alternatives failed—as they too often did—families broke down and frequently broke up.

It was to these problems that the Social Security Act addressed itself. In the original act and in succeeding amendments, Congress sought to help insulate family members from the disruption caused by the loss of a worker's earned income. This objective is laudable. It deserves great effort. Our social insurance programs make that effort, Mr. President, and they succeed. How else can we explain the unprecedented public and bipartisan political support enjoyed by a system that raises Federal revenues in sums second only to those raised by the income tax?

But neither problems nor solutions remain static. Today, Mr. President, our social insurance programs operate in an environment vastly changed from that of 50 years ago: changes in our economy and labor market, changes in our expectations concerning women and work, and perhaps most dramatic, changes in the demography of our population. The aging of America has been much discussed, but less well understood is the fact, that some 14 years ago, the American birthrate dropped below the reproduction level. Well below. It does not take any great insight to realize that this dieing back of the American population has profound implications for the

aged. In a word: who will provide for them? Clearly, all of these changes pose new and serious challenges to our Social Security System.

That is why, Mr. President, the National Academy of Social Insurance is long overdue. Until now, there has been no organization of scholars and experts to plan and carry out a long-term education and research agenda, to promote an exchange of ideas, or to develop informed policy proposals.

If we are to assure the future health of the Social Security System, we ought to bring together experts from diverse disciplines. We ought to provide a forum for unfettered and bipartisan debate. We ought to provide clear, objective information to the millions of Americans who contribute toward and benefit from our social insurance programs.

Finally, Mr. President, we have a group of distinguished individuals intending to do all these things. I ask my colleagues to join with me and Senator HEINZ in formally recognizing and granting a charter to the National Academy of Social Insurance. In doing so, we encourage serious and ongoing study of the maturation and evolution of our Social Security System, we increase the availability of essential information to the public, and we signal congressional resolve to continue our social insurance programs, on a sound basis, into the 21st century and beyond.

Mr. President, I ask unanimous consent that a copy of the bill and a list of the Academy's organizing committee members be printed in the RECORD.

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

S. 2933

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

SECTION 1. CHARTER.

The National Academy of Social Insurance, organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a charter.

SEC 2. POWERS.

The National Academy of Social Insurance (in this Act referred to as the "Academy") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

SEC. 3. OBJECTS AND PURPOSES OF CORPORATION.

The objects and purposes of which the Academy is organized shall be those provided in its articles of incorporation and shall include—

(1) promoting an informed and nonpartisan study of, and education with respect to, social insurance,

(2) bringing together experts with diverse backgrounds to consider social insurance issues in an interdisciplinary way,

(3) assisting in the development of social insurance scholars and administrators,

(4) encouraging research and studies on topics of relevance to social insurance, and

(5) sponsoring seminars and other public meetings.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the Academy shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Eligibility for membership in the Academy and the rights and privileges of members shall be as provided in the bylaws of the corporation.

SEC. 6. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

The board of directors of the Academy and the responsibilities thereof shall be as provided in the articles of incorporation of the Academy and in conformity with the laws of the State or States in which it is incorporated.

SEC. 7. OFFICERS OF CORPORATION.

The officers of the Academy, and the election of such officers, shall be as is provided in the articles of incorporation of the Academy and in conformity with the laws of the State or States wherein it is incorporated.

SEC. 8. RESTRICTIONS.

(a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the Academy or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers and members of the Academy or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The Academy shall not make any loan to any officer, director, or employee of the corporation.

(c) The Academy and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The Academy shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The Academy shall not claim congressional approval or Federal Government authority for any of its activities, other than by mutual agreement.

(f) The Academy shall retain and maintain its status as a corporation organized and incorporated under the laws of the District of Columbia.

SEC. 9. LIABILITY.

The Academy shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SEC. 10. BOOKS AND RECORDS; INSPECTION.

The Academy shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the Academy involving any of its members, the board of directors, or any committee having authority under the board of directors. The Academy shall keep at its principal office a record of the names and addresses of all members having the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

SEC. 11. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal laws", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(17) National Academy of Social Insurance.".

SEC. 12. ANNUAL REPORT.

The Academy shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

SEC. 13. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 14. DEFINITION OF "STATE".

For purpose of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 15. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire.

SEC. 16. TERMINATION.

If the corporation shall fail to compy with any of the restrictions or provisions of this Act the charter granted hereby shall expire.

NATIONAL ACADEMY OF SOCIAL INSURANCE—MEMBERS OF ORGANIZING COMMITTEE

Robert M. Ball, Henry Aaron, William Arnone, Merton C. Bernstein, Lisle Carter, Jr., Wilbur J. Cohen, John Heinz, Erwin Hytner, Eric Kingson, Lane Kirkland.

Nancy Altman Lupu, Theodore Marmor, Daniel Patrick Moynihan, Alicia H. Munnell, Robert J. Myers, Bert Seidman, Lawrence H. Thompson, Alexander B. Trowbridge, Elizabeth Wickenden, Howard Young.●

By Mr. DOLE:

S. 2934. A bill to establish a Commission and National Advisory Committee to study a constitutional amendment regarding impeachment; to the Committee on the Judiciary.

COMMISSION ON A CONSTITUTIONAL AMENDMENT REGARDING IMPEACHMENT ACT

Mr. DOLE. Mr. President, in the wake of the impeachment and removal of Harry T. Claiborne from the Federal bench, it seems appropriate to reflect on the process by which the Congress handled this matter. After all, it was the first in 50 years in which a member of the Federal judiciary was actually impeached, although the first steps of formal impeachment were taken against President Nixon in 1974.

A special set of impeachment rules apply to these proceedings in the Senate. Work had begun in 1974 to revise and streamline the procedures that had been developed across two centuries, but which had been used very sparingly during that period. For the first time the Senate designated a committee of 12 to take testimony and gather evidence. The committee,

under the effective leadership of the delegation from Maryland—Senator MATHIAS as chairman and Senator SARBANES as vice chairman—held 7 days of hearings and amassed a record of more than 2,300 pages. Under the provisions of the rule, the committee had no charter to make recommendations to the Senate.

This delegation of authority by the Senate was not without its critics. In fact almost a third of the Senate voted to take testimony on the Senate floor.

Even without testimony, the Senate floor consideration on the matter took almost 18 hours. The managers on the part of the House presented their case. The respondent and his attorney marshaled the defense then the Senate went into closed session to consider the matter.

I must say, Mr. President, that the debate on this impeachment was of the highest order. It was quite obvious that the Senators individually and the Senate collectively discharged these functions under the Constitution in a most solemn and serious manner. This unique role as both judge and jury was initially met with some concern and uncertainty. Perhaps it was because we were sailing uncharted waters—at least for this generation of the Senate. Perhaps it was because of the novel aspects of the case. Here was a Federal judge, convicted and serving time in a Federal penitentiary, who had not resigned and who was determined to see a full congressional inquiry into his conviction. In any event, more attention was given to removing one judge from the Federal bench than is given to all but the most major issues. Very few legislative proposals receive as much consideration. Having said this, the question arises: "Where do we go from here?"

AMENDING THE IMPEACHMENT RULES

Mr. President, while the details of Claiborne impeachment are still fresh in mind, it seems appropriate that the Senate Rules Committee review the rules which were modernized for the proceeding. Several decisions were made which perhaps should now be reconsidered. For example, is the referral to a committee of 12 appropriate? Should the deliberations of the Senate be in closed session? Is it necessary, after one article of impeachment has been affirmed, for the Senate to vote on subsequent articles?

These and other related questions need to be addressed. Unfortunately it appears that we may face the prospect of yet another impeachment proceeding in the near future. I believe any changes should be made before new articles of impeachment are drawn up against another civil official. I am therefore requesting the Rules Committee to conduct a review at the earliest possible moment.

AMENDING THE CONSTITUTION

In the long run, Mr. President, it seems to me that some hard questions should be posed as to whether impeachment by the Congress is appropriate for Federal judges. It is a time-consuming, expensive and elaborate procedure. It necessarily commands much time and attention if impeachment is to be fair and afford a semblance of due process—even though there is no constitutional requirement for due process as such. Already Senators HEFLIN and DECONCINI are beginning preparations for introduction of appropriate resolutions next year. Several States have independent commissions with removal powers. Others empower judicial tribunals for this purpose. In other States where judges are elected, recall is a remedy available to the voters.

In 1979 and 1980 the Congress processed judicial fitness and tenure legislation under the able leadership of the Senator from Arizona, Mr. DECONCINI, who chaired the Judiciary Subcommittee on Improvements in Judicial Machinery—now the Subcommittee on Courts. During consideration of that legislation attention was given to a possible amendment to the Constitution to establish alternate methods of removing Federal judges. Although nothing more resulted than the building of a hearing record on the issue, it was a good beginning. Now, however, the issues have been framed in sharper focus. It is not a mere academic exercise. One impeachment has been concluded. One or two more are distinct possibilities in the immediate future. The time has arrived to give a proposed amendment very serious consideration.

JUDICIARY COMMITTEE CONSIDERATION

It is my hope that the Committee on the Judiciary would move to give proposals for a constitutional amendment early consideration. I have conferred with the chairmen of the two subcommittees involved, the distinguished Senator from Utah [Mr. HATCH] who chairs the Constitution Subcommittee, and the distinguished Senator from Kentucky [Mr. MCCONNELL] the chairman of the Courts Subcommittee. They assure me that they will give the proposals early and joint consideration. The hearing record from the DeConcini subcommittee is a very good place to start.

IMPEACHMENT AMENDMENT COMMISSION

In addition to the consideration by the Committee on the Judiciary, it may well be appropriate to create a Commission to give a thorough and expeditious consideration to the matter. If the question of a proposed amendment to the Constitution is to be seriously addressed in the short term, it would seem appropriate to authorize an ad hoc group to explore the options of alternative remedies to impeachment and to fashion an appropriate amendment to the Constitution. A joint resolution has been prepared for introduction which would accomplish that end. It creates a 12-member Commission, 3 of whom would be appointed by the Senate, 3 by the House, 3 by the President, and 3 by the Chief Justice. A chairman would be selected from among the group.

In addition an advisory committee of not more than 12 persons could be formed to assist the Commission. This was the format followed in 1966 when created the National Advisory Commission on the Reform of the Federal Criminal Code. This group had an advisory committee of academics and representatives from State and local organizations providing advice and counsel to the Commission. With an undertaking as important as a proposed amendment to the Constitution, it seems like an appropriate step. The resolution calls for the Commission to be appointed within 30 days and for it to begin its work no later than 60 days after enactment. If this occurs, the Commission would be well underway and ready to report to the Congress shortly after the next Congress begins its work. It is my view that this Commission should be truly nonpartisan or rather bipartisan fashion.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2934

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 "Commission on a Constitutional Amendment Regarding Impeachment Act".

PURPOSE

SEC. 2. It is the purpose of this Act to establish a bipartisan Commission, supported by a National Advisory Committee, to investigate and study the constitutional problems of impeaching an Article III judge, and the advisability of proposing an amendment to the Constitution regarding the possible impeachment of such judges.

ESTABLISHMENT

SEC. 3. There is hereby established a Commission to be known as the "Commission to Study Impeachment of Judges" (hereafter in this Act referred to as the "Commission").

MEMBERSHIP

SEC. 4. (a) The Commission shall be composed of twelve members. Three of such members shall be appointed by the Majority Leader of the Senate, three shall be appointed by the Speaker of the House of Representatives, three shall be appointed by the Chief Justice of the Supreme Court, and three shall be appointed by the President.

(b) Members of the Commission shall be appointed for the life of the Commission.

(c) Six members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(d) The members of the Commission shall select one of such members to be the Chairman.

(e) All appointments made pursuant to this Act shall be made within 30 days after the date of enactment of this Act.

(f) The first meeting of the Commission shall be called by the President and shall be held within 60 days after the date of enactment of this Act.

(g) A vacancy on the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

ADVISORY COMMITTEE

SEC. 5. (a) There shall be appointed an advisory committee (hereafter in this Act referred to as the "committee") of twelve individuals with expertise or experience in areas being investigated or studied by the Commission. Such Committee shall provide expertise for, and perform such duties as determined by the Commission.

(b) Such Committee shall be appointed in the same manner as the Commission.

DUTIES OF THE COMMISSION

SEC. 6. (a) The Commission shall investigate and study the constitutional problems and issues involved in the impeachment of an Article III judge, evaluate the possibility of a constitutional amendment, and may propose a possible constitutional amendment regarding such impeachments.

(b) The Commission shall prepare and submit to the President and the Congress a report on their investigation and recommendations.

COMPENSATION OF THE COMMISSION AND COMMITTEE

SEC. 7. Each member of the Commission or Committee who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule contained in section 5332 of title 5, United States Code, including traveltime, for each day he or she is engaged in the actual performance of his or her duties as a member of the Commission or Committee. A member of the Commission or Committee who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission and Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 8. (a) The Commission is authorized to obtain, in addition to the members of the Committee, the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(b) The Commission is authorized to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of General Services.

(c) The Commission is authorized to procure supplies, services, and property, and make contracts in any fiscal year, only to such extent or in such amounts as are provided in appropriation Acts.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(e) The Commission or, on the authorization of the Commission, a member thereof, may, for the purpose of carrying out the provisions of the Act, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of books, records, memoranda, papers, and documents as the Commission or such member deems advisable.

(f) The Commission, or on the authorization of the Commission, any member thereof, may, for the purpose of carrying out the provisions of this Act, have such printing and binding done, enter into contracts and other arrangements to such extent or in such amounts as are provided in appropriation Acts, and make such expenditures as the Commission or such member deems advisable.

(g) The Commission may acquire directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this Act. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon request by the Chairman.

(h) The Chairman of the Commission is authorized to appoint, terminate, and fix the compensation, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, of an Executive Director and such additional personnel as the Chairman finds necessary to enable the Commission to carry out its duties. The annual rate of compensation of the Executive Director may not exceed a rate equal to the rate provided for level V of the Executive Schedule under section 5316 of such title and the annual rate of compensation of all other personnel may not exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(i) Upon request of the Commission, the head of any Federal agency is authorized to make any of the facilities and services of such agency available to the Commission or to detail any of the personnel of such agency to the Commission, on a reimbursable basis, to assist the Commission in carrying out its duties under this section, unless the head of such agency determines that overriding reasons will not permit the agency to make such facilities, services, or personnel available to the Commission and so notifies the Chairman in writing.

(j) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(k) Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such member.

(l) The Commission may expend funds made available for purposes of this Act for printing and binding, notwithstanding any other provision of law.

REPORT AND TERMINATION

SEC. 9. (a) The Commission shall, within 6 months after the date of its first meeting, transmit a final report to the President and the Congress concerning its study, investigation, findings, and recommendations.

(b) The Commission shall cease to exist on the date 30 days after the date it transmits its final report to the President and the Congress.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. There are authorized to be appropriated $500,000 to carry out the provisions of this Act, including the printing and binding of the report required to be prepared by the Commission pursuant to this Act.

By Mr. CHAFEE:

S. 2935. A bill to prohibit the use of subtherapeutic doses of penicillin, chlortetracycline, and oxytetracycline in animal feed; to the Committee on Labor and Human Resoources.

ANTIBIOTIC SAFETY ACT

Mr. CHAFEE. Mr. President, today I am introducing legislation to curb a practice which poses a grave threat to the public health—the widespread use of antibiotic drugs to promote growth in livestock. The continuous and heavy use of antibiotics in this way threatens both human and animal health by cultivating bacteria which are resistant to antibiotic treatment.

The use of antibiotic drugs in animal feed has increased dramatically since the 1950's, when it was found that low but continuous—or subtherapeutic—doses of these drugs promote growth in livestock and poultry. Today, according to estimates by the Office of Technology Assessment, most of the livestock raised in the United States receive antibiotic-medicated feed: 60 percent of all cattle, 90 percent of all swine and veal calves, and nearly 100 percent of all poultry. Nearly one-half of all the antibiotics produced in the United States each year goes into animal feed, and it is estimated that only a small fraction of that amount is used to treat actual disease. The bulk goes for subtherapeutic uses— that is, where the intent is simply to promote growth, rather than to treat disease.

Antibiotics have been called wonder drugs, but this uncontrolled and inappropriate use threatens to render them powerless. As recent studies have confirmed, the continuous presence in the bacterial environment of antibiotic drugs in such large quantities fosters the development of highly resistant strains of bacteria. These resistant bacteria lead to conditions—both in humans and in animals—which cannot be treated with antibiotic therapy. Even more alarming is the fact that once resistant bacteria develop, the resistance characteristic can be passed to bacteria of other species—and even to those never exposed to antibiotics.

To treat an infection which is resistant to one or more antibiotics, the physician must try to identify an anti-

biotic to which that infection is susceptible—possibly one of the newer and invariably more costly antibiotics that are being developed at the rate of approximately one per year. But since developing and testing new drugs is a costly process, this treatment can run to eight times the cost of treatment with one of the older, more commonly prescribed antibiotics.

This all adds yet more pressure to the cost of health care: hospital stays are longer, treatment is more complicated, and the drugs needed are more expensive. Where an ordinary infection would yield quite easily to 2 weeks' treatment with antibiotics, a resistant infection is considerably more complicated, resulting more frequently in death or serious illness.

Clearly the solution is not to rely on the development of new antibiotics, but rather to preserve the effectiveness of the antibiotics we now have by using them prudently. This bill would take one small step in that direction by banning the subtherapeutic use in animal feed of the two antibiotics most important to the treatment of human disease: penicillin and tetracycline. Many scientists consider these drugs to be more effective and to have fewer side effects than any of the newer antibiotics, and thus as the most wondrous of the wonder drugs.

The case for banning the subtherapeutic use of penicillin and tetracycline is well documented. This was the course of action initiated in 1977 by the Food and Drug Administration [FDA], when, based on data collected from independent studies and from the drug industry, it found these uses to pose a serious health threat. It began proceedings to ban all feed uses of penicillin and most feed uses of tetracycline. The proposed ban, however, was held in abeyance by Congress pending further study.

Since that time, new studies have offered more conclusive evidence of the link between the subtherapeutic use of antibiotics and the growth of antibiotic resistance. Based on these findings, the Natural Resources Defense Council has estimated the health risk posed by subtherapeutic use of penicillin and tetracycline for one type of resistant infection: salmonella. For each year of continued subtherapeutic feed uses of these two drugs, NRDC projected more than 2,700 reported cases of resistant salmonella, more than 270,000 unreported cases, and between 100 and 300 deaths.

While questions may still remain about the extent of antibiotic resistance and the relative contributions of different uses of antibiotics, prudence would dictate that we resolve these questions on the side of caution. Must the evidence of harm be irrefutable before we take reasonable precautions?

Mr. President, it is time for us to get serious about the problem of antibiotic resistance, and a reasonable place to start is the use of antibiotics as growth promoters. Using our most powerful antibiotic drugs in this way is both unnecessary and highly inappropriate. In short, it squanders one of our most precious resources for fighting disease.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being on objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2935

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 "Antibiotic Safety Act of 1986".

SEC. 2. (a) Section 501 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new paragraph:

"(j)(1) If it is an animal feed and it bears or contains a subtherapeutic dose of penicillin, chlortetracycline, or oxytetracycline.

"(2) For purposes of subparagraph (1), the term 'subtherapeutic dose' means a dose of penicillin, chlortetracycline, or oxytetracycline which is administered for a purpose other than the treatment of a specific disease or disorder, including for the purposes of promoting the growth of an animal or preventing disease in an animal.".

(b) Section 201(x) of such Act is amended by inserting "in section 501(j)," before "in section 512".

By Mr. PELL (for himself, Mr. CHAFEE, and Mr. WEICKER):

S. 2936. A bill granting the consent of Congress to the Connecticut, Rhode Island, Massachusetts, and New York Rail Improvements Compact; to the Committee on the Judiciary.

CONNECTICUT, RHODE ISLAND, MASSACHUSETTS, AND NEW YORK RAIL IMPROVEMENTS COMPACT

● Mr. PELL. Mr. President, I am today introducing legislation to authorize an interstate compact between the States of Connecticut, Massachusetts, New York, and Rhode Island for the purpose of undertaking improvements in the Northeast corridor.

My legislation would enable the four States to initiate long overdue capital improvements, curve straightening, and electrification of the main line between New Haven and Boston. As the grandfather of the original Northeast corridor legislation, I am proud of the progress that has been made over the past decade in improving rail service between Washington and Boston. We can point to the success of Metroliner service between New York and Washington—which serves roughly one-third of the heavily traveled commuter market between those two cities—as a model of what can be achieved in making rail transportation a viable and attractive alternative to the overcongested highways and air routes.

Despite the progress made by the Northeast corridor project, much, much more needs to be done, especially in the segment of the corridor north of New York City. Budget cuts in the Northeast corridor project resulted in the eli[illegible] proven[illegible] the competitiveness of rail service in the commuter market between New York and Boston. Among the improvements eliminated from the Northeast corridor project was the electrification of the mainline between New Haven and Boston. The need to avert the changeover from electric to diesel power is crucial to reducing the triptime between New York and Boston, which currently takes almost 5 hours. Also necessary are capital improvements to the tracks themselves. If all the curves between Boston and New York were put together end to end the tracks would spiral through 16¾ full circles. Station improvements and signaling are other areas where rail passenger service is in need of new capital investment.

I believe the Federal Government has a very real responsibility in improving rail passenger service, especially in light of the high level of funding expended annually on air transportation and highways. Ultimately, I would like to see the Federal Government undertake a program of direct loans and loan guarantees for high speed rail improvements in emerging transportation corridors across the country.

Recognizing the very real threat of an airborne and highway gridlock in the Northeast, and as a first step in the direction of making rail service a competitive force in the Boston-New York market, I believe the time has come for the southern New England States and New York to form a compact for rail improvements. My legislation authorizes the compact to issue tax-exempt, State-backed securities to finance rail improvements. My view is that while bonds backed by the four States would be the initial source of capital improvements, the compact would also be empowered to receive Federal funding, loans, or loan guarantees. Under the compact, the States themselves through their representation on the Compact Commission would plan and manage the rail improvements, award contracts, and coordinate scheduling with commuter rail operations in the four States. The powers and duties of the Commission itself I have left purposely vague, because the views of the four States should be paramount in this area. It is my intention in the coming months to seek the advice and counsel of the Governors and to work specifically with the Coalition of Northeastern Governors [CONEG] with the objective of developing a consensus approach in a bill to be introduced at the very outset of the 100th Congress in January.

Here I would like to specifically commend the leadership of Massachusetts Gov. Michael Dukakis, who has spoken out forcefully for rail improvements in New England and who sponsored a resolution in the Coalition of

work toward a Boston-New York rail traveltime of 3 hours. Governor Dukakis will cochair the task force with Gov. William O'Neill of Connecticut, another strong advocate of rail improvements. Both the Rhode Island Gov. Edward DiPrete and New York Gov. Mario Cuomo have signaled their enthusiastic support for further improvements in the Northeast corridor.

As one who has long been concerned with rail service in the Northeast, I firmly believe that future economic growth in our region is tied directly to our ability to provide a viable alternative to the overcrowded highways and air routes. The original vision of a Northeast corridor "megalopolis" I articulated exactly 20 years ago has already materialized. The area between New York and Boston is a chain of interconnected cities and towns stretching along Long Island Sound and extending by the Connecticut River Valley, then moving in an easterly direction through the suburbs of Providence and Boston. Air travelers between New York and Boston sometimes face long delays in the air and even longer delays on the ground. It is not unusual for a business traveler to be hopelessly late, held up for many hours in the air or stuck in traffic trying to get from the airport. Daily commuters and intercity drivers compete with one another for space on the region's roadway bringing motorists to a crawl on an interstate system designed for high speed travel.

For the Northeast, the risks of continuing in this way are too large to ignore. Without a well-thought-out strategy for improving the region's transportation system, our economy may choke itself, strangled by an inadequate transportation network. The initiative for rail improvements must lie, in the final analysis, with the States in our own region. An interstate compact along the lines envisioned in my legislation will spur badly needed capital improvements to our rail transportation system and strengthen the infrastructure that underlies our regional economy. I look forward to working with the Governors of Connecticut, Massachusetts, New York, and Rhode Island in refining this proposal over the next few months and moving ahead early when the 100th Congress convenes in January.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2936

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the States of Connecticut, Rhode Island, Massachusetts, and New York, to enter into the Connecticut, Rhode Island, Massachusetts, and New York Rail Improvements Compact. Such compact reads substantially as follows:

"CONNECTICUT, RHODE ISLAND, MASSACHUSETTS, AND NEW YORK RAIL IMPROVEMENT COMPACT

"ARTICLE I. PURPOSE

"The purpose of this compact is to promote the undertaking of rail improvements in the Northeast Corridor (as such term is used in the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.)) of the compacting States, (including capital improvements to the Northeast Corridor between New York, New York and Boston, Massachusetts, and the electrification of certain track between New Haven, Connecticut and Boston, Massachusetts), to reduce travel time for rail passenger service between New York, New York and Boston, Massachusetts, and to establish a joint interstate commission to coordinate and control the implementation of such improvements.

"ARTICLE II. EFFECTIVE DATE

"This compact shall become effective upon the adoption of such into law by the participating States, and shall continue in force and remain binding upon such States until six months after any such State has given notice to each other participating State of the repeal thereof. Such withdrawal shall not be construed to relieve any participating State from any obligation incurred prior to the end of participation by such State in the compact as provided herein.

"ARTICLE III. JOINT INTERSTATE COMMISSION

"(a) The States which are parties to this compact (hereinafter referred to as 'Party States') do hereby establish and create a joint interstate commission which shall be known as the Connecticut, Rhode Island, Massachusetts, and New York Rail Improvements Compact Commission (hereinafter referred to as the 'Commission'). The membership of the Commission shall consist of three members from each of the Party States, to be appointed by the Governor in accordance with the laws of the Party State which each member represents, and such members are subject to removal in accordance with such laws. Each member of the Commission shall be appointed for a term of three years. If a vacancy occurs during the term of a member, the Governor of the Party State from which such member was appointed, shall make an appointment to fill the vacancy for the remainder of such term.

"(b) The Commission shall annually elect from its members a chairman and vice chairman, and appoint such officers or employees necessary to implement the provisions of this compact, and shall fix and determine their qualifications and duties. The Commission shall adopt such by-laws needed for the conduct of its business, and shall meet at times and places as agreed to by a majority of the members of such, but such Commission must meet at least once in each calendar year of its existence.

"(c) A majority of the Commissioners shall constitute a quorum for the purpose of conducting business. each Commissionerer shall have one vote.

"(d) It shall be the duty of the Commission, in general, to promote, encourage, coordinate, and oversee the efforts of the Party States to implement the rail improvements as specified by such Commission, and the Commission shall have the power to undertake planning for rail improvement in consultation with Federal agencies, including the National Railroad Passenger Corporation and the Federal Railroad Administration. The Commission shall also undertake planning with local commuter rail operations in the Party States, and shall assign a high priority to operational considerations, including the coordination of schedules with commuter operations.

"(e) The Commission shall be authorized to issue bonds, not to exceed one billion dollars in value, for the purpose of paying all or any part of the cost of rail improvements, if such authority is conferred upon it jointly by the legislative authority of the Party States. The Party States shall give full faith and credit to any bonds issued by the Commission. When other appropriations for the support of the Commission and its efforts are necessary, the Commission shall allocate the costs evenly among the Party States. The Commission may receive Federal funding for rail transportation purposes.

"ARTICLE IV. COMPACT EFFECT

"Nothing in this compact shall abridge, limit or be construed so as to conflict with any existing State statute, or to repeal or prevent legislation, or to affect any existing or future cooperative arrangement or relationship between any Federal agency and a Party State.".

SEC. 2. The consent to the Connecticut, Rhode Island, Massachusetts, and New York Rail Improvements Compact shall extend to any and all supplementary agreements entered into pursuant to carrying out the purpose of such compact.

SEC. 3. The right to alter, amend, or repeal this Act is expressly reserved.

By Mr. NUNN (for himself and Mr. COCHRAN):

S. 2937. A bill to amend the Food Security Act of 1985 to increase the number of acres placed in the conservation reserve program, and for other purposes: to the Committee on Agriculture, Nutrition, and Forestry.

INCREASE IN NUMBER OF ACRES IN THE CONSERVATION RESERVE PROGRAM

● Mr. NUNN. Mr. President, despite record Government expenditures made to farmers through our commodity programs, the economic crisis in agriculture persists, and may even grow more serious. The 100th Congress will face early in 1987 some very tough budgetary decisions, including the possible need to save the Farm Credit System through a multi-billion-dollar infusion of funds. Regrettably, to address these critical problems, it now appears to me that Congress must reconsider decisions made just a year ago upon passage of the 1985 farm bill.

The programs authorized by that bill have already proven far too costly and ineffective. Moreover, costs will go

up even higher next year without action by Congress. Commodity program expenditures also threaten to set back other vital missions of the Department of Agriculture which would, in the long run, contribute far more to the prosperity and sustainability of U.S. agriculture. We are falling short in export promotion efforts, in research and education, in our grain inspection and other quality assurance programs, and in conservation.

This legislation I introduce today on behalf of myself and Senator COCHRAN would accelerate accomplishment of one long overdue adjustment in our agricultural policy, an adjustment authorized and set in motion in the historic conservation title of the 1985 farm bill. It will both help in our ongoing efforts to control erosion, and contribute to pressing near-term production adjustment and income support efforts.

We introduce this bill today because we are convinced that the Conservation Reserve Program [CRP] authorized by subtitle D of section XII in the Food Security Act of 1985 can play an increasingly vital role in controlling soil erosion, protecting water quality, and supporting farm income. Indeed, the tremendous success of the program to date has led us to propose this legislation. We have three major goals in mind in offering this legislation:

First, accelerating enrollment into the CRP in 1987, with a goal of enrolling at least 35 million additional acres in the reserve;

Second, authorizing expansion of the reserve to 65 million acres, assuming the need exists to draw out of cultivation additional highly erodible cropland; and

Third, mandating the Secretary of Agriculture to begin, at least on a pilot program basis, the use of the reserve in addressing serious regional water quality or supply problems. Critical ground water quality problems in northwestern Iowa, and parts of Nebraska with sandy soils, are prime candidates for pilot projects.

We recognize that passage of this legislation is not possible in the 99th Congress. We are introducing the bill now, however, to alert our colleagues on the Committee on Agriculture, Nutrition, and Forestry and other Senators of our conviction that expansion of the conservation reserve should be vigorously pursued. We are also anxious to hear from the Department of Agriculture regarding this legislation, and encourage the executive branch to advise the Congress as soon as possible about its plans and intentions to expand CRP enrollment in early 1987, while also pursuing the other goals of this legislation.

My hope is that this legislation will help alert the agricultural community to a major opportunity that I believe now exists. Clearly, farmers across the Nation will benefit from strong steps to further reduce acreage planted to surplus crops, particularly in feedgrain producing regions. For this reason, and because the rate of signup has been disappointing in the Midwest, the legislation provides the Secretary with a clear mandate, and new authority to provide prospective CRP enrollees with adequate incentives to assure that the target level of enrollment is reached. This authority includes the following:

First, for producers with Farmers Home Administration financing, debt restructuring plans may include special provisions for advance CRP payments in cash or kind.

Second, the Secretary may offer a base acreage retirement bonus payment in cash or kind, to producers willing to surrender upon signup into the CRP commodity program base acres proportional to the acreage enrolled in the CRP.

Third, the Secretary may offer up to 50 percent of total 10-year CRP payments upon signup, in cash or kind, subject to a suitable mechanism to assure that the provisions of the CRP contract will be enforced.

Fourth, the Secretary may, on a State-by-State basis, authorize the use of CRP lands for grass, hay, and pasture uses, if the Secretary determines that such uses will not have an adverse affect on established operations in the State currently producing livestock, hay, or grass based silage.

We offer this legislation now to give the many individuals or organizations vitally interested in the conservation reserve time to fully study and reflect upon the best ways to achieve the legislation's basic intent, before major farm program changes are debated in early 1987. The shared sense of commitment expressed by a board diversity of groups and agricultural leaders toward the basic goals of the CRP has deeply impressed us, and has been a very positive force in bringing this new program into place. Let's build on this common ground, and follow the sound principles of the CRP in addressing additional problems related to water use and other environmental problems associated with agricultural production. By moving ahead with new ideas, we feel confident that the conservation reserve will meet the very high expectations of the Congress and the agricultural community.

To more fully explain the purpose and need for this legislation, I attach a report by two USDA economists summarizing the results of the first three CRP signup periods and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks. I ask my colleagues to note the remarkable estimated average reduction in erosion rates on land enrolled in the CRP—about 25 tons per acre—and the net reductions in commodity program supply control costs, estimated by USDA to equal about 40 percent of annual CRP rental payments.

I also wish to direct the attention of interested individuals to an insightful report recently issued by the Board on Agriculture of the National Research Council. This two-volume report, entitled "Soil Conservation: Assessing the National Resources Inventory," includes a convincing discussion of the extent of the erosion problem, and the concepts and policy strategies that should be used in attacking the problems. I wish to commend the Department of Agriculture for largely adopting the recommendations of the distinguished committee of experts who authored the report. Last, I am also attaching a recent speech by the board on agriculture's executive director, Dr. Charles Benbrook, discussing the current situation and directions in Federal soil and water conservation policy, which focuses on options to expand the reserve. I have met with Dr. Benbrook and discussed these matters with him at length. His assistance has been invaluable in preparing this legislation, and I ask unanimous consent that the speech be printed in the RECORD.

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

IMPLEMENTING THE CONSERVATION RESERVE PROGRAM [1]

(By Michael Dicks and Katherine Reichelderfer)

The objectives of the Conservation Reserve Program, as established by Title XII of the 1985 Food Security Act, are to: (1) Reduce water and wind erosion, (2) protect our long-term capability to produce food and fiber, (3) reduce sedimentation, (4) improve water quality, (5) create better habitat for fish and wildlife through improved food and cover, (6) curb production of surplus commodities, and (7) provide needed income support for farmers. Owners/operators of any land defined for the Conservation Reserve Program as "highly erodible" may submit bids for enrollment of their eligible acreage. Appendix A provides detail on the legislation which enables a conservation reserve.

The performance of the Conservation Reserve Program [CRP] has shown both significant erosion reduction and supply control. Sign-ups conducted in March, May, and August 1986 have resulted in enrollment of 8.9 million acres, with about 25 tons of soil erosion saved per acre, and over 60 percent of the acres enrolled were reductions to commodity program acreage bases. The direct CCC commodity program savings from CRP participation offset nearly 40 percent of the rental payments. Analysis of sector-wide effects indicates that direct plus indirect CCC cost savings may remain sufficient to offset the costs of the CRP.

However, the eventual success of the CRP in meeting its multiple objectives depends heavily upon how the program is imple-

[1] This summary is based on research conducted by William Boggess, Michael Dicks, Anthony Grano, and Katherine Reichelderfer.

mented over the remaining 4 years of acreage enrollment. Title XII allows the Secretary of Agriculture a great deal of discretion in implementing the CRP. This report summarizes various analyses of the effects of discretionary factors on the performance of the CRP.

DISCRETIONARY FACTORS IN IMPLEMENTING THE CRP

Among the principal factors that may be manipulated to target or improve effectiveness of the CRP are:

Eligibility requirements for participation;

Bid pool size—the regional delineation of the area(s) that receive allotments for total bid quantities; and

Bid selection criteria.

Decisions regarding CRP eligibility, bid pool size, and bid selection criteria have a direct effect on the program's performance in terms of:

Erosion reduction;

Program crop supply control (or supply control cost savings); and

Program outlays.

Eligibility, bid solicitation, and bid selection criteria may be modified at any point prior to an announced sign-up.

The effects of eligibility and bid selection criteria on CRP performance are interdependent. It is the combination of decisions on these factors that affects the economic efficiency of the program in terms of the degree of erosion and supply control achieved per dollar outlay, and the net program savings of a conservation reserve.

The implications of these discretionary factors for CRP performance are summarized in the following material.

ELIGIBILITY

Popular options for eligibility criteria include the following working definitions of "highly erodible" land:

1. Cropland in Land Capability Classes (LCC) II-V which is eroding at greater than 3 times the tolerance level (T) and all cropland in LCC's VI-VII (to be referred to as "3T"; includes 69 million acres);

2. Cropland in LCC's II-V which is eroding at greater than 2 times the tolerance level (T) and all cropland in LCC's VI-VIII (to be referred to as "2T"; includes 104 million acres);

3. All cropland with an Erodibility Index (EI=RKLS/T) greater than or equal to 8—an indication of potential erosion (includes 118 million acres).

While 3T is a subset of 2T, EI>8 acreage includes land that is not currently eroding at or above 2T. The EI>8 land that does not overlap with the 2T set is land which has the potential to highly erode but which is currently being managed in ways that prevent excessive erosion.

For March, May, and August 1986 CRP sign-up periods, eligibility was restricted to "3T" land. At least two-thirds of the area of any field offered for bid was required to meet the 3T erosion rate or include other eligible land classes.

In general, employment of a restrictive definition of "highly erodible" will limit the number of acres eligible and favor erosion reduction over supply control. However, increasing the number of acres eligible for CRP allows greater flexibility in targeting highly eroding, highly erodible, or highly productive acrege. The greater the number of eligible acres, the greater will be the likely number of bids received, and the range of characteristics of the land associated with those bids. With greater number and variety comes the opportunity for selection of bids most likely to achieve specific goals. Eligibility criteria also have implications for the efficiency of the CRP bidding process and the equity of CRP participation opportunities as explained below.

Broad eligibility encourages competitive bidding: Because the CRP is not an entitlement program, eligibility does not imply selection. However, by widening eligibility as much as is legally possible (either by using a broader definition of "highly erodible" or by reducing the percentage of a field which must be highly erodible in order for the field to be considered eligible) more active and competitive bidding would be encouraged; thereby allowing for selection of those acres most likely to meet program objectives.

Inconsistency with Conservation Compliance raises equity issue: If CRP eligibility is restricted to 3T cropland (69.5 million acres), and the Conservation Compliance provision applies to EI>8 cropland (118 million acres), only 49 million acres will meet both definitions. Under strict adherence to a 1T erosion limit for conservation plans, farmers on 34 million acres will be told that their land is not considered "highly erodible" to the extent necessary for benefits available from the CRP. But, by 1990 these same farmers will be told their land is so "highly erodible" they must implement a conservation plan or forfeit eligibility to all future commodity program benefits. By the same token owner/operators on 20 million acres who are eligible for CRP benefits would not be faced with compliance.

BID POOL ALLOCATION

Because soil erodibility is a regional phenomenon, use of the largest possible bid pool size (a national pool) also provides a high degree of flexibility in targeting acreage with specific characteristics. The most highly erodible (or productive) acres drawn from a national pool could be clustered in relatively few regions. However, as bid pool size is decreased (to State or substate levels), total CRP acres would be more evenly distributed nationwide. As will be demonstrated later in this report, there is a high program cost associated with assuring equitable geographical distribution of CRP benefits.

BID SELECTION CRITERIA

There are many options for establishing bid selection criteria. Bids may be selected on the basis of their contribution to erosion reduction, the degree to which they reduce program crop base acreage or production, their rental cost, or any of numerous combinations of the erosion, supply, and rental cost values. Specific bid selection formulas can be used with or without an upper limit on rental fee bids.

For the March, May, and August 1986 sign-up periods, all bids at or below pool caps on rental cost were accepted. This is consistent with a bid selection strategy which minimizes rental cost of CRP enrollment.

Some alternative bid selection criteria which have been examined include:

Maximize erosion reduction: Select bids on the basis of from highest to lowest erosion on cropland bids until the budget limit (actual expenditures for sign-up periods) is reached.

Maximize supply control: Select bids on the basis of from highest to lowest value of supply control (program crop base acreage reduction) until the budget limit is reached.

Minimize net cost per ton of erosion: Select bids on the basis of lowest to highest net dollar cost of preventing erosion. Net costs are equal to rental costs minus supply control benefits. Supply control benefits equal the value of program crop base reductions achieved through enrollment of commodity program participants' acreage. (These are reductions to the base on which deficiency, diversion, and related commodity program payments would otherwise be made.)

These are only a few of the possibilities for alternative bid selection strategies. Their potential effect on CRP performance is significant.

1. Minimizing rental cost, the strategy followed thus far, enrolls the greatest number of acres for a given program outlay. However, the erosion control and supply control achieved with this strategy are less than that which could be accomplished by the use of alternative bid selection criteria.

2. Focusing on erosion by using the "Maximize Erosion Reduction" selection criterion increases erosion control benefits of a CRP, but these benefits are offset by a loss of supply control cost savings. Also, the administrative costs of strategies relying on erosion measures for bid selection may be greater than for other strategies because of the need to obtain and confirm erosion levels on parcels of cropland bid.

3. Focusing on maximization of supply control benefits involves a tradeoff in erosion reduction.

4. Minimizing net cost per ton of erosion retains high benefits in the form of supply control and low per acre net program costs, but also performs well in achieving high levels of erosion reduction.

Other decisions affect the sensitivity of CRP performance to bid selection criteria: Two basic factors determine the extent to which formulas can be used to increase program effectiveness and efficiency:

1. Number of bid received: The greater the number of bids received, the greater the effectiveness of the formula in targeting desirable acreage for enrollment. The number of bids received is influenced by eligibility as well as by other program benefits and costs. Broadening eligibility, lowering commodity program benefits, and/or better advertising the impending costs of conservation compliance should encourage more CRP bidding.

2. Number of bids which can/must be accepted: If every acre bid is needed to meet acreage constraints or allotments, formula use is a moot point. The smaller the percentage of bids that must be selected, the greater the effectiveness of formulas in targeting appropriate acreage. Thus, constraints imposed by bid pool acreage goals, the 25 percent per county maximum and maximum rental rates accepted are important in determining the effect of a formula.

The key point is that the interactions of eligibility criteria, pool allocation criteria, and use of a formula for bid selection must be taken into account. None of these controls operates in isolation of the others nor can the effects be analyzed in isolation.

INTERDEPENDENCE OF IMPLEMENTATION DECISIONS

Simulation of a 40-million acre reserve under alternative combinations of control variable levels illustrates the extent to which administrative decisions affect program effectiveness. Under the low cost bid selection criteria:

It is the EI>8 definition which provides the greatest erosion control, but this eligibility option also requires high program outlays.

The "2T" definition has the lowest program costs when bids are selected from a national pool, but this advantage is diminished by the selection of bids from State allotments.

The cost of assuring that CRP program benefits are equitably distributed among States is between $6-10 billion.

State bid pooling enhances supply control aspects of the CRP without sacrificing erosion control benefits.

For a nationally pooled Conservation Reserve drawn from "2T" cropland:

Selecting bids to maximize either erosion control or supply control significantly raises program cost over the current strategy of minimizing rental payment. Maximizing supply control is most expensive.

But, if bids were selected to maximize supply control potential, the acreage set aside in the CRP would be highly productive, with average yields 13 percent higher than the national average.

Selecting bids to maximize erosion control would improve program performance by increasing annual soil savings per acre over other bid selection alternatives. Bid selection to maximize erosion reduction for a "2T" eligibility criterion performs better (in controlling erosion) than using either "3T" or EI>8 eligibility definitions when erosion is not targeted.

INTERRELATIONSHIP WITH COMMODITY PROGRAMS

The Conservation Reserve, by retiring highly erodible land, has the potential to offset CCC outlays made in the form of deficiency payments. This potential arises both from:

1. Direct cost savings in the form of base acreage reduction required by CRP enrollment; and

2. Indirect cost savings which may result from commodity market price increases, spurred by reduced production, and consequential reduction in deficiency payment levels.

A complicating factor arises, however, from the fact that when commodity program benefits are high, there is a disincentive for participation in the CRP at current levels of accepted bids. Greater than average cash rent values will be required to compensate many commodity program participants for the loss of base and program benefits they incur as a result of CRP enrollment. As long as CRP benefits are low relative to commodity program benefits, commodity programs will pose strong competition with the CRP and the CRP may not enroll a large quantity of base acreage.

CONCLUSIONS.

It is clear that the CRP can be designed to favor erosion reduction, supply control, or budget reduction to various degrees above one another. However, the use of discretionary factors to weight the program's multiple objectives is neither simple nor straightforward. Decisions regarding eligibility, bid solicitation, and bid selection are interdependent. Each of various strategies for CRP implementation has unique advantages and disadvantages. Furthermore, the operation and success of the CRP are closely linked with other provisions of the Conservation Title as well as with the commodity programs it complements.

APPENDIX A

CONSERVATION RESERVE PROGRAM LEGISLATION

The conservation reserve provision proposes to assist, through contract, owners and operators of highly erodible cropland in conserving and improving the soil and water resources of their farms and ranches. This purpose will be met by establishing a conservation reserve of 40 to 45 million acres by 1990. Highly erodible cropland acreage will be placed into the reserve at the rates shown in table A-1. The Secretary may also include lands not highly erodible, but which pose a serious environmental threat or suffer continued degradation of productivity due to salinity. No more than 25 percent of the cropland in any one county may be placed in the reserve except where it is determined that to do so would have no adverse effect on the local economy. Where practicable, at least one-eighth of the total conservation reserve acreage should be devoted to trees.

Landowners or operators desiring to participate in the conservation reserve must agree to implement a plan approved by the local conservation district to place highly erodible cropland into grasses, trees, and other acceptable vegetative covers for 10 to 15 years. They must further agree not to harvest, graze, or make other commercial use of the forage for the duration of the contract, except where the Secretary permits, as in a drought or similar emergency. The conservation plan must describe the measures and practices required; the commercial use, if any, to be permitted; and the amount of cropland base and allotment history, if any, to be permanently retired. The amount of the reduction in cropland base acreage and allotment history, during the life of the contract, will be based on the ratio between acreage placed in the reserve and total cropland acreage on the farm for those crops which have production adjustment programs in place. The Secretary, however, may preserve the cropland base and allotment history on the acreage placed in the reserve for the purpose of any Federal program unless the owner and operator agree under the contract to retire that cropland base and allotment history permanently.

The Secretary must pay an annual fee sufficient to compensate for the conversion of highly erodible land to grass and trees and the retirement of any cropland base and allotment history. The compensation, in the form of annual rental payments, may be determined through the submission of bids. The acceptability of each bid may be based on the extent of erosion and the productivity of the acreage diverted. Different criteria may be established in various States and regions to determine the extent to which erosion may be abated. Priority may be given to owners and operators with the highest level of economic stress, and where appropriate, for the establishment of shelterbelts, windbreaks, stream borders, filter strips of permanent grass or trees that significantly reduce erosion.

The annual rental payments may be made in cash or in-kind and may be made prior to the implementation of the contract by owners or operators. The total payment may not exceed $50,000 per year, and will not affect the total amount of payments that are available under other programs. USDA must make the payments as soon as possible after October 1 of each year. The Secretary must also provide technical assistance and 50 percent of the cost of establishing conservation practices. These payments must be made as soon after the expenses occur as is feasible.

Land on which ownership has changed in the 3-year period preceding the first year of the contract will be ineligible for the conservation reserve unless the land was acquired by will or succession as a result of death, or prior to January 1, 1985, or where the Secretary determines that the land was acquired under circumstances that provide adequate assurance that it was not purchased for the purpose of being placed in the reserve. Ownership is not a requirement for eligibility provided the person has operated the land for the 3-year period preceding the first year of the contract and will continue to control the land for the duration of the contract.

The Secretary may modify or terminate an individual contract if the owner or operator agrees to the change and if the action is in the public interest. If the contract is violated, the owner or operator forfeits all rights to past, present, and future rental and cost-share payments or must accept adjustments to payments that the Secretary determines appropriate. On transfer of ownership or lease, the new owner or operator has the option to continue the current contract, enter into a new contract, or refuse to participate.

Title XII authorizes the Secretary to carry out the conservation reserve program through the CCC in fiscal years 1986-87. In fiscal year 1988 and subsequent years, the Secretary may use CCC facilities, services, and funds only if the CCC has received funds targeted for the conservation reserve.

TABLE A-1.—CONSERVATION RESERVE ACREAGE, CROP YEARS 1986-90

[In million of acres]

Range	1986	1987	1988	1989	1990
Minimum [1]	5	15	25	35	40
Maximum	45	45	45	45	45

[1] The Secretary may reduce the number of acres placed in the reserve by up to 25 percent if rental payments are likely to be significantly lower in the following year.

FEDERAL SOIL AND WATER CONSERVATION POLICY; CURRENT SITUATION AND DIRECTIONS

(By Charles M. Benbrook)

Soil and water conservation policy tops the list of encouraging developments in the agricultural arena, although that list is indeed a short one. Some analysts have been critical of the progress made to date in implementing the Conservation Reserve Program (CRP)—too critical in my view. Surely some tough problems stand in the way of expanding CRP enrollment in feedgrain producing areas. But there is nothing wrong with the CRP concept. With some 9 million acres and 60,000 farmers already enrolled, the program has thus far been a tremendous success. It is ready to deliver on some very big promises.

I believe that within two years, over 60 million acres could be enrolled in the reserve, of which over 5 million could be enrolled under special, targeted state-federal programs designed to address water quality/quantity problems.

The focus of this conference on information and administrative issues is very timely. Solid, reliable, nationally consistent information, utilized in a practical and fair administrative process is a necessary condition for the CRP to work as intended. The two other essential ingredients—common sense and wisdom in the political and budgetary arenas—are sometimes harder to come by. But so far, so good.

Next February the 100th Congress will be forced to review the projected cost overruns

of the commodity programs. Presumably, steps will have to be taken to reduce the cost of these programs by about one-third, bringing projected costs down from about $25 billion to about $18 billion, the amount provided in the fiscal year 1987 appropriation bill. Alternatively, Congress could pass a supplemental appropriation to cover the cost-overrun—a not too likely prospect.

Assuming program costs are trimmed, the economic attractiveness of the commodity programs will be somewhat reduced relative to enrollment in the CRP. While some steps are likely to cut costs, I also expect that Congress will take other, new steps to address persistent surplus and income problems. In all likelihood, an effort will be made to retire more acreage in 1987 than now called for in the Food Security Act of 1985. As I perceive the political landscape, the only two viable options are a paid diversion, or accelerating enrollment in the CRP. Because of budget considerations, the CRP option could emerge as the preferred course of action. But the question remains—are we really ready to enroll perhaps 35 million additional acres in the CRP in the next six months? The answer will be determined by how well the policy community deals with a half-dozen critical issues.

CRITICAL AND PRESSING ISSUES

1. The size of the eligible pool for CRP enrollment as set by the definition of highly erodible land

Persuasive arguments can—and have—been made for keeping the pool of eligible cropland small relative to CRP enrollments. In recent months, support has grown somewhat for enlarging the pool as a step toward encouraging more competitive bidding and greater enrollments. I question the logic and analysis underlying the notion that expanding the pool of eligible land will bring down bids, since such an expansion would involve more productive land likely to bring somewhat higher acreage rental rates. Notwithstanding uncertainty about this point, the one and only really good reason to expand the pool is expanding the target and rate of CRP enrollment. If the Department and Congress make a firm commitment to enrolling 20 million acres or more in the next 12 months, I would not argue against an EI>8 definition of highly erodible land. Such a definition is attractive on other grounds.

It assures consistency with the conservation compliance and the sodbuster provisions, thereby greatly diminishing future administrative hassles, costs, and challenges.

It is based on the most technically defensible concept for the classification of cropland with respect to inherent erosivity and vulnerability to erosion-induced productivity damages.

The definition can readily accommodate improved USLE data on expected erosion rates, or more accurate T-values based on new data and models involving erosion-productivity impacts. Such improved data could be generated, and incorporated in an EI-based definition at the state or national level.

If such a commitment to expand the CRP fails to materialize, highly erodible land should be restricted to cultivated cropland now eroding more than twice the soil loss tolerance limit, with EI>8. This definition yields a pool of about 65 million acres.

2. Achieving a more even pattern of CRP enrollment

The CRP has done particularly well in arid regions growing cotton, sorghum, and wheat and small grains. It is easy to understand why—CRP rental rates have approached or exceeded cash rental rates. Moreover, enrollees receive their CRP payments every year without the need to summerfallow.

The reason acceptable bid levels reached a level above cash rents in some areas can be explained by looking at USDA's formula for setting maximum accepted bid levels. Cash rental rates are the dominant factor used within a pool in setting maximum acceptable bids. The rent on dryland acres is averaged with the much higher rent on irrigated land in regions with both types of cropland. As a result, USDA allows dryland acreage to enter the reserve at unnecessarily inflated prices. This problem is surfacing in Texas, the West, and the Plains' States.

To get the economics right in the Midwest, the economic attractiveness of reserve enrollment must rise relative to participation in the feedgrain program. This won't happen by natural processes, and is, in my judgment, the most worrisome issue standing in the way of rapid expansion of CRP enrollments.

3. Commodity Program—CRP interactions: Is competition inevitable?

The answer is, no. Without important program reforms, the answer is, yes, Clearly, a balanced approach will involve steps to reduce somewhat the economic attractiveness of the commodity programs, while increasing somewhat the lure of the CRP. Possible and improbable steps toward the first goal are outlined below.

Reducing the economic attractiveness of the commodity programs for land eligible for the CRP:

Continue to require maximum acreage set-asides allowed in law (20 percent for the feedgrain program), or, even increase percentage set-asides.

Driven by budgetary concerns, the Congress may choose to reduce the corn support price to about $1.75, a step which will also be credited with making U.S. commodities more competitive in international markets. At the same time, target prices would also be cut back somewhat more on a percentage basis, to perhaps about $2.50. Deficiency payments would, as a result, fall to perhaps 75 cents per bushel, from about $1.20. Politically, a 53-cent reduction in the corn target price will clearly prove extremely unpalatable, despite over $2 billion in probable savings. Compared to the alternatives though, such a drastic step could emerge as the only course of action that can gain the support of a majority in Congress. Similar changes would probably be adopted in other commodity programs.

Impose and enforce much stricter payment limitation provisions in conjunction with a higher, more realistic cap on payments.

As suggested by Taft and Runge, forbid the use of "highly erodible" land in satisfying set-aside requirements. While novel, this idea could have adverse consequences in areas where a high percent of land meets the definition of highly erodible. It could compel farmers to plant program crops on highly erodible land, while setting aside better cropland. This idea will also require considerable oratorical skills when brought before the Committee on Agriculture.

Strictly monitor established yields and base acreage to assure no increases are allowed in either.

Require cross-compliance—farmers enrolling in one commodity program (say wheat) must comply with the pertinent provisions of other programs (feedgrains) on all farms operated by them.

Adopt program changes that impose equal costs of program participation in areas where acreage is summerfallowed in alternate years, in contrast to regions where continuous cropping patterns are used.

4. Increasing the attractiveness of CRP enrollment for "highly erodible" cropland also eligible for Commodity Program participation

The most direct approach would be raising the acceptable bid levels in pools with a relatively high portion of commodity program base acres. Because of budget exposure, this option may be among the last given serious consideration, and can only be evaluated in terms of net costs once the provisions of the 1987 commodity programs are fully specified. Indeed, higher acceptable bid levels may prove the cheapest alternative to achieve more ambitious 1987 production adjustment goals. The scuttlebut in the halls of USDA on a paid diversion is that a payment on the order of $1.75 to $2.00 per bushel of corn base yield could be required. Such a rich offer would surely have a profound and negative impact on CRP enrollment.

I suppose it would also be possible to modify or eliminate the provision in the CRP which reduces a farm's base acres proportional to CRP enrollment. Since such a change would undercut an important aspect of the supply control benefits of the CRP, this option is not likely to be favorably received, even though it makes sense if the only goal is to increase CRP enrollment.

Another approach would be to convince farmers that the projected 10-year benefit stream from traditional commodity programs will shrink as (if?) the Congress gets serious about budget deficits. Without a cut next year in target prices though, farmers are not likely to take seriously the notion that program benefits are vulnerable politically.

Steps to educate farmers about the consequences in 1990 of conservation compliance could be initiated. (A tough task since it will remain inherently unclear in many regions what the consequences will be, at least until the definition of highly erodible land and other administrative program requirements are settled.)

Several other program reforms merit consideration next spring if a serious effort is made to accelerate CRP enrollment:

Move toward larger substate bidding pools to allow greater flexibility and choice within pools.

Raise the 25 percent cap on CRP acreage enrollment in a county to 50 percent.

Allow in some states, where adverse affects on the cattle industry can be avoided, the use of CRP lands for haying and grazing, in addition to forestry uses. This option is attractive on budgetary grounds since average acceptable bids would probably fall $20 to $30 per acre if haying or grazing were allowed. A recent survey by the American Farmland Trust of farmers considering enrollment in the CRP identified the prohibition against economic use as the most common concern keeping farmers from enrolling more land.

For farmers in serious financial trouble, allow upfront payment of CRP benefits for debt retirement as part of debt-restructuring agreements.

Offer farmers bonus payments for giving up base acres in excess of what is required as a condition of CRP enrollment.

CHALLENGES IN THE FIELD

The conservation title of the farm bill breathes new life into the mission of SCS and conservation districts. For the first time in decades, programs and policies are in place that provide a realistic set of tools to bring soil erosion largely under control. I think the conservation community is gearing up now, and will be able to bear the very heavy burdens which will soon fall upon them.

One key to the success of conservation compliance and sodbuster is the timely development of a new generation of farm conservation plans. Because these plans, and compliance with them, will determine eligibility for government program benefits, farmers and conservationists will have to take them far more seriously. Moreover, they will also need to be realistic and flexible, taking into account the special problems faced by certain farmers in some areas.

I must admit some concern about the future of conservation plans in light of new program needs. The type of a plan needed to make sodbuster/conservation compliance administratively viable is very different from the elaborate, whole farm plans of the past. Yet, there remains considerable hesitancy among some to change conservation plans. Problems could arise if SCS is slow to break with tradition because field personnel will soon become overwhelmed by the workload.

I have another concern. Implementation of sodbuster, swampbuster, and conservation compliance will require clear and strict rules, and adherence to them. Yet, good judgment and a degree of local flexibility will also be necessary to avoid unnecessary and unjustifiably harsh consequences. For example, suppose cotton producers in the panhandle of Texas can bring erosion rates down from an average of 40 tons per acre to 10 tons, on land with T values of 3 tons. Technically, this would fall short by 4 tons of the 2T goal in conservation compliance.

I do not think it makes sense to, in effect, shut down an operator in situations where 20, 30 or more tons of erosion reduction is agreed upon, yet the 2T goal is missed by a few tons. Nonetheless, it is no easy matter to balance the need for equity across regions in achieving consistent national goals, with a degree of flexibility at the local level. Unless a workable accommodation can be reached between these two critical goals, conservation compliance and sodbuster will remain vulnerable to political and/or legal challenge.

Similar concerns have arisen in reference to the definition of "commenced" in the sodbuster/swampbuster regulations. I think these tricky issues can be resolved in a reasonable, timely way without undermining the integrity of the new conservation provisions, or political support for this major new change in direction. At times, antagonists may have to trust each other more than they are accustomed to, but I am convinced common sense can lead to solutions as long as all parties continue to share the goal of conserving our soil and water resources.

There are a host of other, more pragmatic challenges that SCS, ASCS, and conservation district offices now face. They must: identify in the next 24 months what lands meet the definition of "highly erodible," and inform landowners and operators associated with these lands; greatly simplify the content and process of developing a conservation plan; become much more expert in use of the USLE, and in understanding from a farmer's perspective the pros/cons/impacts of various erosion control options; systematically explore the potential role of crop rotations as a valuable, often necessary, erosion control practice; and incorporate water quality concerns and practices into plans.

5. Continue to improve the cost-effectiveness of the targeting effort, particularly in the Agricultural Conservation Program (ACP)

Steady improvement in the cost-effectiveness of ACP remains an untold conservation success story. This program continues to demonstrate the capacity and willingness to meet emerging needs. To the credit of program administrators, problems have been studied and steps taken to overcome shortcomings.

These efforts should continue, and deserve greater support. I hope that OMB will finally recognize and reward the Department for these accomplishments by foregoing the bogus budget savings entailed in zeroing ACP out of the FY 1988 budget. Everyone remotely knowledgeable about this program realizes that the Honorable Mr. Whitten will restore ACP funds if missing when the budget is submitted to Congress.

In summary, the critical issues on the agenda right now that will make heavy information demands on the conservation community are: defining and identifying "highly erodible" lands; getting the economics right to assure adequate CRP enrollment in the Midwest; providing new technical data and analytical concepts to allow a modernization of conservation plans; and developing concepts and data needed to incorporate water quality concerns into the overall conservation policy agenda.

NEW DIRECTIONS

I see many important new directions on the horizon that could markedly change how we, administer soil and water conservation policy. They include:

1. Last week, Senator Sam Nunn introduced legislation to accelerate the rate of enrollment of land into the CRP, and to expand the size of the reserve to 65 million acres. While not a new direction, this legislation suggests a much more immediate and prominent role for the CRP.

2. A strong case can be made for states assuming a leadership role in initiating water quality/water conservation initiatives in the context of the CRP/conservation compliance/sodbuster/swampbuster. I see many possibilities, and sense that a few key states—including Minnesota—are about ready to move ahead. States might:

Cooperate with SCS in improving the accuracy, or adjusting the technical concepts used in identifying highly erodible lands in order to take water quality concerns into account;

Demonstrate how to incorporate water quality into conservation plans; and

Petition USDA to block-grant a portion of CRP funds destined for a state into a special fund to be administered through a targetted federal-state program designed to enroll into the CRP croplands irrigated from threatened aquifers (quality or quantity concerns, or both); or contributing disproportionally to non-point pollution problems (either surface or groundwater).

3. In several parts of the United States, farmers are growing crops that should not be produced, and indeed cannot be produced in a profitable manner given current market conditions. These crops, moreover, are often those associated with some of the most egregious abuses of our natural resources. Sound conservation policies—and the flow of dollars associated with the new programs—could help U.S. agriculture make some difficult adjustments which ultimately could be forced upon the sector by economic forces.

I foresee the prospect for conservation-driven policy to substantially contribute to the resolution of at least some of agriculture's most pressing economic weaknesses. The policies are already proven winners in terms of erosion control. If others come to share this view and see this added potential, we just might deliver on those very big promises made for the conservation title of the 1985 farm bill.

Thanks, I enjoyed the chance to visit with you this afternoon.●

By Mr. SPECTER:

S. 2938. A bill entitled the "Logan Relief Act;" to the Committee on Banking, Housing, and Urban Affairs.

LOGAN RELIEF ACT

Mr. SPECTER. Mr. President, I am today introducing legislation which would authorize the Federal Government to assist residents of the Logan area of Philadelphia by purchasing homes endangered by the disaster that has occurred there.

My purpose in introducing this bill is to focus Congress attention on the urgent plight of Logan residents as a prelude for action next year. Although I understand full well that passage of this bill will not be possible in the 99th Congress, the subject of this bill is of such major importance that I wish to call the attention of my colleagues to it without delay.

Hundreds of homes in the Logan area are situated in low land and a flood plain of the Wingohocking Creek that were filled many years ago with ash and cinders. A recent engineering study contracted by the city of Philadelphia identified 11 homes as imminently dangerous and another 29 as dangerous due to a severe sinking condition caused by the settlement, disintegration and shifting of the ash and cinders. Some 957 homes in all are affected by the subsidence, and many are now or will soon be uninhabitable.

According to the summary of the final report of the Logan geotechnical study, conducted by Lippincott Engineering Associates, one of the contributing factors to the subsidence of the Logan area was mild earthquakes, which caused the "ash and cinder to lose strength and volume."

Since the problem began, I have actively sought assistance for Logan area residents. At my request, Secretary of Housing and Urban Development Samuel Pierce provided mortgage relief to affected homeowners, relieving the debt obligations of FHA-guaranteed loans. I also sought and received a similar commitment from the Veterans' Administration. Clearly,

however, this leaves a great many people in the lurch.

The engineering study estimates that the total cost of resolving the Logan problem—buying the dangerous homes, providing relocation assistance and doing remedial work where possible—is in the range of $30 to $40 million. On Friday, September 26, 1986, Gov. Dick Thornburgh declared the Logan section an emergency and requested Federal disaster assistance. If the President provides the requested assistance, that will be extremely helpful. But it is unlikely to be enough because the usual forms of disaster assistance do not include the authority to purchase the homes and relocate the residents to new houses. My bill would fill this gap by providing the necessary authority to purchase homes.

Logan residents are like many other Americans in that their homes are their primary financial assets. The widely published subsidence problem in the Logan neighborhood has reduced or eliminated the market value of many of these homes. This is a major financial blow to the position in life of many Logan residents. My bill would mitigate this blow by authorizing the Federal Government to purchase the homes at their market value before the subsidence problem began.

There is ample precedent for Federal intervention and legislation in emergency situations such as this one. A case in point is that of the Centralia, PA mine fire. At my urging, the Senate earmarked an appropriation of $42 million for the abandoned mine reclamation fund to provide for the purchase of homes and relocation of Centralia residents. Thus, in addition to providing an example of general Federal involvement in an emergency situation that is partially manmade, the Centralia case also serves as a precedent for Federal involvement in the purchase of homes and provision of relocation assistance. The special appropriation for Centralia was used precisely for these purposes.

In the case of Love Canal, a community endangered by highly toxic waste in the 1970's, a disaster declaration along with an earmarked appropriation sponsored by Senators MOYNIHAN and Javits provided Federal assistance in mitigating the environmental danger. Of course, the Love Canal tragedy ultimately led to the establishment of Superfund, a massive Federal program to respond to certain kinds of man-made environmental problems which neither State nor local authorities can adequately address.

Another instance of Federal involvement in a man-made emergency came in response to a series of sewer explosions in Louisville, KY, in 1981. In that case, President Reagan declared a major disaster to assist homeowners with property damage.

Mr. President, there is, in short, a history of Federal involvement in situations analogous to the one that Logan residents are now facing. This is a worthy subject for legislation at the first available opportunity.

It is my hope that the introduction of this legislation at this time will serve notice to FEMA and the administration about the urgency and seriousness of the conditions of the Logan area.

By Mr. ROCKEFELLER:

S. 2939. A bill to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol; to the Committee on Commerce, Science, and Transportation.

METHANOL VEHICLE PROMOTION ACT

Mr. ROCKEFELLER. Mr. President, I am today introducing the Methanol Vehicle Promotion Act of 1986, an act that would encourage and promote the development of methanol capable automobiles. In this bill, I have collected the ideas of several colleagues, including the chairman of the Commerce Committee, Senator DANFORTH—who initiated the idea of a methanol vehicle incentive program—as well as several of my own. This is an idea that I have been working on at great length this year, and an idea that I feel confident that the next Congress will embrace early in the next session.

Although this is the very end of the session, Mr. President, I am introducing this bill in order to maintain the interest and momentum in this very exciting technology. To some degree this bill is also a progress report on intensive negotiations that have encompassed S. 1097, a bill reported by the Senate Commerce Committee in 1985, during the 99th Congress. I believe that significant progress has been made—both within the Senate, and in discussions with the House. I am convinced that it is merely for the lack of time that we are unable to complete this process this Congress.

The bill I am introducing is more narrow than S. 1097, both with regard to the potential size of the incentive and with regard to the fuels to which it would apply. The earlier bill, S. 1097, included incentives for the production of vehicles using both ethanol and natural gas as well as methanol. I realize that several Members might wish to look at these fuels when we consider this bill next year, but my focus has been the promotion of methanol.

This approach would also not preclude passage of legislation similar to that passed by the other body, H.R. 3355, providing for a methanol vehicle demonstration program, under the very fine leadership of Congressman PHIL SHARP and Chairman JOHN DINGELL. Although it had been my hope that we might pass that bill in the Senate by unanimous consent this session, it now appears that on that matter also, we will have to pick up where we left off next year.

In my view, Mr. President, methanol is the fuel of the future. Not only can it be derived from our plentiful domestic supplies of coal, but its use could also result in a substantial reduction of pollutants from automobiles. In sum, the use of methanol and a push in the transition to the production and use of methanol vehicles is worth the attention of Congress.

Mr. President, ever since 1973, when the Organization of Petroleum Exporting Countries—OPEC—cut oil supplies to the West, our consciousness of energy matters, especially the availability and price of gasoline, has been profound. Throughout most of the 1970's we searched in vain for energy alternatives—greater uses of coal, synthetic fuels, solar energy, conservation, and so forth.

In the 1980's, the availability of energy resources has been relatively stable. There are many reasons for this fact, but it should not keep us from exploring future alternatives, especially alternatives to fuel our transportation sector.

The transportation sector accounts for more than 60 percent of the oil consumption in the United States. To a large extent, the laws and programs passed in the 1970's sought to conserve or find new sources of gasoline to fuel that sector. But little effort went into development of a replacement—or into the massive effort it will take to encourage the production of vehicles that can use alternative fuels.

The Methanol Vehicle Promotion Act of 1986, without any cost to the Government, seeks to break the so-called chicken and egg problem of transition to the alternative fuel of methanol. As it stands, the auto companies won't build methanol capable or dual fuel—cars that can adjust to any blend of methanol and gasoline—automobiles until methanol is being sold in the corner service station. On the other hand, the local service station isn't going to make the investment in the pumps, hoses, and tanks, to offer methanol, or a methanol blend, until these vehicles are on the road.

This bill builds on the foundation of S. 1097, the Methanol and Ethanol Vehicle Incentives Act of 1985. It uses the incentive of modest relief from one Federal energy statute; namely, the Motor Vehicle Information and Cost Savings Act—the so-called CAFE [corporate average fuel economy] law, in order to promote the development of vehicles that will reduce our use of, and dependence on gasoline.

My approach in this bill is to hold out a substantial incentive for the auto companies to build both methanol only and dual fuel automobiles, but to stay away from, and neutral to the debate about the underlying CAFE law. My bill would allow automobiles that run on methanol exclusively, and dual fuel automobiles—those that are designed to adjust to a combination of gasoline and methanol—to receive a miles-per-gallon rating based on an assumed 15 percent fuel content. Such a formula provides a powerful incentive to an auto maker to invest in methanol in order to avoid any application of penalties from the CAFE law on the rest of its fleet.

Mr. President, what distinguishes my bill from S. 1097 is that it effectively deals with numerous concerns that have been raised about the open-ended approach taken in that bill regarding the dual fuel automobile. By placing a cap on the amount of maximum credit that can be received by an automobile manufacturer as well as phasing out and phasing down the credit over a 10-year period, my bill prevents the circumstance where a relatively small amount of automobile production could undermine the existing CAFE statute.

In my bill, I have also included a provision to prevent a double counting of benefit, another concern raised about earlier proposals. This provision would reduce by an equivalent level the amount of benefit from the methanol incentive if the Secretary of Transportation reduces the corporate average fuel economy standard below the current statutorily mandated level.

Mr. President, I have also tried to improve upon the definition of the dual fuel automobile that was contained in S. 1097. To address the concern that such a definition might give auto manufacturers a loophole to produce cars that might not actually use methanol, I have tried to make it clear that their design and operation must allow for operation over the entire range of methanol and gasoline blends.

Mr. President, legislating in this area is difficult because it touches an area of the law and regulation already extremely complex. Nevertheless, I think it is an effort worth making. I think with this concept and with the protections of this bill, there is the opportunity to promote a very fundamental change in the transportation and energy sectors of our economy. Our declining domestic supply of oil, the continued reliance on foreign oil supplies, and the growing need to use a fuel for transportation that will result in cleaner air, all point in the direction of methanol.

Mr. President, I intend to continue my work on this bill and to forge a compromise among the differing but legitimate points of view. I am optimistic about the prospects for passage in the next Congress, and it is my hope that by introducing legislation at this time, we will continue to make progress prior to the beginning of the 100th Congress.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2939

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 "Methanol Vehicle Promotion Act of 1986".

FINDINGS

SEC. 2. The Congress finds that—

(1) transportation uses account for more than 60 percent of the oil consumption of the Nation;

(2) continued reliance on imported oil is detrimental to the economy and security of the United States;

(3) methanol is a proven transportation fuel that burns more cleanly and efficiently than gasoline; and

(4) conversion of a portion of the transportation fleet of the Nation to methanol would stimulate development of a domestic coal-to-methanol industry, create jobs, reduce air pollution, and enhance national security.

PURPOSES

SEC. 3. The purposes of this Act are to—

(1) provide for the appropriate application of fuel economy standards to methanol powered automobiles; and

(2) increase the use of methanol by consumers and the production of methanol powered vehicles.

MANUFACTURING INCENTIVES FOR AUTOMOBILES

SEC. 4. (a) Section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001) is amended—

(1) in paragraph (1), by inserting immediately after "fuel" the first time it appears the following: "or methanol mixture"; and

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

"(15) The term 'methanol mixture' means the mixture of methanol with other fuel, if any, used to operate a methanol powered automobile.

"(16) The term 'methanol powered automobile' means an automobile designed to operate on not less than 85 percent methanol.

"(17) The term 'dual fuel automobile' means an automobile which—

"(A) is capable of operating on methanol and which is designed to make appropriate instantaneous adjustments to the air-fuel ratio for the entire range of blends (from 0.0 percent methanol to at least 85 percent methanol) of gasoline and methanol; and

"(B) achieves a driving range of at least 250 miles, based upon the combined EPA city/highway fuel economy, as determined for Corporate Average Fuel Economy purposes for such automobile when operating on an 85 percent methanol mixture.".

(b) Section 502(l)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(l)(1)) is amended—

(1) by redesignating subparagraph (E) as subparagraph (H); and

(2) by inserting immediately after subparagraph (D) the following new subparagraphs:

"(E) As specified in this subparagraph, for any 10 consecutive model years between 1993 and 2005, a manufacturer of dual fuel automobiles shall receive a Corporate Average Fuel Economy increase in accordance with section 503(d)(4)—

"(i) for the initial five model years, up to 1.2 miles-per-gallon or a Corporate Average Fuel Economy increase based on 100,000 dual fuel automobiles, whichever is higher, but in no event shall such Corporate Average Fuel Economy increase be greater than 1.5 miles per gallon;

"(ii) for the period of 2 years after such five model years, up to 1.0 miles-per-gallon or a Corporate Average Fuel Economy increase based on 100,000 dual fuel automobiles, whichever is higher, but in no event shall such Corporate Average Fuel Economy increase be greater than 1.5 miles-per-gallon; and

"(iii) for the period of 3 years after such 2-year period, up to 0.8 mile-per-gallon or a Corporate Average Fuel Economy increase based on 100,000 dual fuel automobiles, whichever is higher, but in no event shall such Corporate Average Fuel Economy increase be greater than 1.0 mile-per-gallon.

"(F) Notwithstanding the provisions of subparagraph (E) of this paragraph, if the Secretary reduces the Corporate Average Fuel Economy standard for any model year below 27.5 miles per gallon, the Corporate Average Fuel Economy increase to which any manufacturer of dual fuel automobiles would otherwise be entitled under this subsection in any model year shall be reduced by the amount of the reduction in the Corporate Average Fuel Economy standard.".

"(c) Section 503(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(d)) is amended by adding at the end thereof the following new paragraph:

"(4) If a manufacturer manufactures methanol powered automobiles or dual fuel automobiles specified in section 501(21)(A), the fuel economy shall be based on the fuel content of the methanol mixture used to operate such automobiles. For purposes of this section, a gallon of the methanol mixture used to operate such automobiles shall be considered to contain 15 one-hundredths of a gallon of fuel.".

AUTOMOBILE LABELING

SEC. 5. Section 506(a)(1)(A) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(a)(A)) is amended—

(1) by striking "and" in clause (ii); and

(2) by inserting immediately after clause (iii) the following:

"(iv) in the case of a methanol powered automobile the fuel economy of such automobile when operated on the methanol mixture calculated under section 503(d)(4) multiplied by 15 percent, and

"(v) in the case of a dual fuel automobile, the fuel economy of such automobile calculated under section 503(d)(4) multiplied by 15 percent, as well as the fuel economy of such automobile when operated on gasoline,".

REPORT

SEC. 6. Section 512 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2012) is amended by adding at the end thereof the following new subsection:

"(d)(1) Beginning in January 1993 and annually thereafter, the Secretary, after consultation with the Secretary of Energy, shall submit to the Congress a report which

contains the information specified in paragraph (2) of this subsection, together with such other information and recommendations as the Secretary considers necessary or appropriate to carry out the purposes of the Methanol Vehicle Promotion Act of 1986.

"(2) As part of such report, the Secretary shall—

"(A) include information regarding the effects, if any, of the amendments made by such Act on the consumption of methanol and gasoline on an industrywide and manufacturer-specific basis;

"(B) in consultation with the EPA Administrator, include information regarding the effects, if any, of the amendments made by such Act on the achievement of fuel economy standards specified in section 502 on an industrywide and manufacturer-specific basis; and

"(C) in consultation with the EPA Administrator, recommend changes in the definition of 'dual fuel automobile' in section 501(21) as technological developments warrant, in order to promote the actual use of methanol and ethanol, and to further the purposes of the Methanol Vehicle Promotion Act of 1986.".

CONFORMING AMENDMENT

SEC. 7. The determination under section 4064(b) of the Internal Revenue Code of 1954 (26 U.S.C. 4064(b)) with respect to a methanol powered automobile or dual fuel automobile shall be based on the fuel economy rating established under section 503(d)(4) of the Motor Vehicle Information and Cost Savings Act.

ADDITIONAL COSPONSORS

S. 2222

At the request of Mr. GORTON, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 2222, a bill to amend the Tariff Schedules of the United States to clarify the duty treatment of certain types of plywood.

S. 2597

At the request of Mr. DANFORTH, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 2597, a bill to amend the Tariff Schedules of the United States to provide a temporary suspension of the duties imposed on certain extracorporeal shock wave lithotripters.

S. 2611

At the request of Mr. STEVENS, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2611, a bill to improve efforts to monitor, assess, and reduce the adverse impacts of driftnets.

S. 2857

At the request of Mr. GRAMM, the names of the Senator from North Dakota [Mr. ANDREWS] and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 2857, a bill to revitalize oil and gas production in the United States.

SENATE JOINT RESOLUTION 112

At the request of Mr. PELL, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Joint Resolution 112, a joint resolution to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes.

SENATE JOINT RESOLUTION 403

At the request of Mr. ROTH, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of Senate Joint Resolution 403, a joint resolution to designate 1988 as the "National Year of Friendship with Finland".

SENATE JOINT RESOLUTION 408

At the request of Mr. DOLE, the names of the Senator from Alabama [Mr. DENTON], the Senator from California [Mr. CRANSTON], the Senator from California [Mr. WILSON], the Senator from Florida [Mr. CHILES], the Senator from Florida [Mrs. HAWKINS], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Illinois [Mr. SIMON], the Senator from Illinois [Mr. DIXON], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Kentucky [Mr. FORD], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts, [Mr. KERRY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from North Dakota [Mr. BURDICK], the Senator from Rhode Island [Mr. CHAFEE], the Senator from South Dakota [Mr. ABDNOR], the Senator from Utah [Mr. GARN], the Senator from Utah [Mr. HATCH], the Senator from Vermont [Mr. STAFFORD], the Senator from Virginia [Mr. WARNER], and the Senator from Virginia [Mr. TRIBLE] were added as cosponsors of Senate Joint Resolution 408, a joint resolution designating "American Physiologists Week".

SENATE CONCURRENT RESOLUTION 163

At the request of Mr. DECONCINI, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Concurrent Resolution 163, a concurrent resolution expressing the sense of the Congress that the total number of Soviet diplomatic agents and consular officers in Washington, DC, and San Francisco should be reduced to equal the total number of American diplomatic agents and consular officers in Moscow and Leningrad.

SENATE CONCURRENT RESOLUTION 171—CORRECTING THE ENROLLMENT OF HOUSE JOINT RESOLUTION 626

Mr. SIMPSON (for Mr. MCCLURE) submitted the following concurrent resolution, which was considered and agreed to:

S. CON. RES. 171

Resolved by the Senate (the House or Representatives concurring), That in the enrollment of the joint resolution (H.J. Res. 626) to approve the "Compact of Free Association" between the United States and the Government of Palau, the following corrections shall be made:

(1) In section 101(d)(1)(B), insert "the Committees on Interior and Insular Affairs and Foreign Affairs and other" before "appropriate Committees of the House of Representatives".

(2) In section 101(d)(2) strike "(B)" and insert "(C)".

(3) In section 102(b), add "as amended," after "Public Law 99-239,".

(4) In section 104(c), strike "fiscal year 1985" each time such words occur and in each instance insert in lieu thereof "fiscal year 1986".

(5) In section 104(f), strike "Public Law 99-396" and in lieu thereof insert "Public Law 99-366".

(6) In section 104(g), strike "preclude" and in lieu thereof insert "exclude, limit".

(7) In section 242(c)(4) of Title II, strike "chapter V" and insert "title V".

(8) Following section 104(j) insert new subsection (k) as follows:

"(k) The Departments of Energy and Interior are directed to provide the Committees on Appropriations of the House and Senate with a report by Decemeber 1 of each fiscal year detailing how funds were spent during the previous fiscal year for the special medical care and logistical support program for Rongelap and Utrik and for the agriculture and food programs for Enewetak and Bikini as referenced in Section 103(h) of Public Law 99-239. The report shall also specify the anticipated needs during the current and following fiscal years in order to meet the radiological health care and logistical support program for Rongelap and Utrik and the planting, agricultural maintenance, and food programs for Enewetak and Bikini. It is the sense of the Congress that the special medical care and logistical support program for Rongelap and Utrik and for the agriculture and food programs for Enewetak and Bikini described in section 103(h) of Public Law 99-239 represent special and continuing moral commitments of the United States which will be annually funded to the extent of the need of the populations of such atolls for such assistance."

SENATE CONCURRENT RESOLUTION 172—TO PROVIDE FOR A SESSION OF THE CONGRESS IN PHILADELPHIA, PA, ON JULY 16, 1987

Mr. SIMPSON (for Mr. THURMOND, for himself, Mr. DOLE, Mr. BYRD, Mr. STENNIS, Mr. HATFIELD, Mr. SIMON, and Mr. KASSEBAUM) submitted the following concurrent resolution which was considered and agreed to:

S. CON. RES. 172

Whereas 1987 marks the two hundredth anniversary of the meeting of the Constitutional Convention in the City of Philadelphia, Pennsylvania from May 25 to September 17, 1787;

Whereas on July 16, 1787, the framers of the Constitution agreed to the "Great Compromise", which provided for States to be represented equally in the Senate and in the proportion to their populations in the House of Representatives;

Whereas the compromise established fundamental nature of the Senate and the House of Representatives;

Whereas the City of Philadelphia's "We the People 200" committee, an organization planning a year-long national celebration of

the United States Constitution bicentennial, has invited the Congress of the United States to convene a special legislative session on July 16, 1787, at Independence National Historical Park; and

Whereas it is appropriate for Congress, as the First Branch of the Government under the Constitution, to provide for suitable commemoration of this significant anniversary to focus public attention on the unique role of the national legislature as a coequal branch of the Federal Government: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall convene for the day of July 16, 1987, in the city of Philadelphia, Pennsylvania, in the Independence National Historical Park.

SENATE RESOLUTION 509—PROVIDING FOR A POINT OF ORDER AGAINST EXTRANEOUS MATERIAL IN CERTAIN RECONCILIATION MEASURES

Mr. SIMPSON (for Mr. ROTH, for himself, Mr. DOMENICI, and Mr. CHILES) submitted the following resolution, which was considered and agreed to:

S. RES. 509

That Senate Resolution 286 (99th Congress, 2d Session), adopted December 19, 1985, is amended by striking out all after the resolving clause and inserting in lieu thereof the following:

"That (a) when the Senate is considering a conference report on, or an amendment between the Houses in relation to, a reconciliation bill or reconciliation resolution pursuant to section 310 of the Congressional Budget Act of 1974, upon—

"(1) a point of order being made by any Senator against extraneous material meeting the definition of subsections (d)(1)(A) or (d)(1)(D) of section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985, and

"(2) such point of order being sustained, such material contained in such conference report or amendment shall be deemed stricken, and the Senate shall proceed, without intervening action or motion, to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable for 2 hours. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this resolution), no further amendment shall be in order.

"(b) An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this resolution, as well as to waive or suspend the provisions of this resolution.

"(c) The provisions of this resolution shall remain in effect until the date of termination of section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985.".

SENATE RESOLUTION 510—AUTHORIZING CERTAIN APPOINTMENTS DURING SINE DIE ADJOURNMENT

Mr. SIMPSON. (for Mr. DOLE, for himself, and Mr. BYRD) proposed the following resolution, which was considered and agreed to:

S. RES. 510

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

SENATE RESOLUTION 511—RELATING TO STRATEGIC COOPERATION BETWEEN THE UNITED STATES AND ISRAEL

Mr. BOSCHWITZ submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 511

Whereas President Reagan has declared that a strong relationship with Israel is a strategic asset of the foreign policy of the United States;

Whereas the United States and Israel have established a Joint Political-Military Group to facilitate and promote cooperation between our two countries;

Whereas the Joint Political-Military Group has contributed to strategic cooperation between, and promoted the mutual interests of, the United States and Israel; and

Whereas the United States and other nations with which we share a strategic interest benefit from consultation in defense research programs, cooperation in the production of defense material, competition in defense acquisition policies, and access to mutual defense industries and manfacturers: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Joint Political-Military Group should develop and recommend additional policies and programs which would promote further defense cooperation between the United States and Israel and establish a relationship between the United States and Israel similar to the relationship that exists between the United States and its other allies; and

(2) the Secretary of State and the Secretary of Defense should report to the Chairman of the Senate Committee on Foreign Relations and the Chairman of the Senate Committee on Armed Services on what actions have been taken to implement the recommendations of the Joint Political-Military Group and what additional legislation might be required to implement those recommendations.

● Mr. BOSCHWITZ. Mr. President, I am submitting today a Senate resolution that would encourage the United States-Israel Joint Political-Military Group to pursue new avenues to strengthen the strategic cooperation between our two countries. The resolution serves as a companion resolution to the one introduced by Congressman ED ZSCHAU of California.

The Joint Political-Military Group has played a helpful role in promoting our mutual interests. It is an important mechanism that provides benefits to both countries. It does seem to me, however, that the time has come to recognize Israel's value to us in a way consistent with those nations with whom we may have a more formal alliance.

It would be my hope that the Joint Political-Military Group will explore areas with Israel that would provide the benefits extended to such other close friends. This resolution is intended to encourage that end.●

SENATE RESOLUTION 512—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. SIMPSON (for Mr. DOLE, for himself and Mr. BYRD) submitted the following resolution, which was considered and agreed to:

S. RES. 512

Whereas, in the case of *United States* v. *Michael Evan Bardoff, et al.,* Crim. No. M-9508-86, *et al.,* pending in the Superior Court of the District of Columbia, the United States Attorney has requested the testimony of Elizabeth Meyer, Mariam Bechtel, Janeal Cabbage and Jennifer Schumacher of the personal office staff of Senator Dole;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2) (1982), the Senate may direct its counsel to represent employees of the Senate with respect to testimony requests made of them in their official capacity;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that the testimony of employees of the Senate is or may be needful for use in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate; Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to represent Elizabeth Meyer, Mariam Bechtel, Janeal Cabbage, Jennifer Schumacher and any other staff assistant of Senator Dole who may be asked to testify in the case of *United States* v. *Michael Evan Bardoff, et al.,* or subsequent related proceedings.

SEC. 2. That Elizabeth Meyer, Mariam Bechtel, Janeal Cabbage, Jennifer Schumacher, and any other staff assistant of Senator Dole who may be asked is authorized to testify in the case of *United States* v. *Michael Evan Bardoff, et al.,* except concerning matters which may be privileged.

AMENDMENTS SUBMITTED

TECHNICAL CORRECTIONS ON THE ENROLLMENT OF THE BILL H.R. 3838

PACKWOOD AMENDMENT NO. 3467

Mr. PACKWOOD proposed an amendment to the concurrent resolution (H. Con. Res. 395) to correct technical errors in the enrollment of the bill H.R. 3838, as follows:

Viz:

On page 3, strike lines 9 through 18.

On page 6, strike lines 1 through 7, and insert:

comma and "and", and add at the end thereof the following new subparagraph:

(D) such facility is to serve Haverhill, Massachusetts.

On page 10, line 9, strike "1983" and insert "1993".

On page 13, line 20, strike "or (C)".

On page 14, line 10, strike "Samuel A. Hardage Enterprises" and insert "Interests of Samuel A. Hardage".

On page 16, between lines 16 and 17, insert:

(E) Subsections (c) and (d) of section 49 of the Internal Revenue Code of 1986 shall not apply to property described in section 204(a)(4) of this Act.

On page 19, line 10, insert "Pittsburgh," after "in".

On page 19, between lines 17 and 18, insert:

(NN) Old Louisville Trust Project, Louisville, Kentucky.

(OO) Stewarts Rehabilitation Project, Louisville, Kentucky.

(PP) Bernheim Officenter, Louisville, Kentucky.

On page 25, after line 24, insert the following flush sentence:

In no event shall sections 382(a) and (b) of such Code (as so in effect) apply to any ownership change described in subparagraph (A).

On page 27, line 9, strike "stock in such corporation" and insert "such stock".

On page 27, line 20, after "1989" insert ", without regard to whether such corporation is completely liquidated".

On page 36, strike lines 16 through 18.

On page 38, beginning with line 21, strike through page 39, line 19, and insert:

(116) On page 322, in subsection (d) (relating to treatment of certain market discount bonds)—

(A) strike "28 percent" in paragraph (1) and insert "32 percent", and

(B) strike paragraph (2) and insert:

(2) QUALIFIED LIFE INSURANCE COMPANY.—For purposes of paragraph (1), the term "qualified life insurance company" means any life insurance company subject to tax under part I of subchapter L of chapter 1 of the Internal Revenue Code of 1986.

On page 40, between lines 21 and 22, insert:

(c) REVENUE LOSS LIMITED.—The decrease in the amount of Federal revenue by reason of the amendment made by this section shall not exceed $300,000.

On page 41, strike lines 1 through 4, and insert:

(B) in subparagraph (A)—

(i) strike out "a deferred compensation plan" and insert "employees on August 16, 1986,", and

(ii) insert "maintaining a deferred compensation plan" after "Alabama", and

On page 41, line 7, insert "to" before "individuals".

On page 47, line 8, strike "(b)(2)(D)" and insert "(b)(2)(B)".

On page 47, line 9, strike "884(b)(2)" and insert "884(d)(2)".

On page 52, strike lines 4 through 18.

On page 60, line 25, before "projects" insert "the construction of such diagnostic and treatment center, or to finance construction and renovation".

On page 62, beginning with line 21, strike through page 63, line 25.

On page 66, line 17, strike "subparagraphs (A) and (B)" and insert "subparagraphs (A), (B), and (C)".

On page 71, strike lines 4 through 7, and insert:

(243) On page 76, in paragraph (11) (relating to certain aircraft)—

(A) strike "aircraft" each place it appears in the text and heading and insert "airplane",

(B) strike "Kansas, Florida, Georgia, or Texas" in subparagraph (A) and insert "the United States";

(C) strike ", the date of conference committee action)" in subparagraph (B); and

(D) strike subparagraph (C) and insert:

(C) The aircraft is—

(i) purchased on or after August 16, 1986, and before January 1, 1987, or

(ii) is subject to a binding contract which was in effect on August 16, 1986, or entered into after August 16, 1986, and before January 1, 1987, and

is delivered and placed in service pursuant to such purchase or contract before July 1, 1987.

Any airplane which is one of 7 airplanes with respect to which an airline signed an airplane purchase agreement on January 20, 1986 (with respect to which the financing contingency was removed no later February 7, 1986), the estimated cost of which is $2,900,000, and which was delivered before May 23, 1986, and placed in service by May 27, 1986, shall be treated as described in this paragraph.

On page 72, line 4, after "Industries" insert "after December 31, 1988".

On page 72, line 8, strike "paragraph" and insert "paragraphs".

On page 73, after line 25, insert the following:

(39) The amendments made by section 201 shall not apply to any facility for the manufacture of an improved particle board if a binding contract to purchase such equipment was executed March 3, 1986, such equipment will be placed in service by January 1, 1988, and such facility is located in or near Moncure, North Carolina.

On page 74, line 16, insert "(including repairs and maintenance)" before "of".

On page 74, line 20, strike "during 1986" and insert "(and allowable as a deduction) during 1986 and shall be treated as qualified rehabilitation expenditures made during 1986".

On page 76, between lines 17 and 18, insert:

(W) South Carolina Family Farm Development Authority.

(X) Clemson University Continuing Education and the Component Housing Project.

On page 78, strike lines 1 through 16, and insert after "1986" in line 17 "and the amendments made by section 1301 of the Tax Reform Act of 1986".

On page 80, line 12, strike "each place it appears" and insert "the second place it appears".

On page 80, between lines 19 and 20, insert the following:

( ) On page 31, in paragraph (4) of subsection (b) (relating to miscellaneous itemized deductions)—

(A) strike "deduction" and insert "deductions", and

(B) strike the comma at the end and insert "and section 642(c) (relating to deduction for amounts paid or permanently set aside for a charitable purpose),".

( ) On page 32, in the heading of subsection (e), strike "DETERMINATION OF ADJUSTED GROSS INCOME IN CASE OF" and insert "SPECIAL RULES FOR".

( ) On page 32, after the period at the end of subsection (e) and before the close quotation marks, insert "For purposes of this section and section 56(b)(1), the deductions allowable to an estate or trust under sections 651 and 661 shall not be treated as itemized deductions.".

( ) On page 56, in subsection (b) (relating to system used for purposes of earnings and profits)—

(A) strike "Paragraph (3)" and insert:

(1) IN GENERAL.—Paragraph (3), and

(B) insert at the end the following new paragraph:

(2) CONFORMING AMENDMENT.—Section 312(k)(4) is amended—

(A) by striking out "paragraphs (1) and (3)" and inserting in lieu thereof "paragraph (1)", and

(B) by striking out the last sentence.

( ) On page 61, immediately before section 202 (relating to expensing of depreciable assets), insert the following new paragraph:

(15) Subparagraph (D) of section 46(e)(4) is amended by striking out "paragraphs (8) and (9) of section 168(j)" and inserting in lieu thereof "paragraphs (5) and (6) of section 168(h)".

( ) On page 62, the last line, insert after the end period the following new sentence: "No election may be made under this subparagraph with respect to property to which section 168 of the Internal Revenue Code of 1986 does not apply by reason of section 168(f)(5) of such Code."

( ) On page 65, at the end of subsection (d) (relating to mid-quarter convention), insert: "The preceding sentence shall only apply to property which would be taken into account if such amendments did apply."

( ) On page 67, in subparagraph (F), insert "either" after "if".

( ) On page 68, in the 21st line, strike "1993" and insert "1998".

( ) On page 81, in paragraph (29)—

(A) strike "January 18" in subparagraph (A) and insert "January 25", and

(B) strike "law suits filed on June 22, 1984, and November 21, 1985" in subparagraph (B) and insert "a law suit filed on October 25, 1985".

( ) On page 84, strike subparagraph (J) and insert the following:

(J) a 25.85 megowatt alternative energy facility located in Deblois, Maine, with respect to which certification by the Federal Energy Regulatory Commission was made on April 3, 1986, and".

( ) On page 84, immediately before subsection (b), insert the following new paragraph:

(40) The amendments made section 201 shall not apply to trucks, tractor units, and trailers which a privately held truck leasing company headquartered in Des Moines, Iowa, contracted to purchase in September 1985 but only to the extent the aggregate

reduction in Federal tax liability by reason of the application of this subparagraph does not exceed $8,500,000.

( ) On page 85, the first 12 lines—

(A) insert "and" at the end of subparagraph (B),

(B) strike subparagraph (C), and

(C) redesignate subparagraph (D) as subparagraph (C).

( ) On page 108, in subparagraph (B) of paragraph (3) (relating to certain additional rehabilitations), strike "Pontabla" and insert "Pontalba".

( ) On page 110, in subparagraph (T) of paragraph (4), strike "Louisville" and insert "Covington".

( ) On page 124, in paragraph (1) of subsection (k) (relating to application of at-risk rules)—

(A) strike "subparagraph (D)(iv)(I)" and insert "subparagraphs (D)(ii)(II) and (D)(iv)(I)", and

(B) strike "qualified basis" and insert "eligible basis".

( ) On page 125, the 5th line, before the end period insert: ", except that this subparagraph shall not apply in the case of a Federally-assisted building described in subsection (d)(6)(B) if—

"(i) a security interest in such building is not permitted by a Government agency holding or insuring the mortgage secured by such building, and

"(ii) the proceeds from the financing (if any) are applied to acquire or improve such building."

( ) On page 127, in the third line, strike the period and insert ", and except for any building described in paragraph (2)(B), subsection (h)(4) shall not apply to any building placed in service after 1989.".

( ) On page 141, immediately before subsection (c) (relating to effective date) insert:

(14) Subparagraph (B) of section 172(d)(4) is amended by striking out ", (2)(B),".

( ) On page 167, between the fourth and fifth lines, insert:

(4) SPECIAL RULE FOR CERTAIN RURAL HOUSING.—In the case of any interest in a qualified low-income housing project which—

(A) is assisted under section 515 of the Housing Act of 1949 (relating to the Farmers Home Administration Program), and

(B) is located in a town with a population of less than 10,000 and which is not part of a metropolitan statistical area,

paragraph (1)(B) shall be applied by substituting "35 percent" for "50 percent" and subsection (b)(1) shall be applied by substituting "5th taxable year" for "6th taxable year". The preceding sentence shall not apply to any interest unless, on December 31, 1986, at least one-half of the number of payments required with respect to such interest remain to be paid.

( ) On page 177, the 11th line, insert "amount or" before "payment".

( ) On page 177, strike the last 4 lines, and insert:

"(B) except as provided in regulations, the only earnings and profits of such corporation were earnings and profits—

"(i) accumulated by such corporation (or any predecessor corporation) during such period, and

"(ii) not attributable to distributions from any other corporation unless the stock of such other corporation (or of any predecessor corporation) was held by such corporation during the entire period such other corporation (or predecessor corporation) was in existence, and

( ) On page 190, lines 8 and 9, strike "deposits described in subclause (II)" and insert "the amount of deposits in the new loss corporation immediately after the change".

( ) On page 190, in paragraph (6) (relating to special rule for insolvency transactions), strike "be the value of the new loss corporation immediately after the ownership change" and insert "shall reflect the increase (if any) in value of the old loss corporation resulting from any surrender or cancellation of creditor's claims in the transaction".

( ) On page 193, in the sentence immediately preceding paragraph (5) (relating to bankruptcy proceedings) strike "with respect to domestic building and loan transactions" and insert "with respect to transactions (including firm commitment underwritings) by institutions described in section 591 of such Code".

( ) On page 201, immediately before section 632 (relating to treatment of C corporations electing subchapter S status), insert the following new paragraph:

(18) Section 334(b)(2) is amended by striking out "332(c)" each place it appears in the text and heading and inserting in lieu thereof "337(b)(1)".

( ) On page 203, immediately before subsection (b) (relating to treatment of distributions), strike the end quotation marks and insert the following new paragraph:

"(5) TREATMENT OF TRANSFER OF ASSETS FROM C CORPORATION TO S CORPORATION.—

"(A) IN GENERAL.—Except to the extent provided in regulations, if—

"(i) an S corporation acquires any assets from a C corporation, and

"(ii) the S corporation's basis in such assets is determined (in whole or in part) by reference to the basis in the hands of the C corporation,

then this section (other than subsection (c)(1)) shall apply to any recognized built-in gain on the disposition of any such asset.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) paragraphs (1), (2), and (3) shall be applied by substituting the taxable year in which the assets were acquired for the taxable year referred to in such paragraphs, and

"(ii) the net unrealized build-in gain shall be computed by taking into account only such assets."

( ) On page 206, in paragraph (8), strike "becomes an S corporation for a taxable year beginning" and insert "makes an election to be an S corporation under section 1362 of such Code".

( ) On page 206, redesignate subsections (d) and (e) as subsections (e) and (f), respectively.

( ) On page 208, redesignate subsection (f) as subsection (g).

( ) On page 225, the 10th line, strike "contractual option" and insert "contractual obligation".

( ) On page 253, strike subparagraph (E) (relating to standard deduction not allowed) and insert:

"(E) STANDARD DEDUCTION AND PERSONAL EXEMPTION NOT ALLOWED.—The standard deduction under section 63(c) and the deduction for personal exemptions under section 151 shall not be allowed.

( ) On page 264, in paragraph (6)(A) (relating to appreciated property charitable deduction) insert "or 642(c)" after "section 170".

( ) On page 268, the 5th line from the bottom, strike the end quotation marks.

( ) On page 268, between the 4th and 5th lines from the bottom, insert:

"(j) TAXABLE INCOME FOR CERTAIN ORGANIZATIONS.—If the tax imposed by chapter 1 on any organization is determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such organization for purposes of this part."

( ) On page 269, fifth line from the bottom, strike "earnings and profits" and insert "current earnings".

( ) On page 273, before the last line, insert:

(L) Section 511 is amended by striking out subsection (d).

( ) On page 295, the 7th line from the bottom, strike "Section 267(a)" and insert "Section 267(a)(2)".

( ) On page 313, in paragraph (3)(C) (relating to limitation on issuer), strike "qualified" the second place it appears.

( ) On page 315, strike subparagraph (P) and insert:

(P) Homewood, Alabama, the Club Apartments.

( ) On page 321, the 3rd, 4th, and 6th line, strike "June 20, 1986" and insert "the date of the enactment of this Act".

( ) On page 349, in clause (iv) of paragraph (4)(B) (relating to information required to be supplied), strike "with or within which the taxable year ends" and insert "in which the taxable year begins".

( ) On page 350, in subparagraph (C) of paragraph (2) (relating to special rules for applying section 72), strike "with or within which the taxable year ends" and insert "in which the taxable year begins".

( ) On page 383, the 9th line from the bottom, strike "414(f)(1)(B)" and insert "3(37)(A)(ii)".

( ) On page 384, the first line, strike "Section 202(B)(i)" and insert "Section 202(a)(1)(B)(i)".

( ) On page 398, in section 4979(c) (defining excess contributions), strike "408(k)(8)(B)" and insert "408(k)(6)(C)".

( ) On page 419, line 11, strike "at the end thereof" and insert "after section 4981".

( ) On page 419, line 13, strike "SEC. 4981." and insert "SEC. 4981A.".

( ) On page 421, line 18, strike "at the end thereof" and insert "after the item relating to section 4981".

( ) On page 421, in the matter following line 18, strike "Sec. 4981." and insert "Sec. 4981A.".

( ) On page 429, the 9th line, strike "(E)" and insert "(D)".

( ) On page 448, immediately before part II (relating to other provisions), insert:

(6) CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—If an educational organization described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986 makes an election under this paragraph with respect to a plan described in section 125(c)(2)(C) of such Code, the amendments made by this section shall apply with respect to such plan for plan years beginning after the date of the enactment of this Act.

( ) On page 451, in section 134(b)(1) of the Internal Revenue Code of 1986, as added by section 1168(a) of the Act, insert "(other than personal use of a vehicle)" after "in-kind benefit".

( ) On page 453, in paragraph (1) of section 2057(b) (relating to qualified sale), strike "is".

( ) On page 455, in subclause (II) of paragraph (2)(B)(i) (relating to effective date for subsection (b)), strike "July 18" and insert "May 23".

( ) On page 463, in clause (ii) of subparagraph (I) (relating to transitional rule), strike "1986" and insert "1987".

( ) On page 484, immediately above subsection (d) (relating to effective dates), insert the following new subparagraph:

(D) Paragraph (1) of section 2105(b) (relating to bank deposits and certain other debt obligations) is amended by striking out "section 861(c), if any interest thereon would be treated by reason of section 861(a)(1)(A) as income from sources without the United States" and inserting in lieu thereof "section 871(i)(3), if any interest thereon would not be subject to tax by reason of section 871(i)(2)".

( ) On page 488, in subparagraph (C) (relating to special rule), strike "to interest expenses paid or accrued".

( ) On page 511, in paragraph (2) of subsection (e) (relating to certain basis, etc. rules made applicable), strike "who was not" and insert "who was".

( ) On page 517, in the matter added by subsection (b) (relating to coordination of section 1246 with section 1248), strike "section 1248(g)(3)" and insert "section 1248(g)(2)".

( ) On page 543, immediately before part III (relating to cover over of income taxes), insert the following new paragraph:

(9) Section 1444 is amended by striking out "(as modified by section 934A)".

( ) On page 546, insert immediately after subsection (e) the following new subsection:

(f) EXEMPTION FROM WITHHOLDING.—Notwithstanding subsections (b) and (c), the modification of section 884 of the Internal Revenue Code of 1986 by reason of the amendment to section 881 of such Code by section 1273(b)(1) of this Act shall apply to taxable years beginning after December 31, 1986.

( ) On page 606, in paragraph (2) of subsection (b) (relating to section 1301(f)), insert "with respect to non-issued bond amounts elected" after "issued".

( ) On page 610, immediately after subparagraph (F), insert the following new subparagraph:

(G) Except as provided in the last sentence of subsection (c)(2) of this section, the requirements of section 145(b) (relating to $150,000,000 limitation on bonds other than hospital bonds).

( ) On page 615, in line 8, insert "and as having a carryforward purpose described in section 146(f)(5) of such Code," immediately before "but".

( ) On page 653, in clause (ii) of paragraph (33)(A) (relating to application of $150,000,000 limitation for certain qualified 501(c)(3) bonds)—

(A) strike "on" in subclause (II) thereof and insert "dated", and

(B) insert "dated on December 1, 1985" after "(Series 1985 A and 1985 B)" in subclause (III) thereof.

( ) On page 656, the last line, strike "$80,000,000" and insert "$400,000,000".

( ) On page 658, in the second item in the table in paragraph (44) (relating to New Mexico Hospital pool bonds), strike "Bonds Pool" and insert "Equipment Loan Council".

( ) On page 662, strike the end quotation marks at the end of section 673 (relating to reversionary interests).

( ) On page 662, immediately before section 1402(b) (relating to conforming amendments), insert:

"(c) SPECIAL RULE FOR DETERMINING VALUE OF REVERSIONARY INTEREST.—For purposes of subsection (a), the value of the grantor's reversionary interest shall be determined by assuming the maximum exercise of discretion by the fiduciary in favor of the grantor."

( ) On page 682, the fifth line, insert "(or revocable trust)" after "will".

( ) On pages 723 and 724, strike section 1608 and conform the table of contents.

( ) On page 744, in the matter inserted by subparagraph (G)—

(A) strike "Registry of Deeds" each place it appears and insert "Register of Deed", and

(B) strike "May 7, 1985" and insert "May 7, 1984".

( ) On page 758, in paragraph (9)(B), strike "1986" and insert "1954".

On page 784, sixth line from the bottom, strike "1985" and insert "1986".

( ) On page 833, in clause (i) of subparagraph (B) (relating to operating corporation), strike "placement period" and insert "replacement period".

( ) On page 886, strike paragraph (8) (the first 31 lines).

( ) On page 910, the 13th line, strike "401(a)(11)" and insert "205".

( ) On page 910, in subparagraph (B) of paragraph (7) (relating to clarification of nonforfeitable accrued benefit), strike "Subparagraph (C) of section 205(b)(1)" and insert "Clause (i) of section 205(b)(1)(C)".

( ) On page 911, in clause (i) of subparagraph (B) of paragraph (9) (relating to amendments of ERISA), strike "nonforfeitable accrued benefit" and insert "nonforfeitable right (within the meaning of section 203)".

( ) On page 917, the 10th line, strike "means earlier of" and insert "means the earlier of".

( ) On page 917, the 12th line, strike "in".

( ) On page 917, the 14th line, strike "in".

( ) On page 918, the 7th line, strike "section 203" and insert "section 203(e)".

COAST GUARD AUTHORIZATION

STEVENS AMENDMENT NOS. 3468 AND 3469

Mr. SIMPSON (for Mr. STEVENS) proposed two amendments to the bill (H.R. 4208) to authorize appropriations for the Coast Guard for fiscal year 1987, and for other purposes.

AMENDMENT No. 3468

Strike subsection (d) of section 5, and redesignate subsection (e) of section 5 as subsection (d).

AMENDMENT No. 3469

On page 31, line 5, strike "2102(11b)" and insert in lieu thereof "2101(11b)".

WALLOP AMENDMENT NO. 3270

Mr. SIMPSON (for Mr. WALLOP) proposed an amendment to the bill H.R. 4208, supra, as follows:

Strike Section 7 and insert in lieu thereof the following:

SEC. 7. (a) Section 9503(c)(4) of title 26, United States Code, is amended—

(1) in subparagraph (A), by striking "45,000,000" each place it appears and inserting in lieu thereof "60,000,000" for Fiscal Year 1987 only and $45,000,000 for each Fiscal Year thereafter;" and (2) by adding at the end thereof the following:

"(E) DETERMINATION.—The amount of payments made under this paragraph after October 1, 1986 shall be determined by the Secretary in accordance with the methodology described in the Treasury Department's Report to Congress of June 1986 entitled 'Gasoline Excise Tax Revenues Attributable to Fuel Used in Recreational Motorboats.' Further, a portion of the payments made by the Secretary from Fiscal Year 1987 motorfuel excise tax receipts shall be used to increase the funding for boating safety programs during Fiscal Year 1987 only."

(b) Section 13106(c) of Title 46, United States Code, is amended by striking "one-third" and inserting in lieu thereof "one-half for Fiscal Year 1987 and one-third for each Fiscal Year thereafter."

(c) Section 13106(a) of title 46, United States Code, is amended by striking "two-thirds" and inserting in lieu thereof "one-half for Fiscal Year 1987 and two-thirds for each Fiscal Year thereafter."

"(d) Before making any allocation under this section for a fiscal year, the Secretary shall retain not less than one percent nor more than two percent of the amount appropriated for that year for State recreational boating safety programs for the payment of costs of administration of this chapter."

PUBLIC DOMAIN LANDS FOR THE PUEBLO OF ZIA

BINGAMAN (AND DOMENICI) AMENDMENT NO. 3471

Mr. SIMPSON (for Mr. BINGAMAN and Mr. DOMENICI) proposed an amendment to the bill (H.R. 5167) to declare that the United States holds certain public domain lands in trust for the Pueblo of Zia as follows:

1. On page 1, line 10, strike "situated within Sandolval County, New Mexico, which is under the jurisdiction of the Bureau of Land Management of the Department of the Interior," and insert in lieu thereof "under the jurisdiction of the Bureau of Land Management of the Department of the Interior situated within Sandoval County, New Mexico,".

2. On page 4, strike lines 8 through 16 and insert in lieu thereof:

"(2) Plains Electric Generation and Transmission Cooperative, Inc. and its successors and assigns, shall be permitted to renew the right-of-way described in paragraph (1) under rules and regulations of the Secretary to the same extent and in the same manner that such permit could have been renewed if this Act had not been enacted.".

3. On page 5, line 8, strike the word "subsisting" and insert in lieu thereof "existing".

4. On pages 5 and 6, strike paragraph (2) and insert in lieu thereof:

"(2) Subject to valid existing rights, the leases described in subsection 4(d)(1) shall be administered under rules and regulations of the Secretary to the same extent and in the same manner that such leases would be administered if this Act has not been enacted.".

TRANSFER OF ROBERT F. KENNEDY MEMORIAL STADIUM

McCLURE AMENDMENT NO. 3472

Mr. SIMPSON (for Mr. MCCLURE) proposed an amendment to the bill (H.R. 2776) to amend the District of Columbia Stadium Act of 1957 to

direct the Secretary of the Interior to convey title to the Robert F. Kennedy Memorial Stadium to the District of Columbia; as follows:

On page 2, beginning with line 7, strike out all through line 16 on page 4 and insert in lieu thereof the following:

"(b)(1) Not later than 180 days after the date of enactment of this subsection, the Secretary of the Interior shall—

"(A) convey without consideration to the government of the District of Columbia all right, title, and interest of the United States in and to the building comprising the stadium constructed under this Act; and

"(B) lease without consideration to the government of the District of Columbia—

"(i) the ground under; and

"(ii) the parking facilities associated with the stadium constructed under this Act.

"(2) The lease authorized by paragraph (1)(B) shall be for a period of 50 years.

"(c) The conveyance and lease of real property under subsection (b) shall be subject to such terms and conditions (which shall be set forth in the instrument of conveyance) as will ensure that title to the property shall not be transferred by the District to any person or entity other than the United States or any political subdivision or agency of the District of Columbia or the United States and that the property will be used only for—

"(1) stadium purposes;

"(2) providing recreational facilities, open space, or public outdoor recreation opportunities;

"(3) such other public purposes for which the property was used prior to June 1, 1985; and

"(4) such other public purposes for which the property was approved for use by the Secretary with the concurrence of the National Capital Planning Commission prior to June 1, 1985.

"(d)(1) The instrument of conveyance and the lease referred to in subsection (c) shall provide that all right, title, and interest conveyed to the District of Columbia pursuant to such instrument of conveyance shall revert to the United States and the lease shall terminate if—

"(A) the terms and conditions referred to in subsection (c) have not been complied with, as determined by the Secretary, and

"(B) such noncompliance has not been corrected within ninety days after written notice of such noncompliance has been received by the Mayor of the District of Columbia.

Such noncompliance shall be treated as corrected if the District of Columbia and the Secretary enter into an agreement, with the concurrence of the National Capital Planning Commission, which the Secretary considers adequate to ensure that the property will be used in a manner consistent with the purposes referred to in subsection (c).

"(2) No person may bring an action respecting a violation of any term or condition referred to in subsection (c) before the expiration of ninety days after the date on which such person has notified the Mayor of the District of Columbia of the alleged violation. The notice shall include notice of such person's intention to bring an action to declare a reversion and termination of the lease under paragraph (1) of this subsection.

"(3) The conveyance of real property under subsection (b) shall be made subject to the condition that the District of Columbia shall bear the cost of removing structures or rehabilitating the land or stadium should the stadium revert to the United States pursuant to this subsection.

"(4) Any property which reverts to the Secretary under this subsection shall be administered by the Secretary as part of the Park System of the Nation's Capital in accordance with the provisions of the Act of August 25, 1916 (16 U.S.C. 1, 2-4), and other provisions of law generally applicable to units of the national park system.".

SEC. 2. TECHNICAL AMENDMENT.

Section 11 of the District of Columbia Stadium Act of 1957 (D.C. Code, sec. 2-330) is amended by inserting "(including any area designated A, B, C, D, or E on the revised map entitled 'Map to Designate Transfer of Stadium and Lease of Parking Lots to the District', prepared jointly by the National Park Service (National Capital Region) and the District of Columbia Department of Public Works for site development and dated October 1986 (NPS drawing number 831/87284-A))," after "property of any kind".

HEALTH STATUS IMPROVEMENTS FOR NATIVE HAWAIIANS

INOUYE (AND MATSUNAGA) AMENDMENT NO. 3473

Mr. BYRD (for Mr. INOUYE and Mr. MATSUNAGA) proposed an amendment to the bill (S. 2243) to improve the health status of Native Hawaiians, and for other purposes, as follows:

At the appropriate place in the committee amendment, insert the following:

PACIFIC BASIN DISEASE RESEARCH INSTITUTE

SEC. . (a) The Secretary shall make a grant under section 720(a)(1) of the Public Health Service Act to the University of Hawaii in Honolulu, Hawaii, for the construction of a building for a Pacific Basin disease research institute. Notwithstanding sections 702(b) and 721(c) of such Act, the Secretary is not required to secure the advice of the National Advisory Council on Health Professions Education with respect to such grant.

(b) The Federal share of the necessary costs of construction, as determined by the Secretary, of the building described in subsection (a), shall be 50 percent.

(c) To carry out this section, there are authorized to be appropriated $5,000,000. Amounts appropriated under this section shall remain available until expended.

BICENTENNIAL COMMEMORATIVE COINS

GARN AMENDMENT NO. 3474

Mr. SIMPSON (for Mr. GARN) proposed an amendment to the bill (H.R. 3415) to authorize the minting of coins in commemoration of the bicentennial of the United States Constitution, as follows:

On page 4, line 22, strike out "December 31, 1987" and insert in lieu thereof "June 30, 1988."

At the end of the bill, add the following new section:

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title. Nothing in this section shall relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

MURKOWSKI AMENDMENT NO. 3475

Mr. SIMPSON (for Mr. MURKOWSKI) proposed an amendment to the bill (S. 485) to amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the treatment of submerged lands and ownerhip by the Alaskan Native Corporation, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That subsection (a) of section 901 of the Alaska National Interest Lands Conservation Act (Public Law 96-487), as amended, is hereby amended by striking out the word "six years after the date of execution" each time such words occur in such subsection, and by inserting in lieu thereof in each instance the words "eight years after the date of execution", and by striking the words "seven years after the date of enactment" each time such words occur in such subsection, and by inserting in lieu thereof in each instance the words "nine years after the date of enactment".

CONTINUING APPROPRIATIONS, FISCAL YEAR 1987

ABDNOR AMENDMENT NO. 3476

Mr. ABDNOR (for himself and Mr. DECONCINI) proposed an amendment to the amendment of the House to the amendment of the Senate numbered 59 (in disagreement) to the joint resolution (H.J. Res. 738) making continuing appropriations for the fiscal year 1987, and for other purposes as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 115. GENERAL SERVICES ADMINISTRATION.

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Government agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition

of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract, in the aggregate amount of $2,279.862,000 of which (1) not to exceed $120,672,000 shall remain available until expended for construction of additional projects as authorized by law at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

New Mexico:

Columbus, Border Station, $2,680,000

Pennsylvania:

Wilkes-Barre, Federal Building (Social Security Administration),$20,672,000

South Carolina:

Columbia, Federal Building, Courthouse, Claim, $1,057,000

Construction Projects, less than $500,000, $1,000,000: Purchase:

New York:

Wellesley Island, Border Station, $1,925,000

Other Selected Purchases, including options to purchase, $93,338,000: *Provided*, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further*, That all funds for direct construction projects shall expire on September 30, 1988, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That claims against the Government of less than $50,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $180,166,000, which shall remain available until expended, for repairs and alterations: *Provided further*, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

Repairs and Alterations:

District of Columbia:

Federal Building #6, $1,213,000

Federal Building #8, $1,886,500

Federal Building #9, $1,712,500

Federal Building #10A, $1,121,000

General Accounting Office, $3,552,000

Justice, $599,000

State, $2,765,000

Steam Distribution System, $8,796,000

Missouri:

St. Louis, Federal Building (Mart), Phase I, $20,000,000

Kansas City, 601 E. 12th, $997,000

Kansas City, 1500 Bannister, $2,560,000

St. Louis, 4300 Goodfellow, $2,176,000

Minor Repairs and Alterations, $141,584,000:

Provided further, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That all funds for repairs and alterations prospectus projects shall expire on September 30, 1988, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $131,442,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed $985,000,000 for rental of space; (5) not to exceed $753,219,000 for real property operations; (6) not to exceed $57,090,000 for program direction and centralized services; and (7) not to exceed $52,273,000 for design and construction services which shall remain available until expended: *Provided further*, That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further*, That none of the funds available to the General Services Administration shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056 as amended, shall be available from such revenues and collections: *Provided further*, That revenues and collections and any other sums accruing to this fund during fiscal year 1987 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $2,279,862,000, shall remain in the fund and shall not be available for expenditure except as authorized in appropriation Acts: *Provided further*, That not withstanding this or any other provision of this Act, Section 623 of the Treasury, Postal Service, and General Government Appropriations Act as contained in this Act shall apply only to the rural electrification program in the State of Alaska.

GOLDWATER AMENDMENT NO. 3477

Mr. GOLDWATER proposed an amendment to amendment No. 3476 proposed by Mr. ABDNOR to the amendment of the House to the amendment of the Senate numbered 59 (in disagreement) to the joint resolution (H.J. Res. 738), supra, as follows:

At the end of the amendment add the following:

Notwithstanding any other provision in this or any other Act, none of the funds appropriated by this or any other Act shall be available for the procurement of T-46 trainer aircraft. No funds appropriated to or for the use of the Department of Defense for fiscal year 1986 may be obligated or expended for the procurement of T-46 trainer aircraft until the Secretary of the Air Force has complied with all requirements relating to the T-46 aircraft contained in section 202(e) of the Department of Defense Authorization Act, 1987.

MASAU TRAIL ACT

DOMENICI (AND BINGAMAN) AMENDMENT NO. 3478

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to the bill (S. 2932 to establish the Malpais National Monument, the Masau Trail, and the Grants National Conservation Area in the State of New Mexico, and for other purposes, as follows:

At the end of the bill, insert the following:

TITLE VII—WATER RIGHTS

SEC. 701. Nothing in this Act shall be construed to a new express or implied reservation to the United States of any water or water-related right with respect to the lands described in this Act. No provision of this Act shall be construed as authorizing the appropriation of water, except in accordance with the substantive and procedural law of the State of New Mexico.

CONTINUING APPROPRIATIONS, FISCAL YEAR 1987

METZENBAUM (AND BUMPERS) ADMENDMENT NO. 3479

Mr. METZENBAUM (for himself and Mr. BUMPERS) proposed an amendment to amendment No. 3476 proposed by Mr. ABDNOR to the amendment of the House to the amendment of the Senate numbered 59 (in disagreement) to the joint resolution (H.J. Res. 738), supra, as follows:

Add at the end of the pending amendment:

SECTION 1. PATTERN OF ILLICIT ACTIVITY.

(a) CHAPTER 96 HEADING.—The heading for chapter 96 of title 18, United States Code, is amended by striking out "RACKETEER, INFLUENCED AND CORRUPT ORGANIZATIONS" and inserting in lieu thereof "PATTERN OF ILLICIT ACTIVITY".

(b) SECTION 1961.—Section 1961 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking out "racketeering" the first place it appears and inserting "illicit" in lieu thereof;

(2) in paragraph (5), by striking out "racketeering" each place it appears and inserting "illicit" in lieu thereof

(3) in paragraph (7), by striking out "racketeering" each place it appears and inserting "criminal" in lieu thereof; and

(4) in paragraph (8)—

(A) by striking out "racketeering" the first place it appears and inserting "illicit activity" in lieu thereof; and

(B) by striking out "racketeering" the second place it appears and inserting "criminal" in lieu thereof.

(c) SECTION 1962.—Section 1962 of title 18, United States Code, is amended by striking out "racketeering" each place it appears and inserting "illicit" in lieu thereof.

(d) SECTION 1963.—Paragraph (3) of section 1963(a) of title 18, United States Code, is amended by striking out "racketeering" and inserting "illicit" in lieu thereof.

(e) SECTION 1968.—Section 1968 of title 18, United States Code, is amended—

(1) in subsection (a), by striking out "a racketeering investigation" and inserting "an illicit activity investigation" in lieu thereof;

(2) in subsection (b), by striking out "racketeering" each place it appears and inserting "illicit activity" in lieu thereof;

(3) in subsection (c), by striking out "racketeering" each place it appears and inserting "illicit activity" in lieu thereof; and

(4) in subsection (f)—

(A) by striking out "racketeering" the first, second, and fifth places it appears and inserting "criminal" in lieu thereof;

(B) by striking out "racketeering" each other place it appears and inserting "illicit activity" in lieu thereof; and

(C) by striking out "racketeer" and inserting "illict activity" in lieu thereof.

* * * * *

Subsection (c) of section 1964 of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) A governmental entity whose business or property is injured by conduct in violation of section 1962 of this title may bring, in any appropriate United States district court, a civil action against the person who engaged in such conduct to recover threefold the actual damages that the governmental entity sustained by reason of such injury, and the costs of the civil action, including a reasonable attorney's fee.

"(B) A civil action under subparagraph (A) of this paragraph must be brought by—

"(i) the Attorney General, if the injury is to the business or property of a governmental entity of the United States;

"(ii) the chief legal officer of the State, if the injury is to the business or property of a governmental entity of the State; or

"(iii) the chief legal officer of a subdivision of a State, if the injury is to the business or property of the subdivision and if such officer is specifically authorized by statute of the State to bring actions under this subsection.

"(2) A person, other than a governmental entity, whose business or property is injury by conduct in violation of section 1962 of this title may bring, in any appropriate United States district court, a civil action against the person who engaged in the conduct and shall recover—

"(A) threefold the actual damages that such person whose property or business is injured sustained by reason of such injury, and the costs of the civil action, including a reasonable attorney's fee, if the person who engaged in the conduct was, with respect to such conduct, convicted of an illicit activity or of a violation of section 1962 of this title; or

"(B)(i) the actual damages that such person whose property or business is injured sustained by reason of such injury, and the costs of the civil action including a reasonable attorney's fee, and

"(ii) punitive damages of up to twice the actual damages if—

"(I) the person whose business or property is injured is a natural person and the injury occurred in connection with a purchase or lease, for personal or household use or investment, of a product, services, investment, or other property; or a contract for personal or household use or investment;

"(II) neither State nor Federal securities laws make available an express or implied remedy for the type of behavior on which the claim of the plaintiff is based; and

"(III) the defendant acted in wanton disregard of plaintiff's rights (but conduct of the defendant in good faith and in reliance upon a directly applicable regulatory action, approval, or interpretation of law by an authorized State agency is not in wanton disregard of plaintiff's rights for the purposes of this subclause).

* * * * *

"(I) the degree of culpability of the defendant;

"(II) the vulnerability of the victim;

"(III) any history of similar conduct by the defendant;

"(IV) the benefits derived from the unlawful conduct by the defendant;

"(V) the number of persons victimized;

"(VI) any prior decision by a court or State or Federal agency as to whether the defendant violated applicable law or acted in bad faith; and

"(VII) any other factor the court deems to be an equitable consideration bearing on the appropriate amount of punitive damages.

"(4) For a civil action under paragraph (2) of this subsection seeking damages under subparagraph (B) of such paragraph (2), the term "pattern of illicit activity" requires at least two acts of illicit activity—

"(A) one of which occurred not more than five years after the prior act of illicit activity;

"(B) that are not so closely related in time and place that together the acts constitute a single episode; and

"(C) (for actions based on a violation of section 1962(c) of this title) each of which is related to the affairs of the enterprise.

"(5)(A) A civil action under this subsection may not be commenced after the latest of—

"(i) three years after the date the cause of action accrues;

"(ii) three years after the conduct causing injury to the plaintiff terminates; or

"(iii) two years after the date of the criminal conviction required for an action under paragraph (2)(A) of this subsection.

"(B) The period of limitation provided in subparagraph (A) of this paragraph on a cause of action does not run during the pendency of a government civil action or criminal case relating to the conduct upon which such cause of action is based.

"(6) As used in this subsection, the term 'governmental entity' means the United States or a State, and includes any department, agency, or government corporation of the United States or a State, any political subdivision of a State, and any enterprise for which a trustee has been appointed by a United States district court under section 1964(a) of this title (but only during the tenure of such trustee).

"(7) The court shall award a reasonable attorney's fee to a prevailing plaintiff in a cause of action under paragraph (2)(B) of this subsection."

SEC. 3. FEDERAL RULES OF CIVIL PROCEDURES AMENDMENTS.

Rule 9(b) of the Federal Rules of Civil Procedure is amended—

(1) in the caption, by inserting ", and Suits under 18 U.S.C. 1904(c)" after "Mind"; and

(2) by inserting after the first sentence the following: "In an action under 18 U.S.C. 1964(c), facts supporting the claim against each defendant shall be averted with particularity.".

SEC. 4. EFFECTIVE DATE.

(a) GENERAL RULE.—The amendments made by this Act shall apply to any civil action commenced after the date of enactment.

(b) EXCEPTION.—In any pending action under section 1964(c) of title 18, United States Code, in which a person would be eligible to recover only under paragraph (2)(B)(ii) of section 1964(c) as amended by this Act, if this Act had been enacted before the commencement of that action, the recovery of that person shall be limited to the recovery provided under such paragraph (2)(B)(ii), unless in the pending action—

(1) there has been a jury verdict or district court judgment, establishing the defendant's liability, or settlement has occurred; or

(2) the court determines that, in light of all the circumstances, such limitation of recovery would be clearly unjust.

MELCHER (AND OTHERS) AMENDMENT NO. 3480

Mr. MELCHER (for himself and Mr. BURDICK) proposed an amendment to amendment No. 3476 proposed by Mr. ABDNOR to the amendment of the House to the amendment of the Senate numbered 59 (in disagreement) to the joint resolution (H.J. Res. 738), supra as follows:

At the end of the amendment, insert the following new section:

"SEC. . Notwithstanding any other provisions of this Act, in addition to any sales required under any other Act, the Secretary of Agriculture, under such terms as the Secretary may prescribe, shall sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act in such amounts as to realize net proceeds to the Government of not less than $50,000,000, and funds for necessary expenses to carry out Temporary Emergency Food Assistance Act of 1983, as amended, shall be $100,000,000.".

MEMORIAL TO WOMEN WHO HAVE SERVED IN THE ARMED SERVICES

McCLURE AMENDMENT NO. 3481

Mr. SIMPSON (for Mr. McCLURE) proposed an amendment to the joint resolution (H.J. Res. 36) authorizing establishment of a memorial to honor women who have served in or with the

Armed Forces of the United States, as follows:

On page 2, line 22, of H.J. Res. 36 as reported by the Committee on Energy and Natural Resources, strike "There is hereby authorized to be established on Federal land in the District of Columbia and its environs, by any organization or organizations approved by the Secretary of the Interior, a memorial" and insert in lieu thereof "The Women in Military Service for America Memorial Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs".

On page 3, line 2, of H.J. Res. 36 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986 (S. Rept. 99-421)" and insert in lieu thereof "House of Representatives on September 29, 1986".

On page 3, line 5 of H.J. Res. 36, as reported by the Committee on Energy and Natural Resources, strike "The organization or organizations approved by the Secretary" and insert in lieu thereof "The Women in Military Service for America Memorial Foundation".

MEMORIAL TO BLACK HEROES OF THE AMERICAN REVOLUTION

McCLURE AMENDMENT NO. 3482

Mr. SIMPSON (for Mr. McCLURE) proposed an amendment to the joint resolution (H.J. Res. 142) authorizing establishment of a memorial to honor the estimated five thousand courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom; as follows:

On page 3, line 14, strike all after "the" and insert "House of Representatives on September 29, 1986".

DECLARATION OF TAKING ACT

DURENBERGER (AND OTHERS) AMENDMENT NO. 3483

Mr. SIMPSON (for Mr. DURENBERGER, Mr. BOSCHWITZ, and Mr. THURMOND) proposed an amendment to the bill (S. 2424) to amend the interest provisions of the Declaration of Taking Act as follows:

At the end of the bill add the following:

SEC. 2. (a) Notwithstanding any other provision of chapter 11 of title 11, United States Code, the bankruptcy trustee in each case described in subsection (b) shall pay benefits until May 15, 1987, to retired former employees under a plan, fund, or program maintained or established by the debtor in such case prior to filing a petition (through the purchase of insurance or otherwise) for the purpose of providing medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, or death.

(b) This section is effective with respect to—

(1) cases commenced under chapter 11 of title 11, United States Code, in which a plan for reorganization has not been confirmed by the court and in which any such benefit is still being paid on October 2, 1986;

(2) in cases under which an order for relief is entered under chapter 11 of title 11, United States Code, after October 2, 1986, while such case is a case under chapter 11; or

(3) in cases under title 11, United States Code, involving a partnership which was in existence prior to July 17, 1986, and was the subject of a petition under chapter 11 of title 11, United States Code, upon which an order for relief was entered by a bankruptcy court on August 7, 1986, and where one of the partners received bankruptcy court authorization on August 6, 1986, approving rejection of a partnership agreement.

(c) If any provision of this section or the application thereof to any person of circumstance is held invalid, the provisions of every other part of this section and the first section shall not be affected thereby.

On page 3, line 14, of H.J. Res. 142 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986 (S. Rept. 99-421)" and insert in lieu thereof "House of Representatives on September 29, 1986".

AGE DISCRIMINATION IN EMPLOYMENT ACT

HEINZ (AND OTHERS) AMENDMENT NO. 3484

Mr. SIMPSON (for Mr. HEINZ, Mr. METZENBAUM, Mr. FORD, Mr. BRADLEY, Mr. KENNEDY, Mr. GRASSLEY, Mrs. HAWKINS, and Mr. COHEN) proposed an amendment to the bill (H.R. 4154) to amend the Age Discrimination in Employment Act of 1967 to remove the maximum age limitation applicable to employees who are protected under such Act, and for other purposes, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Age Discrimination in Employment Amendments of 1986".

SEC. 2. AMENDMENTS RELATING TO MAXIMUM AGE.

(a) COVERAGE UNDER GROUP HEALTH PLANS.—Subsection (g)(1) of section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(g)(1)), as added by section 116(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "through 69" each place it appears and inserting in lieu thereof "or older".

(b) TECHNICAL AMENDMENT.—Subsection (g) of section 4 of the Age Discrimination in Employment Act of 1967, as added by section 802(b)(2) of the Older Americans Act Amendments of 1984, is amended by striking out "(g)(1)" in inserting in lieu thereof "(h)(1)".

(c) REMOVAL OF MAXIMUM AGE LIMITATION.—Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended—

(1) in subsection (a) by striking out "but less than seventy years of age", and

(2) in subsection (c)(1) by striking out "but not seventy years of age,".

SEC. 3. EMPLOYMENT AS FIREFIGHTER OR LAW ENFORCEMENT OFFICER.

(a) GENERAL RULE.—Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended by adding at the end thereof the following new subsection:

"(i) It shall not be unlawful for an employer which is a State, a political subdivision of a State, an agency or instrumentality of a State or a political subdivision of a State, or an interstate agency to fail or refuse to hire or to discharge any individual because of such individual's age if such action is taken—

"(1) with respect to the employment of an individual as a firefighter or as a law enforcement officer and the individual has attained the age of hiring or retirement in effect under applicable State or local law on March 3, 1983, and

"(2) pursuant to a bona fide hiring or retirement plan that is not a subterfuge to evade the purposes of this Act.".

(b) TERMINATION PROVISION.—The amendment made by subsection (a) of this section is repealed December 31, 1993.

SEC. 4. DEFINITIONS.

Section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630) is amended by adding at the end thereof the following new subsections:

"(j) The term 'firefighter' means an employee, the duties of whose position are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, including an employee engaged in this activity who is transferred to a supervisory or administrative position.

"(k) The term 'law enforcement officer' means an employee, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of a State, including an employee engaged in this activity who is transferred to a supervisory or administrative position. For the purpose of this subsection, 'detention' includes the duties of employees assigned to guard individuals incarcerated in any penal institution.".

SEC. 5. STUDY AND PROPOSED GUIDELINES RELATING TO POLICE OFFICERS AND FIREFIGHTERS

(a) STUDY.—Not later than 4 years after the date of enactment of this Act, the Secretary of Labor and the Equal Employment Opportunity Commission, jointly, shall—

(1) conduct a study—

(A) to determine whether physical and mental fitness tests are valid measurements of the ability and competency of police officers and firefighters to perform the requirements of their jobs,

(B) if such tests are found to be valid measurements of such ability and competency, to determine which particular types of tests most effectively measure such ability and competency, and

(C) to develop recommendations with respect to specific standards that such tests, and the administration of such tests should satisfy, and

(2) submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate that includes—

(A) a description of the results of such study, and

(B) a statement of the recommendations developed under paragraph (1)(C).

(b) Consultation Requirement.— The Secretary of Labor and the Equal Employment

Opportunity Commission shall, during the conduct of the study required under subsection (a) and prior to the development of recommendations under paragraph (1)(C), consult with the United States Fire Administration, the Federal Emergency Management Agency, organizations representing law enforcement officers, firefighters, and their employers, and organizations representing older Americans.

(c) Proposed Guidelines.—Not later than 5 years after the date of the enactment of this Act, the Equal Employment Opportunity Commission shall propose, in accordance with subchapter II of chapter 5 of title 5 of the United States Code, guidelines for the administration and use of physical and mental fitness tests to measure the ability and competency of police officers and firefighters to perform the requirements of their jobs.

SEC. 6. SPECIAL RULE AND TENURED FACULTY.

(a) Special Rule.—Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended by adding at the end thereof the following new subsection:

"(d) Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 70 years of age, and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education (as defined by section 1201(a) of the Higher Education Act of 1965).".

(b) TERMINATION PROVISION.—The amendment made by subsection (a) of this section is repealed December 31, 1993.

(c) STUDY REQUIRED.—(1) The Equal Employment Opportunity Commission shall, not later than 12 months after the date of enactment of this Act, enter into an agreement with the National Academy of Sciences for the conduct of a study to analyze the potential consequences of the elimination of mandatory retirement on institutions of higher education.

(2) The study required by paragraph (1) of this subsection shall be conducted under the general supervision of the National Academy of Sciences by a study panel composed of 9 members. The study panel shall consist of—

(A) 4 members who shall be administrators at institutions of higher education selected by the National Academy of Sciences after Consultation with the American Council of Education, the Association of American Universities, and the National Association of State Universities and Land Grant Colleges;

(B) 4 members who shall be teachers or retired teachers at institutions of higher education (who do not serve in an administrative capacity at such institutions), selected by the National Academy of Sciences after consultation with the American Federation of Teachers, the National Education Association, the American Association of University Professors, and the American Association of Retired Persons; and

(C) one member selected by the National Academy of Sciences.

(3) The results of the study shall be reported, with recommendations, to the President and to the Congress not later than 5 years after the date of enactment of this Act.

(4) The expenses of the study required by this subsection shall be paid from funds available to the Equal Employment Opportunity Commission.

SEC. 7. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on January 1, 1987, except that with respect to any employee who is subject to a collective-bargaining agreement—

(1) which is in effect on June 30, 1986,

(2) which terminates after January 1, 1987,

(3) any provision of which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)), and

(4) which contains any provision that would be superseded by such amendments, but for the operation of this section,

such amendments shall not apply until the termination of such collective bargaining agreement or January 1, 1990, whichever occurs first.

(b) Effect on Existing Causes of Action.—The amendments made by sections 3 and 4 of this Act shall not apply with respect to any cause of action arising under the Age Discrimination in Employment Act of 1967 as in effect before January 1, 1987.

RELIEF OF AUDREY LEWIS AND EMERSON VEREEN

THURMOND AMENDMENT NO. 3485

Mr. SIMPSON (for Mr. THURMOND) proposed an amendment to the bill (H.R. 1010) for the relief of Audrey O. Lewis and Emerson B. Vereen, as follows:

On page 1, line 6, strike out "$140,500" and insert in lieu thereof "$70,250".

On page 1, line 8, strike out "$43,750" and insert in lieu thereof "$18,275".

On page 2, line 23, strike out "$9,100" and insert in lieu thereof "$4,550".

NATIONAL WILDERNESS PRESERVATION SYSTEM

HELMS AMENDMENT NO. 3486

Mr. SIMPSON (for Mr. HELMS) proposed an amendment to the bill (H.R. 4685) to adjust the boundaries of areas of the National Wilderness Preservation System in the State of Texas, as follows:

On page 1, line 10, strike out "June" and insert in lieu thereof "October".

EXCEPTION TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT

McCLURE AMENDMENT NO. 3487

Mr. SIMPSON (for Mr. MCCLURE) proposed an amendment to the bill (S. 2921) to amend the Public Law 99-396 exception to the Balanced Budget and Emergency Deficit Control Act of 1985, and for other purposes, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

"Section 19(b) of Public Law 99-396 (100 Stat. 837, 844) is amended by:

"(1) inserting 'section 30 of' immediately before 'the Organic Act of Guam';

"(2) inserting 'section 3 of' immediately before 'the Joint Resolution to approve';

"(3) inserting 'section 4 of the Act of April 12, 1900 (31 Stat. 78, 48 U.S.C. 740), as amended, and section 9 of the Act of March 2, 1917 (39 Stat. 954, 48 U.S.C. 734), as amended, which became a part of' immediately before 'The Puerto Rican';

"(4) inserting 'section 28 (a) and (b) of' immediately before 'the Revised Organic'; and

"(5) inserting 'section 4(c)(2) of' immediately before 'an Act to authorize'."

INDIANA DUNES NATIONAL LAKESHORE

QUAYLE (AND LUGAR) AMENDMENT NO. 3488

Mr. SIMPSON (for Mr. QUAYLE and Mr. LUGAR) proposed an amendment to the bill (H.R. 4037) relating to the Indiana Dunes National Lakeshore, and for other purposes, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. INDIANA DUNES NATIONAL LAKESHORE.

(a) BOUNDARY CHANGES.—The first section of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u), is amended by striking out "December 1980, and bearing the number 626-91014" and inserting in lieu thereof "October 1986, and numbered 626-80,033-B".

(b) DEFINITION OF IMPROVED PROPERTY.—Section 4 of such Act is amended by striking out the first sentence and substituting "As used in this Act, the term 'improved property' means a detached, one-family dwelling which meets each of the following criteria:

"(1) The construction of the dwelling began before the date (shown in the table contained in this section) corresponding to the appropriate map.

"(2) The property is located within the boundaries delineated on the map described in such table which corresponds to such date.

"(3) The property is not located within the boundaries of any other map referred to in such table which bears an earlier date.

The term 'appropriate map', means a map identified as 'Boundary Map—Indiana Dunes National Lakeshore' (or 'A Proposed Indiana Dunes National Lakeshore' in the case of a dwelling the construction of which was begun before January 4, 1965) which is dated and numbered as provided in the following table.

Property within boundaries of map	Construction began before
Dated October 1986, #626-80,033-B.	February 1, 1986
Dated December 1980, #626-91014.	January 1, 1981
Dated September 1976, #626-91007.	February 1, 1973
Dated September 1966, #LNPNE-1008-ID.	January 4, 1965

the term 'improved property' also includes the lands on which the dwelling is situated which meets both of the following criteria:

"(A) The land is in the same ownership as the dwelling.

"(B) The Secretary has designated the lands as reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use.

Such term also includes any structures accessory to the dwelling which are situated on the lands so designated. The maps referred to in this section shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior. The Secretary shall designate the land referred to in subparagraph (B).".

(c) RETAINED RIGHTS.—Section 5(a) of such Act (16 U.S.C. 460u-5a) is amended as follows:

(1) Strike out "the first section" and insert in lieu thereof "section 4, dated December 1980, and numbered 626-91014."

(2) Strike out "; *Provided*, That" and substitute a period followed by "In the case of improved property within the boundaries of the map dated December 1980 and numbered 626-91014".

(3) After "(a)" strike "Except for" and insert "(1) Except for owners described in paragraph (2) and".

(4) Strike "(1)" in each place it appears and substitute "(A)" and strike "(2)" and substitute "(B)".

(5) Add the following at the end thereof:

"(2)(A) In the case of property included within the boundaries of the lakeshore after 1980, any owner or owners of record of improved property may retain a right of use and occupancy for noncommercial residential purposes for a term ending at either of the following:

"(i) A fixed term not to extend beyond September 30, 2010, or such lesser fixed term as the owner or owners may elect at the time of acquisition.

"(ii) A term ending at the death of any owner or of a spouse of any owner, whichever occurs last.

The owner shall elect the term to be reserved.

"(B) The retention of rights under subparagraph (A) shall be available only to individuals who are homeowners of record as of July 1, 1986, who have attained the age of majority as of that date and who make a bona fide written offer not later than July 1, 1991, to sell to the Secretary.".

(d) AUTHORIZATION.—Section 9 of such Act (16 U.S.C. 460u-9) is amended as follows:

(1) In the first sentence strike "$11,000,000" and insert in lieu thereof "$20,000,000".

(2) Add after the last paragraph "In addition to any other sums authorized for the acquisition of lands and interests in lands pursuant to the provisions of this Act there are authorized to be appropriated an additional $3,500,000 to be used for such purposes. The Secretary shall conduct a feasibility study of establishing United States Highway 12 as the 'Indiana Dunes Parkway' under the jurisdiction of the National Park Service. The Secretary shall submit the results of such study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within two years after the enactment of this sentence. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the feasibility study.".

(e) EXISTING PROPERTY RIGHTS.—Section 10 of such Act (16 U.S.C. 460u-16) is amended by inserting at the end thereof: "Nothing in this Act shall be construed to diminish the existing property rights of Northern Indiana Public Service Company (as of October 1, 1986) with respect to—

"(1) a parcel of land owned in fee by the Northern Indiana Public Service Company and used for high voltage electrical transmission lines, pipelines, and utility purposes, beginning at said Company's Dune Acres substation and extending east to said Company's Michigan City Generating Station, which parcel by this Act is included within the boundaries of the Indiana Dunes National Lakeshore and herein designated as area II-I on National Park Service Boundary Map No. 626-80033-B, dated October 1986, excluding that certain parcel of approximately 6.0 acres adjacent Mineral Springs Road in areas II-I, and

(2) land owned in fee by the Northern Indiana Public Service Company and used for high voltage electrical transmission lines, pipelines, and utility purposes as has by this Act been included within the boundaries of the Indiana Dunes National Lakeshore and herein designated as area II-B on said National Park Service Boundary Map No. 626-80,033-B."

(f) OWNER CONSENT REQUIRED.—Section 13 of such Act (16 U.S.C. 460u-13) is amended by changing "Sec. 13." to "Sec. 13. (a)", by striking out "the first section" and inserting in lieu thereof, "section 4, dated December 1980 and numbered 626-91014", and by adding a new subsection (b) as follows:

"(b) The Secretary may acquire that portion of area IV-B in private ownership on the map referred to in section 1 of this Act only with the consent of the owner: *Provided*, That the Secretary may acquire an agricultural easement should the owner change the use in existence as of September 19, 1986, through eminent domain.".

(g) MAP REFERENCE.—Section 16 of such Act (16 U.S.C. 460u-16) is amended by inserting at the end of the first sentence "on the map referred to in section 4, dated October 1976, and numbered 626-9100".

(h) RIGHTS-OF-WAY.—Section 15 of such Act is amended by adding the following at the end thereof: "The Secretary may acquire only such interest in the rights-of-way designated 'Crossing B' and 'Crossing C' on the map dated October 1986 and numbered 626-80, 033-B as he determines to be necessary to assure public access to the banks of the Little Calumet River and the banks of Salt Creek within fifty feet on either side of the centerline of said river and creek.".

(i) COOPERATIVE AGREEMENT AND STUDY.—Add the following new section at the end of such Act:

"SEC. 24. LITTLE CALUMET RIVER AND BURNS/PORTAGE WATERWAY.

"(a) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement with the Little Calumet River Basin Development Commission, the State of Indiana or any political subdivision thereof for the planning, management, and interpretation of recreational facilities on the tract within the boundaries of Indiana Dunes National Lakeshore identified as tract numbered 09-117 or on lands under the jurisdiction of the State of Indiana or political subdivision thereof along the Little Calumet River and Burns Waterway. The cooperative agreement may include provision for the planning of public facilities for boating, canoeing, fishing, hiking, bicycling, and other compatible recreational activities. Any recreational developments on lands under their jurisdiction of the National Park Service planned pursuant to this cooperative agreement shall be in a manner consistent with the purposes of this Act, including section 6(b).

"(b) STUDY.—The Secretary shall conduct a study regarding the options available for linking the portions of the lakeshore which are divided by the Little Calumet River and Burns/Portage Waterway so as to coordinate the management and recreational use of the lakeshore. The Secretary shall submit the results of the study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within two years after the enactment of this section. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purpose of conducting the study.".

ADDITIONAL STATEMENTS

TRIBUTE TO MAYOR RICHARD E. NEAL OF SPRINGFIELD, MA

● Mr. KERRY. Mr. President, I would like to pay tribute today to Richard E. Neal, mayor of Springfield, MA, for his distinguished community leadership. Mayor Neal will be honored at a State of Israel Bonds Tribute Dinner on October 26 in Springfield, for his outstanding leadership and long-time support of the State of Israel. Mayor Neal will be the recipient of the Medal of Peace, Israel's highest award.

Mayor Richard Neal has served the citizens of Springfield for over a decade, and has been an outstanding and dedicated public servant. He has a well-deserved reputation for high integrity, quality, and for a deep commitment to humanitarian causes.

Richard Neal began his career in public service in 1973, as an assistant to the mayor of Springfield, MA. He served as a city councillor in Springfield from 1978 to 1983, and was president of the city council in 1979. From 1979 to 1983, Mr. Neal also served as an instructor at Western New England College, Springfield College, and American International College. He also worked as a grant director for Springfield Technical Community College.

In 1984, Richard Neal was elected mayor of Springfield, MA. He currently serves as president of the Massachusetts Mayors' Association.

Mayor Neal took part in 1984 in an interfaith mission to Israel. In Israel, he made a visit to Kiryat Ata, which is Springfield's sister city in Israel. The mayor of Kiryat Ata, the Honorable Yaacov Ben Daniel, will be present and participate in the award of the Medal of Peace to Mayor Neal next week in Springfield.

This award to Mayor Neal is highly appropriate and well deserved. Mayor Neal has demonstrated a deep commitment to the State of Israel, and to the special relationship which exists between the peoples of Israel and the United States.

71-059 O-87-44 (Pt. 22)

The Medal of Peace is a prestigious award, and is not bestowed lightly. In this year which marks the 350th anniversary of the founding of Springfield, MA, it is especially appropriate that Richard Neal should be honored for his work in establishing and furthering ties between the people of Springfield and the people of Israel. I congratulate Mayor Neal on this important award. I look forward to being present with Mayor Neal next week for the occasion of the bestowing of the Medal of Peace.

RECOGNITION OF THE RCA SCHOOL OF BENSALEM, PA

● Mr. SPECTER. Mr. President, I wish to give special recognition and acknowledgement to the staff of the RCA School at the Youth Development Center in Bensalem, PA, for their outstanding efforts to provide quality educational services for adjudicated delinquents throughout Philadelphia and southeastern Pennsylvania. This school has a history of excellent achievement and has received two national awards including the Phi Delta Kappa Award for excellence in discipline. RCA is the only correctional school in the Commonwealth of Pennsylvania where security and open residential students attend school together. The school provides basic, vocational, bilingual, computer and special education, and varsity sports. Through the dedication of the teachers and the assistance of the Bucks County Intermediate Unit No. 22, under the direction of Dr. A. William Vantine, who has rendered tremendous support throughout the school's history, many young lives are getting back on the right track. Utilizing individual instruction combined with small classes, many learning barriers are removed and student motivation is stimulated.

Mr. President, in our information oriented, highly mechanized society, young people who are functionally illiterate, who do not have basic cognitive and reasoning skills, and who lack technical skills and motivation will be unable to compete for jobs and will therefore be locked out of the labor pool. Without steady employment and the hope of a better life, juvenile delinquents are likely to become adult offenders. My dear friend, Harvey N. Schmidt, retired judge of the court of common pleas in Philadelphia, and crusader for academic excellence at this facility, has acclaimed this program for its success in improving math and reading levels as well as teaching "respect for others, self-respect, honor, self-discipline, spiritual development, and dignity." This is why the educational program at the RCA School is so vital. The teachers and administrators at the school are committed to helping students gain the educational skills which will enable them to seek and maintain steady employment. The primary goal is to send students back into society with the skills, habits, and attitudes which will enable them to be a productive member of society.

Mr. President, as chairman of the Senate Juvenile Justice Subcommittee and cochairman of the Senate children's caucus, I know the importance of the work taking place at the RCA School. Without the dedication and commitment of the faculty along with the guidance and support of RCA Service Co. administrators Al Androlewicz, Dr. Laverne C. Cook, and Valaida W. Randolph, many adjudicated delinquents from Philadelphia and southeastern Pennsylvania would have no hope for the future.

I extend my warm regards and thanks to the RCA School for the service being rendered to the Commonwealth of Pennsylvania.

Mr. President, I ask that the names of the staff of the RCA School appear in the RECORD immediately following my statement:

STAFF OF RCA SCHOOL

Chief school administrator, Wylie J. Hinson, Jr.; vice principal, Bryant L. Horsley, Sr.; dean of students, William F. Brown; supervisors, Jeanene I. Anker, Nina Apfelbaum, Jeffrey Brown, Thomas C. Burst, Ronald V. Edwards, and William Simmons; guidance counselors, Victoria Meyers, Michelle Roberts, and Carol Thompson; instructors, Jack Boyd, Bobby Clark, Samuel Cook, Mary Dunbar, Cindy Golden, Warren Hartz, III, Tanya Morgan, Carl Penxa, Valerie Slott, Steven Snyderman, Rhoda Stein, William Stokes, and Leroy White; and teacher aides, Walker Boardley, Craig Hodges, Norman Hodo, James Nash, and Norman Whitehead.●

FUTURE ISSUES IN EMPLOYMENT AND TRAINING

● Mr. QUAYLE. Mr. President, on Monday, October 13, I celebrated the fourth anniversary of the enactment of the Job Training Partnership Act [JTPA] in Indianapolis, IN with a gathering of employment and training policymakers from around the State. In addition to recognizing the achievements of the State and the 17 awards for exceeding their performance standards, we discussed future challenges.

In my remarks, I focused on three areas which present a challenge to the employment and training community as future issues of national concern. These problems are not really addressed by JTPA and they have been with us for some time. I believe that in order to solve them we must take a fresh approach. I ask to have the text of my remarks inserted in the RECORD because, on this anniversary of JTPA, I want to share these thoughts with my colleagues as we begin to look at the challenges we will face in the next Congress.

The remarks follow:

A LOOK AT THE FUTURE

Today we come together to commemorate an event of the past. Just four years ago, President Reagan signed the Job Training Partnership Act into law. We can all be proud to be associated with JTPA from its beginnings to a point where it is a vital part of our economic development strategy and our policy for local and regional growth. But I do not want to dwell on the past today because, as has been often been said, the past is just prologue to the future.

The JTPA in the development of which I am proud to have played the major role, was a significant development in the evolution of our job training laws. It is built on sound principles: a partnership between business and government; a recognition of the differing functions played by local, State and Federal governments; and an emphasis on achieving results rather than regulating process. The fact that this Act was soundly conceived is shown by the fact that even four years later only modest amendments were required—amendments which I am happy to say will soon be signed into law by the President.

We can be proud of the achievements of JTPA since we created it. Nationally, over 5 million people have participated in JTPA programs. More importantly, over 71 percent of its adult participants and 57 percent of its youth participants have found meaningful jobs.

Indiana has done even better than this, with over 79 percent of the adult and 59 percent of the youth participants being successfully placed. It is a tribute to John Mutz and all of you that each SDA in Indiana received incentive awards in the 1985 program year. Over 163,000 people have been enrolled in JTPA in Indiana; and I believe the program has been a vital part of the economic recovery in Indiana that has seen a historic high in the number of people employed in the state and unemployment levels at their lowest point since 1980.

As a final tribute to JTPA, I would emphasize that we are doing a good job of reaching targeted groups who are most in need of usable job training skills: 53 percent of program participants are women, 42 percent are youth under the age of 22, 45 percent are minorities and 40 percent were receiving other forms of public assistance when they entered the program.

But I have not come here only to celebrate the achievements of the past and to honor those of you who have already accomplished so much with JTPA—rather I want to point to the training and education problems of the future and see if we can work together in the same cooperative spirit to find solutions to them. This is especially appropriate today since this is National Job Skills Week (October 12-18). I was the chief Senate cosponsor of this resolution introduced by Senator Gore. The purpose of National Job Skills Week is to focus public attention on training and retraining issues that require national attention and to raise citizen awareness about the need to take individual efforts to develop and continually revamp our human resources.

From where I stand, I see three major unresolved issues relating to labor market policies. I do not have answers to any of them, and I think it will take considerable time, study, and effort until we are in a position to enact remedial legislation. But I would like to outline my ideas to people like you who are involved in the real world of chang-

ing labor markets every day, so that we can work out creative new ideas in the same spirit of partnership that has marked JTPA from its inception.

First, we need to deal with the wasteful duplication and lack of coordination in the effort to train and place persons who lack the necessary qualifications for work.

Especially at the Federal level we have too many agencies and programs to deal with job preparation and placement; agencies and programs which are marked by a lack of coordination and central purpose. I applaud the efforts being made at the State level to deal with this problem and particularly I commend Lt. Governor Mutz's program to implement the five-year strategic plan for employment and training. However, the problem is created at the Federal level and we in Federal government cannot shrink from contributing to the solution.

I do not need to tell you how many separate Federal efforts there are to train those unprepared or unqualified for the labor market; besides JTPA, we have the Work Incentive Program (WIN) and vocational rehabilitation and vocational education and adult education and trade adjustment assistance, not to speak of the Targeted Jobs Credit, community service block grants and Food Stamp workfare programs and welfare demonstration projects. In addition, practically every one of these programs has a placement effort that overlaps with that of the employment service.

I will not shock you when I say we cannot afford the waste of resources that accompanies such duplication of effort—but I do shock all of those who have a vested interest in preserving their particular program. I have introduced and held hearings on a bill that would ameliorate this problem, (S. 1990, the Education and Training Partnership Act) but to be candid we are a long way from developing a consensus that any action should be taken—much less consensus on any specific proposal.

This is an especially difficult problem to face because most of these programs have been around—and done good work—for years, and consequently have years of old habits and entrenched interests to protect them. But we must face the fact that better coordination is needed and make the hard decisions in a cooperative spirit to streamline and better focus our efforts.

Second, we must develop policies to ensure that welfare does not become a condition of life rather than a temporary relief from unavoidable hardship.

For the last thirty years, Congress has struggled to find a way to move employable persons off the welfare rolls to the economic independence of employment. This has become an ever more pressing task as the nature of the AFDC population has changed. The program was started as a way of helping widows, who were not considered employable, support their children; it has become a system of support for the unmarried, divorced or separated who are unable to care for their children, but who by current standards are employable. In 1940 (the first year for which we have data), 69 percent of all the children receiving support were in need because of the death or incapacity of a parent; in 1983 (the last year for which we have data), that number had dropped to 4 percent. The rest have parents for whom employment should provide the route to independence.

Other statistics indicate that among some AFDC recipients, welfare dependency becomes a way of life for the parent during the most formative years of a child's life. The average number of years of receiving AFDC assistance ranges between 5 and 8 and it is highest for those who first receive welfare relief before the age of 22. About 33 percent of those receiving assistance before age 22 are likely to have AFDC assistance for periods of 10 years or more. This percentage drops as the age of first assistance increases going from 26 percent for the 22 to 30 age bracket down to 15 percent or 16 percent for those in age brackets over 30.

We have experimented with work requirements and work incentives; child support enforcement and earned income tax credits and still the single-parent family continues as the greatest cause of poverty in the United States. This is a problem greater than job training; though job training must be a part of the solution. It is a problem of family values and of work ethic; it is a problem that requires government help but also self-help and community help. We see an ever growing body of data that shows that a part of our society is being left behind—and it is imperative that we do not permit the development in this society of a permanent underclass that does not share in the American dream.

I want to insist here that there probably is no government solution to this problem—we can only work at the margins to help those who want to make the effort to break the cycle of dependence. The really important work must be done by society as a whole—we must make sure that our value structure as well as our system of incentives works to encourage strong families and the desire for independence.

Third, a growing percentage of our youth are unprepared for the labor market due to illiteracy or deficiency in other skills—and even more unprepared for the labor market of the future which will demand even greater skills.

While the percentage and even the absolute number of youth in the labor market is declining, an ever larger share of that population is experiencing greater and greater difficulty in finding employment. The percentage of 16 to 24 year olds in the U.S. is projected to drop from a high of 23 percent in 1978 to 16 percent by 1995. Minority youth unemployment rates are astronomical and even those rates do not show the full extent of the problem because an increasing percentage are not even looking for work (and therefore not counted as unemployed).

For September 1986, while overall unemployment stood at 7 percent, it was 16 percent for white youth aged 16 to 19, while the corresponding rate for blacks was near 40 percent. In 1985, 50 percent of all white youths were employed compared to 33 percent of Hispanics and 24 percent of blacks. Minorities are increasing as a percentage of the total youth population. Of those aged 16 to 19, fully 18 percent are now minorities.

We focus on the minority youth and overall youth unemployment problem only to draw attention to the increasing complexity of the problem. Obviously, a multifaceted approach to our effort of bringing youth into the job market is needed. Again job training must be a part of the solution to this problem—but much more than job training is needed. The growing emphasis on the basics in our elementary schools is a welcome development but that development bypasses too many. But we need to focus on more than education and training: the strength of the family, the pervasive battle against drugs, the dependency dilemma, all must be considered as part of the effort to combat youth unemployment.

Each of these issues present a major challenge to our country. Each has a long history of unsuccessful attempts to remedy the problem but that is no reason to be of faint heart. I assure you that when I was first faced with the problem of rewriting our job training laws, I had no solution in hand. But by concentrating on basic principles, seeking the contribution of knowledgeable and interested parties and by searching for consensus among conflicting views, we created a system that works. I am convinced that the same approach can solve other problems—and I can assure you that I will at least try.●

ABORTION AND INFORMED CONSENT: MISSOURI

● Mr. HUMPHREY. Mr. President, imagine receiving a list of potential physical complications of a surgical procedure after the procedure had been performed on you. This is precisely what occurs on a daily basis for thousands of women who have abortions. In her letter Karen paints an outrageous picture of the counseling given to women before they opt for an abortion.

I hope my colleagues will read her letter and sympathize with her final sentence: "How can we be so cruel to the women of our great Nation, not giving all the facts and leaving them to suffer alone?" I urge my colleagues to cosponsor S. 2791 providing for informed consent before abortion.

The letter follows:

KANSAS CITY, MO,
July 2, 1986.

DEAR SENATOR HUMPHREY: I am writing about a matter that is most important to me, informed consent. The prenatal facts and the facts about abortion procedures must be told to a woman before having an abortion. As a woman who has had an abortion, here is my story in part.

What a blow it was at 17, pregnant and unmarried, with unsupportive parents. With nowhere to turn, afraid of losing my parents' love and a roof over my head, I had an abortion. My parents being under the same deception as I, and lacking knowledge of the baby's development, drove me to a three story, dingy, dirty hospital that was used during the Civil War. This was a legal abortion?

The third floor was full of girls who seemed to range between the ages of 13 and 25 or so. I knew in my heart what I was about to do was wrong, but I didn't know how to stop it from happening. I was scared and trapped, screaming in my mind, but nothing coming from my mouth.

The counseling I received at the hospital was of no help. The girl I talked with wasn't much older than myself and all she did was ask me why I wanted the abortion. She either wanted a list of reasons or was waiting to hear how I couldn't afford to raise a child on my own. If I would have known it was a developed baby, and not a blob of tissue (product of conception), I would have had the ammunition to fight with. Never once did she tell me about any assistance I might be able to receive that would help me to bring my baby to term (i.e., homes for unwed mothers). The abortion procedure was explained to me on the table as the doctor was doing the abortion.

As the machine was turned on, my mind went blank. What was happening here? I couldn't believe it was happening to me. This is what my parents thought was best? For me? For them? Definitely not for the innocent baby inside my womb.

The physical complications that might arise were explained to me on a sheet of paper as I was leaving. They never mentioned the emotional problems I would have, nor the spiritual wounds.

How can we be so cruel to the women of our great nation, not giving all the facts and leaving them to suffer alone?

In His Healing Love,

KAREN J. RODERICK.[1]

BILATERAL INVESTMENT TREATIES

● Mr. DODD. Mr. President, over the past 5 years, the Office of the U.S. Trade Representative has negotiated a number of bilateral investment treaties. These treaties are designed to provide added protection for the United States business community and its investments in Bangladesh, Cameroon, Egypt, Grenada, Haiti, Morocco, Panama, Senegal, Turkey, and Zaire. According to the Trade Representative's Office, this is just the first batch of investment agreements. More are sure to follow as negotiations are finalized.

The agreements that have already been negotiated are currently pending before the Foreign Relations Committee, where they have been since the spring of this year. Because of the committee's heavy workload, however, hearings on these treaties could not be held until just a few weeks ago.

In the course of those hearings, I took the opportunity to underscore my support in principle for these agreements and for the efforts by the Trade Representative's Office to secure additional guarantees and safeguards for U.S. business operations abroad. I was convinced then and I believe now that, on balance, these treaties are fine documents, and will serve the commercial interests of the U.S. business community. Clearly, they encourage and facilitate U.S. companies to invest in developing countries friendly to us. They do this by providing a stronger framework within which corporations can operate with a greater degree of certainty.

These goals and objectives are all to the good and they have my full support. But as laudatory and deserving as they are, they do not encompass the full range of U.S. interests overseas. In other words, as I think my colleagues understand, our international economic and commercial interests are not synonymous with the totality of our foreign policy interests. Recent actions taken by either the Congress or the executive branch against South Africa, Libya, and Nicaragua make that very clear. And just as clearly, I think we all realize that as circumstances change internationally, as developments alter and reshape the course of events, as new governments emerge with new leadership, our perception of U.S. interests will be reexamined and will also undergo change and redirection.

Regrettably, Mr. President, the bilateral investment agreements being considered by the Foreign Relations Committee do not recognize the inevitability of such changes and the impact those changes may have on the conduct of U.S. foreign policy. Rather these agreements assume a long-term status quo and provide for future modification only after the passage of a stipulated 10-year period. In other words, were this body to approve these agreements as presented, the United States would be locked into them with virtually no legal escape hatch available to us.

To my way of thinking such an arrangement is both unacceptable and inadmissible. The world is not static. It's not static in South Africa and it's not static in Zaire. It's not static in Libya and it's not static in Egypt. And it's certainly not static in Haiti or Turkey or Bangladesh, or anywhere else for that matter. And no agreement, whether it's designed to advance our commercial interests, secure our military posture or enhance our political standing can alter this basic fact—change is as unpredictable as the weather.

I raised this concern in the course of the committee's hearings on the investment treaties. And I intend to keep raising it until these treaties are modified in such a way that would allow us to terminate them because of over-riding foreign policy considerations or national security reasons. Such a termination clause is fairly standard procedure in most treaty arrangements, whether bilateral or multilateral. It's a standard feature in our mutual security treaties, such as NATO. It's a standard feature of our tax agreements. It should be a standard feature of our investment agreements.

Mr. President, I would like to see the pending agreements approved before the end of session. And I am prepared to accept a modified termination clause, one that would apply to prospective business activity only, providing that such clause not be subject to the arbitration requirements contained in these agreements. I regret that such a formulation has been unacceptable to the appropriate officials in the Trade Representative's Office. My hope is that they will reconsider this matter, thus clearing the way for us to act on these agreements in the closing days of the session.

To put this issue in its proper context, Mr. President, let's look at it this way: Flexibility in foreign policy is both desirable and essential. It is desirable because it permits us to choose among a variety of options. And it is essential because of the hourly, daily, weekly, monthly changes—often dramatic changes—that occur throughout the international community. The bilateral investment treaties that have been presented to the Senate do not allow for the measure of flexibility that is necessary for the successful conduct of foreign policy. By their very terms, they are to remain in force for no less than 10 years—regardless of virtually any other developments that may occur during that period. I am hopeful that U.S. Trade Representative officials will, upon reflection, recognize this shortcoming in the agreements submitted to us, and will move expeditiously to rectify it. U.S. foreign policy interests demand it, and the American business community deserves it.

ELIE WIESEL—NOBEL PEACE PRIZE RECIPIENT

● Mr. KERRY. Mr. President, I am very pleased today to congratulate Elie Wiesel on becoming the recipient of the Nobel Peace Prize for 1986, and to pay tribute to him. Surely there could be no more deserving recipient of the Nobel Peace Prize than Elie Wiesel. As the Nobel Committee stated in bestowing this award, "Elie Wiesel is a messager to mankind. His message is one of peace, atonement, and human dignity." It is highly appropriate that this award was bestowed on the day following Yom Kippur, the holiest day of the year of the Jewish people, which is a day of remembrance and atonement.

I take special pleasure in this award to Elie Wiesel because he is a member of the faculty at Boston University in Massachusetts, where he is the Andrew W. Mellon professor of humanities and professor of religion. I had occasion earlier this year to speak at Boston University during a week of remembrance of the Holocaust, and to meet and talk with Elie Wiesel. Like so many others, I was deeply inspired by my encounter with this humble and spiritual man.

I was also deeply moved by Elie Wiesel when he testified before the Senate Foreign Relations Committee on March 5, 1985, in support of the International Convention on Genocide. He said to us, "Above all, I speak as a witness. I speak as someone who has seen genocide at work.* * * What I have seen from 40-odd years ago should not be seen or endured by anyone alive ever. * * * I have seen the flames. I have seen the flames rising to the nocturnal heavens; I have seen parents and children, teachers and their disciples, dreamers and their dreams and woe unto me, I have seen children thrown alive in flames. I have seen all of them vanish in the night as

part of a plan, of a program conceived and executed by criminal minds that have corrupted the law and poisoned the hearts in their own land and the lands that they had criminally occupied. Then it was called the Final Solution. Today it is called genocide."

Mr. President, I am proud that the U.S. Senate heeded the words of Elie Wiesel, and chose to ratify the Genocide Treaty in this Congress. But I also am saddened that the President of the United States was unable to heed the plea of Elie Wiesel, when he implored the President to reconsider, and to cancel his trip to a Nazi cemetery at Bitburg. In both instances, Elie Wiesel acted as a voice of conscience, in reminding us that we must never forget the horrors of the Holocaust, or allow them to be repeated in the modern world.

Elie Wiesel has been an eloquent moral voice of remembrance, and an inspiration to millions of people. From the publication of his first novel, "Night," in 1958 he has established himself as a powerful moral spokesman for those who cannot speak for themselves, and those who are forever silent. He has been a powerful and eloquent spokesman for the "Jews of Silence," the Jews of the Soviet Union. He has spoken out for the Miskito Indians of Nicaragua, and for the disappeared in Argentina. And he has called upon the conscience of the world to witness and remember the modern-day holocaust in Cambodia.

Elie Wiesel has truly been the conscience of the modern world. All of us owe him an enormous debt of gratitude for his selfless and heroic efforts. I ask that an article describing the life and work of Elie Wiesel, which appeared in today's Washington Post, be printed in the RECORD. I congratulate Elie Wiesel on receiving the Nobel Peace Prize, and I give him my deep appreciation for his inspiration and his example.

I ask that an article about Elie Wiesel be printed in the RECORD.

The article follows:

[From the Washington Post, Oct. 16, 1986]

THE RESTLESS WITNESS

(By Jane Leavy)

When the call came at 5 a.m. yesterday, Elie Wiesel was lying in bed thinking of his mother, his father and sister who died, along with six million other Jews, in Nazi concentration camps more than 40 years ago.

For Wiesel, there was no euphoria in learning that he had won the 1986 Nobel Peace Prize. "I felt melancholy," he said, "I was thinking of the people I lost. Yesterday was Yom Kippur. I was in the mood of Yom Kippur. Would they know? I want so much that they know. I have to do something to justify them. Do they know?"

Knowing is his mission, his life's work. He is a survivor, the witness of the dead, their voice, their son, the one who never forgets. Remembering is his obsession and his burden. He did not ask for it anymore than he can relinquish it. It is his fate.

"For the first time in history, being became a crime," he said at a 1981 ceremony honoring those who died. "We must tell the tale. We must bear witness."

Yesterday, he said, "I would have fallen into total despair if I gave up on this duty. I have to. It's my life. I have to find out. Hundreds died and I did not. Why not?"

In bestowing the award, the Nobel committee answered that question: "Wiesel is a messenger to mankind. His message is one of peace, atonement and human dignity."

He has carried his message in the more than 25 books he has written, in the courses he has taught and in the deeds he has performed as chairman of the U.S. Holocaust Memorial Council. He calls himself a storyteller. Twenty-five years ago he used the word "holocaust" and gave a name to the unspeakable.

In April 1985 he went to the White House to accept the Congressional Gold Medal and implored President Reagan not to lay a wreath at Bitburg cemetery, where Nazi soldiers lie. "That place, Mr. President is not your place," he said, "Your place is with the victims of the SS." This year he chastised the United States, the Soviet Union and Yugoslavia for not exposing the past of former U.N. Secretary General Kurt Waldheim, and letting him find "refuge in oblivion."

He has become "*the* survivor," the irrefutable voice of an absent generation. "Naturally, it is a burden. It is also a privilege," he said. "It is a burden when people don't listen. But you have to go on. Here and there, there is always one who understands, one whose life changes. I am both humble and ambitiously arrogant. I cannot do much. I am one man. But I still hope that there will be one here and there that will be moved and changed. That's enough for me."

He paused and laughed. "Of course, it is nice if the person who is moved is in a position of power."

It is a daunting prospect to be the conscience of a forgetful world. He scoffs at the notion. "If I am my own conscience, it is enough," he said. "I want everyone to have their own conscience."

For 40 years he has grappled with the absence of conscience that allowed the systematic extermination of his people and millions of others. "All in all, the major questions, the essential questions, have not been answered," he has said, "What was it of the nature of man that this was possible? Why so many victims? Why so many killers? Why so many bystanders? All the real questions. Except the questions become deeper and deeper."

Eliezer Wiesel was born on Sept. 30, 1928, in the town of Sighet, now in Romania. He was 15 when his parents and three sisters were taken from their home in the spring of 1944. His mother and his younger sister died at Auschwitz. He was sent to Buchenwald with his father, who died there. He lost track of his older sisters and presumed them dead. When Buchenwald was liberated, he was one of 400 children who refused to be sent back to their homelands. "I saw the lists of the known survivors," he said in 1970. "And I didn't see my sisters' names on them, so I had no reason to want to go home. I wanted to try Palestine, but the British weren't letting us in."

He was shipped to a camp in Normandy, where he was interviewed and photographed by journalists. Soon after, the camp director called him into his office. "He was talking on the phone," Wiesel said. "And I heard my name mentioned. When he hung up, I said, 'Who was that?' He said, 'Your sister.' I didn't believe it. How would she know I was alive and in France? She had seen the article and picture, of course."

Both sisters were alive. He had learned the value of words and images.

He went to Paris, and then to the United States in 1956 (he became a citizen in 1963). His first book, "Night," was published in 1958. "Never shall I forget that first night, the first night in camp, which has turned my life into one long night," he wrote. "Never shall I forget that smoke. Never shall I forget the little faces of the children, whose bodies I saw turned into wreaths of smoke beneath a silent blue sky."

He has told the story of a young boy, who thought he was leaving on a grand adventure, watching a man at the station as the train pulled away: "He got smaller and smaller, and he just stood there looking rather nostalgic, as if he was sorry to see us go, sorry that the job was done now."

The man was Adolf Eichmann. The boy was Elie Wiesel. He has accepted, as his trust, the responsibility for never letting those memories fade. His challenge is to preserve them without desecrating them. He no longer uses the word "holocaust" because, he says, it has been cheapened by repetition.

The paradox envelops even the monument he has worked to build, the U.S. Holocaust Memorial Museum. "My dilemma is I'm not sure what we are doing," he said in 1983. "I know we must bear witness. On the other hand, I see what is being done with our testimony and I despair . . . It's the inherent difficulty in it, that once you turn something so personal and it becomes public, it is threatened by compromise . . . I don't want it to become routine . . . It's too personal."

So, too, there is honor in winning the Nobel Prize, but not exaltation. "I was stunned," he said. ". . . Happy? No. Reflective. Happy is a difficult word to use, but I am very grateful and conscious of the responsibility of the symbolism involved."

He said he hopes the award will add momentum to "my causes, Russian Jews and others who wait for doors to open."

To celebrate, he said, "we'll have tea and coffee."

Wiesel will not be deterred by adulation. "Do you think anything can change me?" he said. "The war didn't change me. Nothing can change me."

In the mid/1960s he returned to Sighet. Twenty years after the war, it was still as he remembered. But instead of a population of 15,000 Jews, there were 50.

"The whole town was exactly the same—the same trees, the same streets, the same houses," he has written. "The same church bells. My own home was the same home as before. I opened the gate and it had the same squeak.

"I looked into my home. They hadn't even moved the furniture. I said, 'Time hasn't changed.' Is it my life? Maybe it's a dream and I'll wake up. Maybe some boy who is 13, 14 years old will come out and he will look exactly the way I used to and will say, 'What are you doing here, stranger? What are you giving to my dream?' "

The lesson was clear. "That people can be removed from life, and unfortunately they don't leave any trace."

Sometimes, he wonders what he would have been had there been no war, no holocaust.

"It has been haunting me," he said. "I probably would have remained in my town. My ideal was to become a Rosh Yeshiva and

to write. I would have written different things, commentaries on the Bible. And I would have been a teacher.

"Strangely enough, I am a writer and a teacher."

He is a professor at Boston University, and lives in New York with his wife Marion, who is also a survivor. They have a son and a daughter.

"Of course, there are reasons to make one happy," said the man who has described himself as having the stare of a corpse. "Joy is contagious."

Still, the memories remain vivid. "Even more so this morning," he said yesterday. "But this doesn't mean I live in a cemetery. I am alive."●

THE PRESIDENT'S COMMISSION ON AMERICANS OUTDOORS

● Mr. CHAFEE. Mr. President, in January 1985 President Reagan appointed a Commission on Americans Outdoors which was to study current outdoor recreation policies and opportunities and make recommendations on how to meet the future outdoor needs of the American public.

The Commission will likely be the focal point for the development of natural resource policy for the rest of the century. This 15-member panel not only must produce a reasoned analysis of the present, it also will have to outline an effective and feasible plan for the future.

The most important challenge facing the Commission will be to recommend a mechanism, involving either modification of the Land and Water Conservation Fund or creation of a new trust fund, which will ensure adequate and reliable, long-term funding for land preservation and outdoor recreation.

The next few months will be decisive. The Commission is due to make its recommendations by the end of the year. As this panel makes its final proposals to the President, I hope they will incorporate the ideas articulated by Robert L. Bendick, Jr., director of Rhode Island's Department of Environmental Management, in last Sunday's New York Times. Over the past year, Bob Bendick has actively sought to ensure that we have a clear and focused program for the remainder of this century which will save America's open space.

Mr. President, I ask that Bob Bendick's article in the New York Times be printed in the RECORD so that we all may understand the importance of the matters being weighed by the President's Commission on Americans Outdoors and the need to see that they chart a course for which future generations will thank us.

The article follows:

THE LAND IS OUR LAND

(By Robert L. Bendick, Jr.)

PROVIDENCE, R.I.—I was standing in a field of wildflowers on Beavertail Point at the entrance to Rhode Island's Narragansett Bay. The sun was sparkling on the water and, just offshore, terns were diving above a school of bluefish. A car with out-of-state plates pulled into the parking lot behind me. A couple got out, walked over and after only a few minutes of small talk the man said: "You know, it's beautiful here. Is any of this land for sale?" I replied, "This is a state park." But I knew they wouldn't give up, because up the road, across the bay and all along the New England coast the land is for sale and somewhere they would find a piece of a farm, beach or bluff to buy, build on and make their own.

Since the landing of the first European settlers on our coast more than 350 years ago, much of American history has been a close (often passionate) relationship with a varied, beautiful and powerful land. That relationship continues to define how we think of ourselves. Watch the soft drink, fast food, beer and car ads on television—filled with farmers, cowboys, sunsets and mountains, with fishing at the lake and driving down country roads. The advertising people have examined how Americans think more carefully than anyone else. They know we associate the outdoors with family, good times and good feelings about ourselves.

But the image of this country seen on those ads has become increasingly hard to find in the real America. Around the metropolitan areas where most of us live, and near the oceans, lakes and mountains where we go to relax, the countryside is being consumed by urban sprawl and by second homes and resort townhouses that only a few can afford.

Fueled by a growing national population, the decentralization of economic activity and increasing affluence, these development trends will continue until, in many parts of the country, there will be far too little open land for far too many people. And there is more to all this than simply losing a nice view or a place for a father and child to go fishing on Sunday afternoon. We are learning that healthy natural system process pollution and reduce its impact. As the shores of our rivers and bays are developed, wetlands filled and trees cut down, we damage the water and air quality upon which we depend.

The loss of our rural and open space is irrevocable. Once subdivided and built on, beaches, river banks, foothills and lake shores will never in our lifetimes be restored. Yet despite the finality of land development, despite the accelerating loss of open land, despite the place we hold in our hearts for the outdoors, we have no functioning national program for preserving open space.

In 1985, President Reagan appointed a Commission on Americans Outdoors, which was charged with gathering information and making recommendations on the future of outdoor America. The commission is now discussing its final proposals for presentation to the President by the end of this year. Some options seem promising:

1. A grassroots effort administered by state and local governments to determine what open land should be saved and how it can be made accessible to and usable by the public.

2. Creation of a permanent National Trust Fund that could provide up to $2 billion a year for preserving and caring for open space.

3. Establishing a system of greenway parks along mountains, rivers, lakes and ocean coasts that would provide large-scale outdoor recreation opportunities to metropolitan area residents while also protecting water quality.

4. A broadening of traditional park concepts to include farms and other privately held land as part of greenway districts.

5. Design of transportation systems to allow urban area residents to more easily use regional open land reserves.

The commission should recommend these ideas to the President and to Congress. In doing so, it can seize the last opportunity to complete the unfinished work of the 19th century conservation movement—to save the open land people will need in the centuries to come—to fish, to canoe, to walk, to be alone, to feel the spirit of the pioneers who defined our national character.●

REDUCTION IN SOVIET DIPLOMATIC MISSION

● Mr. D'AMATO. Mr. President, I am pleased to cosponsor Senate Concurrent Resolution 163, a resolution expressing the sense of the Congress that the total number of Soviet diplomatic agents and consular officers in Washington, DC, and San Francisco be reduced to equal the total number of American diplomatic agents and consular officers serving in Moscow and Leningrad.

The Soviets currently have 274 diplomats at their Embassy in Washington and 39 at their consulate in San Francisco. At the same time, there are 221 American diplomats serving at our Embassy in Moscow and 28 at our consulate in Leningrad. In addition, there are about 218 Soviet diplomats at the missions to the United Nations and 174 Soviet citizens working for the U.N. Secretariat in New York. The next largest mission to the United Nations is that of the People's Republic of China, with 125 officials. In total, there are more than 1,400 Soviet officials in the United States. Meanwhile, there are only 249 Americans in the Soviet Union.

As the recent arrest of Gennadi Zakharov points out, many of these so-called diplomats are actually involved in espionage. In fact, Judge William Webster, Director of the FBI, estimates that nearly 40 percent of the roughly 2,500 East bloc diplomats currently in the United States are spies operating under the cloak of diplomatic immunity. Many, like Zakharov, are involved in operations designed to steal Western technology to enhance Soviet and East bloc weaponry. In testimony before the Permanent Subcommittee on Investigations last year, Judge Webster noted that "the Soviet collection effort is the largest, and in terms of capabilities, the most difficult to counter."

During the early 1970's, the Soviet Union established the Military Industrial Commission, made up of representatives from the Council of Ministers, the Foreign Trade Ministry, the KGB, and the GRU, the Soviet military intelligence organization. According to a report produced by the French, the Soviets transfer 10,000

pieces of equipment and 100,000 sensitive documents from the West to the Soviet Union each year. This flow represents not only an economic drain, but also, and more importantly, a direct threat to our national security.

While adoption of Senate Concurrent Resolution 163 will not solve the problem, it is an important first step. The way to avoid a repeat of the recent Zakharov-Daniloff imbroglio is to prevent Soviet spies from entering the United States in the first place. The inflated Soviet diplomatic presence must be reduced now. I urge my colleagues to support adoption of this resolution to compliment existing language, passed and signed into law last year as part of the State Department Authorization Act, calling for a reduction in the size of the Soviet missions to the United Nations.●

THE DISTRESS SALE POLICY

● Mr. WEICKER. Mr. President, in 1978 the Federal Communications Commission adopted the distress sale policy. I believe that this policy is a wise and beneficial one and I would oppose any attempt to weaken or abandon it.

The Federal Communications Commission awards television and radio broadcast licenses. Television licenses are granted for 5 years and radio licenses for 7 years. If a licensee allegedly acts in such a way as to disqualify him as broadcaster, the FCC may hold a hearing to revoke the license or deny renewal. If the license in revoked or renewal is denied, the broadcaster receives no compensation.

The distress sale policy allows a broadcaster that is under question for his actions to sell his license to a minority buyer under two conditions. First, the sales price must be 75 percent or less of fair market value. Second, the sale must occur prior to the commencement of a hearing.

Mr. President, the distress sale policy has many benefits. No. 1, it promotes the ownership of broadcast licenses by minorities, who are grossly underrepresented—1.8 percent—in the industry at present. So far, the policy has resulted in the sale of 25 stations to minority businesses. No. 2, the policy benefits the FCC. The Commission avoids costly and protracted procedures. No. 3, the public benefits by a relatively smooth and quick transition from one licensee to another. The alternative of a comparative hearing could result in a long period of time without the station being operational. No. 4, the selling licensee benefits by receiving some compensation for the license. He is punished, however, since he receives at most 75 percent of fair market value.

In the State of Connecticut, such a distress sale occurred in 1985. The previous owner of the station engaged in behavior that clearly violated the conditions of its license. The people of the Hartford area suffered, because channel 18 was not being used to its capacity. Astroline Communications Co., an Hispanic owned and operated business, offered to buy Channel 18. In December 1985, the FCC gave the go ahead for this sale. Since buying the station, Astroline has updated the facilities and created new jobs. In addition Connecticut television viewers have a new option in programming that is attracting a growing audience. The people of Connecticut have certainly benefited from this distress sale.

The distress sale policy works. It benefits minorities. It allows qualified broadcasters the opportunity to break into a tough, highly competitive industry.

Mr. President, I believe the distress sale policy should remain unchanged and I know the people of the State of Connecticut who have enjoyed Channel 18 agree.●

MILITARY RULES OF ENGAGEMENT

● Mr. GOLDWATER. Mr. President, the American Bar Association Standing Committee on Law and National Security, and the Center for Law and National Security of the University of Virginia, are cosponsoring a special conference on October 17 and 18 on the subject: "The Vietnam Debate: A Fresh Look at the Arguments."

In particular, I am pleased to note that one of the major topics to be reviewed at the conference is the rules of engagement, the detailed restrictions imposed on American fighting forces in North Vietnam, Laos, Cambodia, and South Vietnam. I have long been convinced that these strict rules, in part motivated by humanitarian reasons, but primarily reflective of civilian political decisions, denied our military forces the victory that would otherwise have followed in Southeast Asia.

It is only last year, almost two decades after the event, that I was finally able to persuade the Department of Defense to downgrade the rules and certain related military studies. These materials were placed in the RECORD in March 1985 so that they might be readily available for the press and the public as a source of documentation and information of how the Armed Forces were handcuffed in the Vietnam War.

Today I wish to offer for the RECORD a valuable analysis and summary of the rules of engagement prepared by Mr. Terry Emerson of my staff, who has been invited to give one of the presentations at the national conference which will be held in Charlottesville tomorrow. To my knowledge, his is the first address to draw on the new information which has become available, and I think it contributes to public discussion and knowledge of the subject. I ask that his paper appear in the RECORD.

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MAKING WAR WITHOUT WILL: VIETNAM RULES OF ENGAGEMENT

(By J. Terry Emerson, Counsel to U.S. Senator Barry Goldwater)

INTRODUCTION

Neither a dovish Congress, nor an ineffective military, lost the war in Vietnam. Rules of Engagement, imposed by civilian officials, did.

Although Congress and Watergate share blame for thwarting Presidential ability to enforce the peace agreement with Hanoi after January 1973, civilian managers in the Executive Branch had long before prevented a military victory by dictating Rules of Engagement which were overly specific, inconsistent and unresponsive to the best professional military judgment.[1]

This is the conclusion of Senator Barry Goldwater and of other critics based on newly declassified documents revealing the incredibly complex and comprehensive set of self-imposed restrictions that governed the conduct of the war.

THREE CATEGORIES OF RULES

The controls fell into three categories, with those formally termed Rules of Engagement being promulgated by the Joint Chiefs of Staff pursuant to political policies imposed by the President and Secretary of Defense.[2] These Rules were designed to keep the war limited and avoid international incidents, in particular the possibility of direct confrontation with Communist China or the Soviet Union. The Rules dealt with operations in border areas and countries, with the Demilitarized Zone and with air operations conducted over North Vietnam. An unusual situation existed in Laos where, by Presidential directive, theater responsibility for all U.S. military operations was vested in the American Embassy, Vietnam, which validated all targets and areas of operation.[3]

A second set of restrictions, known as Operating Rules, were the responsibility of COMUSMACV (Commander, United States Military Assistance Command, Vietnam), who delegated most of the authority to the Commander, Seventh Air Force. These limitations governed the conduct of the ground war, tactical air operations and Naval gun fire missions.[4]

A third set of rules were designated Operating Restrictions. They were contained in the CINCPAC (Commander-in-Chief, Pacific Command) Basic Operations Orders and included prohibtions against striking locks, dams, dikes, hydro-electric plants and fishing boats.

POLICIES REPRESENTED BY RULES

Many of the Rules were designed to safeguard the lives and property of non-combatants. For example, the requirement to vali-

[1] In May 1984, before an earlier ABA Conference on Vietnam, I documented the numerous statutes in which Congress had collaborated with the Executive in making national policy for Indochina, beginning with 1949 when Congress literally shoved funds on President Truman to support anti-communist forces in the region.

[2] See discussion of three types of ROE in foreward to USAF Project CHECO 1966-69, reprinted in 131 Cong. Rec. (daily ed. Mar. 14, 1985), S. 2982.

[3] Project CHECO 1966-69, id., at S 2985.

[4] In an attempt to make target validation and clearance procedures for all Allied Forces consistent, American advisors were directed to insure that their Vietnamese counterparts adhered to all Rules of Engagement. American fire missions in support of South Vietnamese operations were restricted to those falling within the guidelines, and the Rules

date and approve potential targets for air strikes in South Vietnam permeated the entire system for command and control of United States air power used in a ground support role. Fire missions against villages and hamlets were required to be preceded by warnings made by leafelts or loud speakers, controlled by an airborne or ground observer, and executed only after approval by the Province Chief directly, even when hostile free fire was received from the area.[5]

In addition to humanitarian interests and the goal of keeping or winning the loyalty of the population, the Rules were cognizant of the law of war. Directives were published "to reaffirm the prohibition against commission of war crimes and related acts" and to establish a system for reporting suspected serious crimes or incidents, whether inflicted upon U.S. military or civilian personnal "or by U.S. military personnel upon hostile miliary or civilian personnel." [6]

It is not my purpose to focus on the law of war or command criminal responsibility, although it should be pointed out that in 1955 the United States ratified four Geneva Conventions relating to international conflicts and in 1977 signed two Protocols governing the conduct of war, which remain unratified.[7] Rather, I will look at the practical consequences of implementing a rigid code of self-imposed, and some would say, self-defeating restrictions, such as those which bound the U.S. military force in Vietnam.

DECLASSIFICATION OF RULES

The Rules evolved into an extensive, detailed set of restrictions, not easily committed to memory or to being implemented under moments of extreme stress. Even so, Seventh Air Force required all strike air crews and Forward Air Controllers to demonstrate a thorough knowledge of the Rules before assuming operational duties and to complete a written examination.[8]

For years the details of these Rules were classified "top secret." It is only in 1985, after the repeated and persistent efforts of Senator Goldwater and with the personal involvement of Secretary Weinberger, that the actual text of the Rules and certain related official studies were declassified. Of particular interest is Project CHECO (Contemporary Historical Examination of Current Operations), a scholarly historical documentation and examination of United States Air Force combat operations in Southeast Asia covering the period from 1960 to September 1972. The activity was managed by Headquarters, Pacific Air Forces, and provides an ongoing report on USAF policies and experiences prepared on a contemporary basis during the Vietnam War.

The actual Rules for operations in North Vietnam, Laos and Cambodia were issued in the form of daily message traffic and were not retained. They are described, however, in the three volume CHECO report. The detailed Rules for South Vietnam were issued as official directives and were preserved. These materials were placed in the CONGRESSIONAL RECORD by Senator Goldwater as a series of publications on March 6, 14, 18 and 26, 1985.[9]

DETAILED RESTRICTIONS

These documents reveal just how comprehensive the restrictions were that bound our forces in Vietnam. For example, one rule told American pilots they were not permitted to attack a North Vietnam Mig sitting on the runway. The only time it could be attacked was after it was in flight, was clearly identified and showed hostile intentions. For most of the war, our pilots were not authorized to attack North Vietnam military air bases even when engaged in immediate hot pursuit of hostile enemy aircraft. As late as May 1971, no North Vietnam airfield on which third nation aircraft were present could be attacked. A "hostile intention" rule applied to truck convoys driving on highways in Laos and North Vietnam. In some areas, enemy trucks could escape attack under the Rules simply by driving off the road. Military truck parks located more than 200 meters from a road were not destroyed under this Rule.

Another Rule provided that SAM missile sites and supporting radar systems could not be struck while they were under construction, but only after they became operational and actually fired at Allied aircraft. Moreover, targets were to be attacked only when weather conditions permitted their positive identification. Until the end of 1971, aircrews in South Vietnam had to refer to at least four basic sources of operation orders to find the applicable Rules. In Laos, photographic reconnaissance was prohibited on weather flights. According to Seventh Air Force records, the average time consumed between identification of a target area in Laos and the clearance to strike was 15.5 days. In order to get validation for restrike, another five or eight days were required. Since success of the missions required timely strikes in response to the most recent intelligence, the effectiveness of the bombing was lost.[10]

When the Rules were relaxed, the changes were gradual and not strong enough to serve strategic ends. Many times, limited extensions of target areas were granted, only to be withdrawn soon afterwards. Numerous bombing halts interrupted the effectiveness of earlier air operations.

PREPAREDNESS INVESTIGATING SUBCOMMITTEE REPORT

In 1967, the Preparedness Investigating Subcommittee of the Senate Armed Services Committee conducted extensive hearings relative to the conduct of the air war against North Vietnam. After gathering the facts, the Subcommittee issued a report on August 31 which was strongly critical of the Rules of Engagement.

The Subcommittee concluded: "That the air campaign has not achieved its objectives to a greater extent cannot be attributed to inability or impotence of air power. It attests, rather, to the fragmentation of our air might by overly restrictive controls, limitations, and the doctrine of "gradualism" placed on our aviation forces which prevented them from waging the air campaign in the manner and according to the timetable which was best calculated to achieve maximum results." [11]

The same report observed that Secretary of Defense McNamara and the Johnson Administration had discounted the unanimous professional judgment of our military commanders and the Joint Chiefs and substituted civilian judgment in the details of target selection and the timing of strikes. The Subcommittee charged these civilian managers with having "shackled the true potential of air power and permitted the buildup of what has become the world's most formidable antiaircraft defenses." [12] An important source of disagreement between the Subcommittee and Secretary McNamara arose out of its discovery that the Rules of Engagement were directly attributable for the fact that *"during the entire year of 1966 less than 1 percent of the total sorties flown against North Vietnam were against fixed targets on the JCS target list."* [13] Here the Subcommittee was referring to the fact that none of the targets could be hit without specific approval of the Secretary of Defense or other high civilian authority.

IMPACT ON MILITARY OPERATIONS

In military eyes, the concentration of the air war to areas well south of the vital Hanoi-Haiphong regions left the important targets untouched and created a large haven into which the enemy could with impunity import war materials, construct sanctuaries for his aircraft and install anti-aircraft defenses. By failing to close the major ports, prohibiting aerial mining of coastal water lines of communication and forbidding a bombing attack cutting off rail and road lines to China, air operations were piecemealed.[14] The result was to allow North Vietnam to adjust to the air campaign by importing war materials from Communist countries through routes immune from attack and then disbursing and storing this material in sanctuaries. From these safe areas North Vietnam infiltrated the material to South Vietnam and Laos. Thus, the Rules permitted the enemy to protect its forces and material, provided it with secure military training and staging areas and placed outside the reach of American air power precisely those areas which military judgment considered most essential to strike.[15]

One of the tragic consequences of the Rules of Engagement was the impact on American aircraft and pilot losses by giving North Vietnam time to build up its sophisticated air defense system and to disburse its stocks of war supplies. The point on which

[5] Hq., USMACV, Directive 525-13(C); 7AF Regulation 55-49.

[6] Hq., USMACV, Directive 20-4, "Inspections and Investigations; War Crimes and Similar Prohibitive Acts."

[7] Geneva Conventions of Aug. 12, 1949, 6 U.S.T. 3114, 3217, 3316, 3516, 1977 Geneva Protocols I and II, 72 Am.J. Int'l. L. 457, 502.

[8] Project CHECO 1969-72, reprinted in 131 Cong. Rec. (daily ed., Mar. 18, 1985) S 3012.

[9] 131 Cong. Rec. (daily ed.) S 2632-2641 (Mar. 6, 1985, Project CHECO 1960-65), S 2982-2990 (Mar. 14, 1985, Project CHECO 1966-69), S 3011-3018 (Mar. 18, 1985, Project CHECO 1969-72), S 3511-3520 (Mar. 26, 1985, ROE, Republic of Vietnam). Also see substantial portions of ROE declassified in 1975 at request of Senator Goldwater, 121 Cong. Rec. 17551-17558. Although the actual Rules have been downgraded, many pertinent studies on deposit in the military services' schools are still classified.

[10] All restrictions highlighted in the text at pages 4 and 5 are discussed and documented in the three Project CHECO reports or text of ROE cited in note 9, id.

[11] Preparedness Investigating Subcomm. of the U.S. Senate Comm. on Armed Services, Report on Air War Against North Vietnam, p. 2, 90th Cong., 1st Sess. (1967).

[12] Id., at 9.

[13] Id., at 4. (Emphasis in original.)

[14] The ineffectiveness of piecemeal bombing has been graphically revealed by Albert Speer, director of Nazi Germany's wartime economy, who insists that the allies could have brought armaments production "completely to a standstill" in 1943 by making concerted attacks on the ball-bearing industry. Instead, Speer writes, the attacks on that industry ceased abruptly and "the allies threw away success when it was already in their hand." A. Speer, "Inside The Third Reich," at 285-286, The MacMillan Co., N.Y. (1970).

[15] Project CHECO 1966-69, supra note 9, at S 2983-2985.

military experts disagreed most vehemently with civilian managers was the certainty among professional military men that these self-imposed restrictions greatly increased U.S. casualties.[16]

JOINT CHIEFS ARGUE FOR STRONGER ACTION

Some writers have editorialized that military leaders did not convey to civilian officials the depth of their concern with the Rules. However, both the Pentagon Papers and the newly declassified documents reveal that the Joint Chiefs repeatedly argued against the artificial limitations impeding the military mission in Indochina. A handful of civilian advisors, such as Walt Rostow, agreed with military professionals that systematic and continued bombing of war making resources in North Vietnam would have decisive results, but Secretaries of Defense McNamara and Clifford refused to relax the Rules.

The Joint Chiefs and commanders in the field pressed time after time for changes. For example, a message from CINCPACAF on March 28, 1968, challenged the restrictions in the North as being inconsistent with the build up and reenforcement of U.S. forces in South Vietnam.[17] Also in early 1968, this view was pressed on Secretary of Defense Clark Clifford, who had convened a senior group of advisors on the war from the State and Defense Departments, CIA and White House. General Wheeler submitted a paper to this group on behalf of the Joint Chiefs. The cover memo for his paper noted that "General Wheeler would favor action to close the Port of Haiphong through mining or otherwise." But he did not present a specific paper on that item because President Johnson had already indicated that closing the ports was not an action he was going to consider, even as part of a new, comprehensive review.[18]

JCS BOMBING PAPER

What remained in the Joint Chief's paper was clear enough. It recommended:

"An integrated interdiction campaign should be undertaken against the road, rail and waterway lines of communication with the objective of isolating the logistics base of Hanoi and Haiphong from each other and the rest of North Vietnam." [19]

To achieve this objective, the Chiefs advised it was necessary to reduce the restricted and prohibited areas around Hanoi and Haiphong and to delete the Speical Northeast Coastal Armed Reconnaissance area which limited attacks on North Vietnamese craft to those within three nautical miles of the coast.

The Joint Chiefs explained how North Vietnam had taken advantage of the sanctuaries given them in the cities. The JCS paper stated:

"There have been repeated and reliable intelligence reports that indicate civilians not engaged in essential war supporting activities have been evacuated from the cities of Hanoi and Haiphong. Photographic intelligence, particularly of Haiphong, clearly shows that materials of war are stockpiled in all open storage areas and along the streets throughout almost one-half of the city. Rather than an area for urban living, the city has become an armed camp and a large logistics storage base." [20]

CHRISTMAS BOMBING AND PEACE AGREEMENT

But the Joint Chiefs' paper fell on deaf ears. On March 31, 1968, President Johnson announced he would not seek reelection and, at the same time, he restricted air strikes on North Vietnam to a line south of the 19th parallel. On December 1, he ordered the total halt of bombing and of B-52 overflights of North Vietnam, even during the conduct of authorized strikes within the Demilitarized Zone. From then until May of 1972, not even preemptive strikes against the maturing North Vietnamese Air Defense System south of the 20th parallel were authorized. This permitted the system to reach a high level of sophistication in which the North Vietnamese linked GCI (Ground Controlled Intercept) radars with the lock-on radar capability of SAM sites, allowing the enemy to aim SAMs undetected by our aircrews until the instant of firing.[21]

During the last week of March 1972, General Lavelle, Commander of the Seventh Air Force, was recalled for allegedly violating these restrictions. The same week North Vietnam launched a major offensive against South Vietnam and the Rules he was charged with offending were soon obsolete. Air operating authorities were steadily broadened through April until May 9, when President Nixon announced the mining of Haiphong Harbor and permitted interdiction bombing throughout North Vietnam below the Communist China buffer zone.[22] These attacks culminated with twelve consecutive days of B-52 strikes starting on December 18, 1972, and the rapid settlement of peace talks with Hanoi.[23]

CONCLUSION

Were the political considerations which initiated the Rules of Engagement well founded? Or might the architects of these restrictions be fairly criticized for lacking sufficient confidence and will?

In "Years of Upheaval", Henry Kissinger writes:

"The Kennedy and Johnson administrations trapped themselves between their convictions and their inhibitions, making a commitment large enough to hazard our global position but then executing it with so much hesitation as to defeat their purpose. They engaged us in Indochina for the objective of defeating a global conspiracy and then failed to press a military solution for fear of sparking a global conflict—a fear that was probably as exaggerated as the original assessment."[24]

Without derogating the principle of civilian control of the military, it should be recognized that once diplomacy has failed and civilian policy makers have decided on war, the result of placing military strategy and tactical operations under the day-to-day direction of unskilled amateurs may be a greater sacrifice in blood and the denial of a military victory. The lesson of Vietnam is that once Americans forces are committed, there is no logical goal except to prevail.●

[16] These concerns echoed the admonition given by President Eisenhower, who a decade earlier had instructed a National Security Council meeting on United States policy toward the Far East, that "he wanted no more sanctuaries as had existed for the Communists in Manchuria during the Korean War." NSC Meeting of Dec. 1, 1954, Foreign Relations of the United States 1952-54, vol. XII, part 1, at 1006, U.S. Government Printing Office, Washington, DC (1984).

[17] Project CHECO 1966-69, supra note 9, at S2984-2985.

[18] U.S. House Comm. on Armed Services, "United States-Vietnam Relations 1945-1967" (Pentagon Papers), Book 6 of 12, "The Air War in North Vietnam," vol. II, p. 174, 92nd Cong., 1st sess., U.S. Government Printing Office (1971).

[19] Id., at 174.

[20] Id., at 176. Also see the Joint Chief's major memorandum for the Secretary of Defense calling for increased pressures on North Vietnam, dated Oct. 17, 1967, id., at 108-112, and the JCS air interdiction plan forwarded to Secretary McNamara on Apr. 14, 1966, id., vol. I, at 78-79.

[21] Project CHECO 1969-72, supra note 9, at S3015-3016.

[22] Id. at S3017.

[23] Hanoi rushed back to the negotiating table even with the certainty of a congressional cut off of aid soon after the new legislative session began Jan. 3, 1973. The bombing ended on Dec. 30, 1972, and the Peace Agreement was initialled on Jan. 23 1973. H. Kissinger, "White House Years", at 1446-1461, Little, Brown & Co., Boston (1979).

[24] H. Kissinger," Years of Upheaval," at 82, Little, Brown & Co.,

JOB TRAINING FOR ALL AMERICA'S YOUTH: THE ESCALATING NEED

● Mr. GORE. Mr. President, this week, October 12-18, has been designated National Job Skills Week. At a recent press conference on National Job Skills Week, Larry Brown, who serves as both president of the 70001 Training and Development Institute and chairman of the National Youth Employment Coalition made remarks about youth unemployment and school dropout rates in conjunction with the issues of job training and job skills. I want to share Mr. Brown's statement with my colleagues, and I ask that it be printed in the RECORD.

The statement follows:

REMARKS BY LARRY BROWN, PRESIDENT, 70001 TRAINING AND EMPLOYMENT INSTITUTE; CHAIRMAN, NATIONAL YOUTH EMPLOYMENT COALITION

For years, youth unemployment and excessive school dropout rates have been considered a serious social problem with economic overtones. But if the demographers are to be believed, during the next ten years these problems will become America's principal economic shortcoming as well as a tinderbox for explosive social upheaval.

The size of the labor force will not meet the demand and the skills, both basic and occupational, of new workers will fall woefully short of the fundamentals required in the workplace.

The implications on productivity are evident. The cost of goods and services will be driven up by the added expense of employer supplied education, day care, and retraining, while output is slowed by a workforce unable to efficiently manipulate new technology. Skilled workers, high in demand, will change employers regularly.

Wrenching social pressure will create unfortunate ironies. Youth unemployment will stay high, although many fewer youth enter the labor market. General unemployment will continue while jobs remain unfilled because skills do not match demand. U.S. workers will remain idle while additional jobs are sent off-shore or skilled immigrants are invited in as guest workers and dislocation continues in some areas and industries while others experience shortages. Single mothers will decline opportunities to work because of the unavailability of affordable daycare, making unemployment and welfare the only alternative.

Small business will face a novel threat from large companies. It won't be competition for financial capital, but for human re-

sources. The corporations that will be able to afford company schools, in-house daycare, and similar incentives, will be the ones able to attract skilled workers in scarce supply.

The statistics which describe the problem and the population are bleak, but we deceive ouselves if we conclude that somehow its the people we are discussing that are flawed—that they are unable or unwilling to be a part of the American workplace. Quite the contrary, 70001 Training and Employment Institute has had the privilege of serving over 60,000 high school dropouts and we come away from that experience with optimism.

These young people have dreams, hope, resilience, and determination. They are also reasonable and practical. They do not expect to have a job or a paycheck handed to them, but neither are they willing to pursue help that is inaccessible or unobtainable. They will walk out of schools that are insensitive or unsafe. They will have babies if that's the only way to care or be cared about and they will remain unskilled if the hurdles into a job training program are too severe or too impractical.

National Job Skills Week is part of both a simple and complex story. The simple one is that jobs now and tomorrow require people who are trained and always prepared for retraining. The complex story involves preschool education, dropout prevention and recovery, adult literacy, teen parenting programs, subsidized child care, welfare reform, and rational immigration policy. They are all part of the narrative that will characterize America's workforce, for better or worse, in the year 2000.●

GREEK INDEPENDENCE DAY

● Mr. SPECTER. On October 8, 1986, the Senate passed Senate Joint Resolution 308, as amended by the House, to commemorate March 15, 1987, as Greek Independence Day in the United States. I was pleased to sponsor the original version which passed the Senate earlier this year, commemorating March 25, 1986, as the 165th anniversary; and to work with Senator LAUTENBERG to see that the amended resolution was enacted.

Over 165 years ago the Greeks began the revolution that would free them from the Ottoman Empire and return Greece to its democratic heritage. It was, of course, the ancient Greeks who developed the concept of democracy in which the supreme power to govern was vested in the people. Our Founding Fathers drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy. How fitting, then, that we should recognize the anniversary of the beginning of their effort to return to that democratic tradition.

This democratic form of government is only the most obvious of the many benefits we gained from the Greek people. The ancient Greeks contributed a great deal to the modern world and particularly to the United States of America, including art and philosophy, science, and law. Today, Greek Americans continue to enrich our culture and to make valuable contributions to American society, business, and government.

By this resolution, we are saluting the accomplishments of Greek-Americans in every field. And we are confident that United States-Greek relations will continue to improve strongly in the years ahead.●

SUPERFUND

● Mr. MITCHELL. Mr. President, 2 weeks ago, the Senate passed the Superfund conference report by a vote of 88 to 8. Last week, the House also passed the reauthorization package by a vote of 386 to 27. These votes demonstrate beyond any doubt that this legislation has the strong support of the entire Congress.

We have labored long and hard to produce an agreement that would garner this kind of overwhelming support. The issues are complex, but the need is critical. Congress has already consumed much time in completing this reauthorization process, but we have finally accomplished our task in a manner that is acceptable to about everyone.

Regrettably, however, we have been told that the President is seriously considering a pocket veto of this legislation.

It is clearly the prerogative of the President to veto legislation he opposes. It is also the prerogative of the Congress to override the veto. A pocket veto, however, thwarts the will of Congress. This is particularly true in the case of Superfund, where Congress has made its will known so clearly.

Rather than permit the President to pocket veto this essential legislation, I urge the majority leader to not adjourn sine die until Congress has a chance to vote on an override of a Presidential veto, if there is one. I understand the House is interested in staying in session, and 81 Senators signed a letter in support of no adjournment until the President signs or vetoes the bill.

The effect of a pocket veto of Superfund would be devastating. Everyone concerned about cleaning up toxic waste sites agrees that there are thousands of sites, far more than we first estimated. This massive problems will continue unabated if the President refuses to sign the legislation.

Superfund protects public health. If the President vetoes Superfund, the program will be shut down. Without Superfund, children near Superfund sites will continue to drink contaminated water and play in contaminated soil and will become ill from the exposure to the hazardous substances.

Many of us have worked to prevent such an outcome. We believe that there should be a program in place to protect people from exposure to hazardous substances. It will be a sad day if the President vetoes Congress' decision to provide for such a program. The public health would be at risk if the President vetos this legislation without giving Congress a chance to override the veto.

I urge the President to consider the pleas of the public and of the members of Congress and sign the Superfund legislation.

I also urge the majority leader to keep the Senate in session so we will have a chance to respond to a Presidential veto, should one occur.●

CEREMONIAL DEDICATION FOR THE NEW NAACP HEADQUARTERS

● Mr. SPECTER. Mr. President, on Saturday, October 18, 1986, for the first time in the history of its 77 years of existence, the National Association for the Advancement of Colored People [NAACP] shall open the doors of its new permanent national headquarters and conference center in Baltimore, MD.

This important landmark will provide additional facilities for a library, research, and archives center. According to Dr. Benjamin L. Hooks, executive director of this prominent civil rights organization, "buying our own building is symbolic of its efforts to promote economic equality and would serve as 'the Camp David of Black America.'"

FROM THE NIAGARA MOVEMENT TO NOW

The history of the NAACP is one that is well known. As noted by Dr. John Hope Franklin, a renowned black historian in "From Slavery to Freedom: A History of Negro Americans,"

> The sordid picture of Negro life in America in the 20th century had moved a group of young blacks as early as 1905 to reorganize for determined and aggressive action in order to secure full citizenship. They reasoned that the day of temporizing was over; a war was on and they decided to fight to the finish. This group, under the leadership of W. E. B. Dubois met at Niagara Falls, Canada in June 1905 and drew up a platform for aggressive action. Among other things, they demanded freedom of speech and criticism, manhood, suffrage, the abolition of all distinctions based on race, the recognition of the basic principles of human brotherhood, and respect for the working man.

Despite an open attack made on them for their radicalism, this group incorporated themselves as the Niagara Movement and met at Harpers Ferry in the following year.

In 1909, on the birthday of President Abraham Lincoln and in the spirit of abolition, a conference was held to address the issue of the "Negro question," which was extremely prevalent due to the high intensity of race wars in the North. It was a distinguished gathering of educators, professors, publicists, bishops, judges, and social workers.

After many long hours of discussion and debate, plans were made to establish a permanent organization, which came to be known as the National As-

sociation for the Advancement of Colored People.

The organization pledged itself to work for the abolition of all forced segregation, equal education for black and white children, the complete enfranchisement of blacks, and the enforcement of the 14th and 15th amendments.

In the first year of its existence the NAACP launched a program to widen the industrial opportunities for blacks, to seek greater police protection for blacks in the South and to carry on a crusade against lynching and lawlessness. Important instrumentalities in carrying out its program were the publication The Crisis and the Legal Redress Committee. It was the primary task of DuBois to get the magazine going.

In 1910 the NAACP launched its first successful legal effort to have a Baltimore statute declared unconstitutional, legalizing residential segregation. During the same year the organization won the release of two young black men held in New Jersey on trumped up murder charges.

In 1917 riots broke out in East St. Louis, IL, in Waco, TX and Memphis, TN. In response, black writer James Weldon Johnson, NAACP field secretary, organized an antilynching parade in New York. The huge demonstration attracted 15,000 black marchers who paraded down Fifth Avenue. It was the first of many such protests.

The organization reached new heights in the 1950's and early 1960's. In 1954, the NAACP took part in the historic Supreme Court cases, *Brown* versus *Board of Education of Topeka, Kansas,* which marked the end of legal segregation in education. During the following decade the NAACP reached its peak. Its membership soared from less than a quarter of a million to more than 500,000.

PUSHING A PROGRAM OF BLACK SELF-HELP

Today, under the leadership of Dr. Hooks, the NAACP has directed a significant level of emphasis on reducing the economic gap between blacks and whites. They are calling on blacks to recognize the potential of their consumer dollar as economic clout and to regenerate this capital in the black community to develop economic self-sufficiency.

Building on the economic accomplishments over the years the NAACP is currently engaged in "fair share" hiring and contracting accords with 32 firms, and has actively participated in boycotts to protest U.S. corporation involvement in South Africa.

In the political arena, the NAACP leadership has inspired a new emphasis on organizing the black community, particularly on voter registration and education, and the development of voting blocs during local and congressional elections.

Despite critics' charges that the NAACP has outlived its usefulness, it is my strong belief that we can never abandon the banner for human and civil rights for blacks and other minorities in America.

The NAACP has done invaluable work. It has put forth consistent and unwavering efforts in litigating cases over the years. It is the NAACP which has been at the forefront of recording the racial implications of one legal case after another. Its role in the history of the black struggle is unmistaken and indispensable.

Mr. President, I urge my colleagues to join me in commemorating this joyous historical occasion and to encourage the work for its continued success.●

SALUTE THE BOYS OF VIETNAM

● Mr. SASSER. Mr. President, I would like to bring to the attention of my colleagues in the Senate a song written by a man in Florida and dedicated to the veterans of the Vietnam conflict.

Entitled "Salute the Boys of Vietnam," the song is currently being distributed by the Fischer & Lucas Co. of Nashville, TN.

I had the pleasure of meeting Mr. Fischer recently and receiving a copy of the song and a note from J.C. Weaver, its author.

This song was written for the boys of Vietnam because of the strong feeling I have in my heart . . . . for every time I see a boy with an arm missing, a leg missing, or even blind, he tells me he was in the Vietnam war—I know they didn't choose to go there, but they did to represent America. May God bless them!

Mr. President, I would like to share the lyrics of this song with the Senate, and I ask that the lyrics be printed in the RECORD.

The lyrics follow:

SALUTE THE BOYS OF VIETNAM

Leaving home with papers in hand
To fight a war that no one understands
Trying to be a man in this strange land
Crawling through the jungles of Vietnam

We salute the boys of Vietnam
We salute the ones that gave it all
We salute the boys of Vietnam
We salute the ones that had to fall

Shiny medals and ribbons of a war
Memories of a battle that is no more
Fighting boys of America who stood tall
Remember those whose names are on the wall

We salute the boys of Vietnam
We salute the ones that gave it all
We salute the boys of Vietnam
We salute the ones that had to fall

We salute the boys of Vietnam
We salute the ones that gave it all
We salute the boys of Vietnam
We salute the ones that had to fall

HONORING MS. CLAUDIA DEWANE, DIRECTOR OF THE VIETNAM VETERANS OUTREACH CENTER IN HARRISBURG

● Mr. SPECTER. Mr. President, 11 years after the United States conflict with Vietnam has ended, our Nation still struggles to understand one of the most turbulent eras in American history. It is therefore with great pride that I recognize Ms. Claudia Dewane and her efforts on behalf of Vietnam veterans in central Pennsylvania.

As director of the Vietnam Veterans Outreach Center in Harrisburg, PA. Ms. Dewane is contributing to the healing process that our Nation is now experiencing following the Vietnam conflict. Addressing what she views as an unresolved sadness concerning Vietnam, Ms. Dewane works with veterans, especially female veterans, whose service has been largely overlooked. The outreach center attempts to work out the feelings of rage, helplessness, fear, guilt, and depression that many veterans have faced after the end of the war. These emotions, symptoms of what is termed posttraumatic stress disorder, can get in the way of having a normal, happy and whole life for many veterans.

Through counseling and the formation of support groups, Ms. Dewane has helped many women who served during the Vietnam war work through their fears and sadness.

Thanks to Ms. Dewane, many veterans are receiving the assistance necessary to make their lives whole again.●

ARMS CONTROL PROGRESS

● Mr. LUGAR. Mr. President, I rise to salute President Reagan for the very real progress that he was able to achieve in arms control at the Reykjavik summit. We Americans often like to pick winners and losers quickly, but in this case, we would do better to take a longer view. We and the Soviets have been engaged in a gradual arms negotiations process over a number of years. Reykjavik represents one more important milestone on the road to meaningful arms reduction.

In one sense, both sides emerged as "winners." Arms control was discussed in greater detail and at a higher level than ever before. Important new ground was broken, offers and apparent agreement to very deep arms reductions were progressed to where a concluding agreement seems inevitable and the two sides narrowed their differences on several key issues. It is my hope that the progress made in Reykjavik can now be built upon at the bargaining table in Geneva.

The President was, in my judgment, absolutely right in refusing to kill SDI, as the Soviets demanded. The Soviets for over 20 years have been in-

volved in their own strategic defense program. Fully half of Soviet expenditures in strategic arms have been spent on strategic defense. Although some people question whether SDI will work, the Soviets' strenuous objections to it indicate they believe it will, and so do I.

The President did offer to suspend deployment of SDI for a 10-year period, during which both sides would reduce, and then eliminate, their strategic missile forces. At that point, we would be willing to share SDI with the Soviets so that both would be protected from any third country that chooses to go nuclear. I am hopeful that the Soviets will reconsider this offer. If both sides eliminate their strategic missiles, neither would have anything to fear from SDI deployment.

In any event, I am optimistic about the arms control process. Reykjavik may yet be viewed as a decisive turning point. We would all do well, therefore, from making quick judgments and to resist the temptation to pick winners and losers too hastily.●

EXAMPLE OF A POSITIVE TRANSITION RULE

● Mr. KASTEN. Mr. President, there has been considerable discussion about the role of transition rules as part of the tax package. I would like to give one example of where a transition rule is the only equitable action and is entirely appropriate.

The city of Kenosha, several years ago, entered into a contract with the Corps of Engineers regarding the operation of a confined dredge facility. That contract specified the Corps of Engineers would turn over a newly created island to the city for its use.

Unfortunately, the corps did not fulfill its end of the deal. The city was unable to proceed with a planned redevelopment project that was contingent on the corps completing its work. This year, with the adoption of major tax reform, many of the incentives for that project would be lost. The transition rule adopted for the city of Kenosha simply gave them the same incentives that were lost because the Government failed to live up to a contract.

I ask that a letter from the city describing how this rule will work be printed at this point in the RECORD.

The letter follows:

CITY OF KENOSHA,
Kenosha, WI, October 7, 1986.

Hon. LES ASPIN,
House of Representatives, Cannon Building, Washington, DC.
Hon. WILLIAM PROXMIRE,
U.S Senate, Dirksen Building, Washington, DC.
Hon. ROBERT W. KASTEN, Jr.,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Re: Kenosha Harbor, in Kenosha, Wisconsin (Subparagraphs 204 (a)(32)(M) and 1317(6)(W) of H.S. 3838 as Reported By the Conference Committee and Passed By the United States House of Representatives and Senate).

DEAR GENTLEMEN: On behalf of the City of Kenosha, Wisconsin, its taxpayers and residents, I wish to personally thank all of you for your tireless efforts in obtaining Transition Rules in H.S. 3838 (Tax Reform Act of 1986) for our downtown redevelopment project which is identified in Subparagraphs 204(a)(32)(M) of such 1986 Act as "Kenosha Harbor, in Kenosha, Wisconsin" and some features of which are set out in Subparagraph 1317 (6)(W) of such 1986 Act.

I ask that you convey our deep appreciation to all of the members of the 99th Congress who voted for H.S. 3838 and our project's Transition Rules.

We here in Kenosha have been working for a long time on our multistage downtown redevelopment project, the first portion of which involves the creation of a lakefront park, recreational area and marina on the site of the Army Corps of Engineers confined spoils disposal facility and adjacent lands. The Kenosha project also includes redevelopment of adjacent areas, the corridor between the Kenosha lakefront and central business district, as well as the Kenosha downtown itself. Our redevelopment project will include new and rehabilitated residential, commercial, office and mixed-use facilities developed and redeveloped during the years to come by Link Programs, Inc. (presently the developer of record for the Kenosha project's first stage) and other developer(s).

Subparagraph 1317(6)(W) of the Act refers to the Kenosha project as being located on lands presently or formerly submerged under the waters of Lake Michigan. Like most other cities on the Great Lakes, at various times in the past substantially all of what is now the City of Kenosha is on land which was submerged under the waters of Lake Michigan. As you will recall from your recent trip to Kenosha, the project's land area is bounded on the east by the east wall of the Corps confined spoils disposal facility (extended), bounded on the north by 48th Street (extended), bounded on the west by the present Chicago-Northwestern railroad tracks, and bounded on the south by the north line of Eichelman Park (60th Street) (extended). This area is substantially smaller than the total area in the City of Kenosha which formerly was submerged under the waters of Lake Michigan.

A part of the Kenosha project's land area formerly was improved with the Kenosh Stadium, which we demolished prior to December 31, 1983. Also legislation for the parts of the project's land granted to the City by the State of Wisconsin was included in the State's biennium budget prior to December 31, 1983. The balance of our downtown redevelopment project's land is areas adjacent to these parts, that is, within the project's overall land area described above, so that the entire area and all of the project's various stages are intended to benefit from the Transition Rule in Section 1317(6)(W) of the 1986 Act.

Finally, we understand that the $105,000,000 mentioned in Subparagraph 1317(6)(W) of the 1986 Act does not apply to the Transition Rule contained in Subparagraph 204(a)(32)(M) of such Act, and that the $105,000,000 limitation only applies to private activity bonds which are qualified redevelopment bonds solely by reason of the Transition Rule, Subparagraph 1317(6)(W) and does not apply to any bond the interest of which is not exempt from federal income tax or to any bond which is a qualified bond without application of such Transition Rules.

While the Transition Rules for our downtown redevelopment project included in H.R. 3838 do not completely place the City of Kenosha in the position it would have been had the Corps completed filling and closure of the CDF in Kenosha Harbor in April of 1984 at the end of its stipulated 10-year lifetime, the Transition Rules are certainly steps in the right direction. The economic impact of the adverse changes not covered by our project's Transition Rules remain a part of the City's claim against the Corps, which with your continued support, we hope can be finally and favorably resolved in the near future.

Very truly yours,

JOHN D. BILOTTI,
Mayor.

CITY OF KENOSHA,
Kenosha, WI, October 7, 1986.

Hon. LES ASPIN,
House of Representatives, Cannon Building, Washington, DC.
Hon. WILLIAM PROXMIRE,
U.S. Senate, Dirksen Building, Washington, DC.
Hon. ROBERT W. KASTEN, Jr.,
U.S. Senate, Hart Senate Office Building, Washington, DC.

GENTLEMEN: While the cryptic nature of the two references to Kenosha's project in the Tax Reform Act of 1986 forming its Transition Rules certainly presents unique opportunities for the City, when employed aggressively, the City's Special Counsel, Messrs. Bierman and Fleck of Foley & Lardner, are concerned that subsequent bond counsel (typically a conservative lot) will take exactly the opposite tact and interpret the Kenosha Transition Rules so as to defeat their intent and purpose.

Essentially the problem is one of lack of legislative history at the Federal Government level. At this juncture the legislative history consists of the Kasten-Packwood colloquy in the Congressional Record of June 24, 1986, and correspondence from my office and our special counsel. It would be a real chore to put together a paper trail which would satisfy a conservative bond counsel.

Therefore, at the suggestion of our special counsel, I am writing to you under separate cover describing our Project, and request that you do two things:

(1) Arrange for my descriptive letter to you to be read into the Congressional Record in both the Senate and House of Representatives, before the coming adjournment;

(2) Send me a confirmatory letter acknowledging that your understanding of the Kenosha Project is as described in my letter, and that such Project is the Project intended to benefit from the two Transition Rules included in H.R. 3838 (a draft of confirmatory letter is enclosed), and arrange for the confirmatory letter to appear in the Congressional Record along with my descriptive letter. It would really be helpful if the concurrence of Senator Packwood and Congressman Rostenkowski also could be obtained and put in the Congressional Record—truly the icing on the cake.

We will need a copy of the pages from the Congressional Record, and will retain same, together with your confirmatory letter, in our records for use in the future. We have all worked so hard to get this far, that it would be a crime to jeopardize our progress by failing to take these additional steps.

I know that I can count on you for this additional assistance.

Best personal regards,

JOHN D. BILOTTI,
Mayor.●

DISCOUNTING OF PROPERTY-CASUALTY LOSS RESERVES

● Mr. WALLOP. Mr. President, as a conferee on the tax bill, one of the things I have found most troublesome is the wide latitude granted staff to develop policy on issues never formally considered by the conferees. I have spent some time here on the floor of the Senate trying to highlight such issues, as I am sure, as Senators, we will have to answer to our constituents in the future when the full impact of these staff decisions becomes known. As a further example of the types of concerns I have today, I would like to raise questions on the fairness of the final version of H.R. 3838 with regard to so-called fresh start as it relates to the discounting of property-casualty loss reserves.

Title X of the conference agreement contains a significant revision of the tax treatment of property and casualty insurance companies. Within that section, the reserve strengthening feature of the fresh start adjustment was significantly modified in conference. According to the conference agreement reserve strengthening that occurs in 1986 for accident years 1985 and prior is, in effect, disallowed as a result of the application of so-call fresh start accounting provisions.

Presumably, the intent is to prevent insurers from artificially increasing the opening reserve in order to increase income forgiven under fresh start. Implicit in this provision is the notion that reserve strengthening actions taken by insurance companies during 1986 for prior accident years is heavily motivated by the desire to avoid Federal income taxes. Nothing could be further from the truth. While it certainly can be acknowledged that increases in reserves decrease an insurance company's Federal tax burden, there are substantial and legitimate nontax reasons for increasing the provisions for unpaid losses in prior accident years. First, reserves are estimates made in many cases by the employment of statistical models. Models are subject to many types of errors such as parameter error, specification error and statistical error. Reserves estimates are subject to reevaluation. When reserves are initially underestimated, they must be revalued at a higher level. This reevaluation is what you characterize as reserve strengthening.

Second, reserve strengthening occurs only when reserves are inadequate. The weakness of reserves in the property-casualty industry has been the focus of public attention in recent years. Insurance availability and the cost has, indeed, been much discussed on the floor of this body. The industry's financial condition now is very fragile. Sound financial management and honest financial reporting demands that reserves be strengthened where appropriate.

A review of an Analysis of Loss and Loss Adjustment Expense Development exhibits contained in 10-K Forms filed by property-casualty insurers would clearly show that many companies have been historically underreserved and reserve strengthening for them is a normal part of doing business.

These companies have already reported too much income by underreserving in the first place. Insurance companies should not be penalized by the tax laws where reserves are strengthened in accordance with sound actuarial reserving practices. These companies have a responsibility to accurately and fairly report their financial condition. It is not in the public interest to provide them with a perverse incentive for maintaining inadequate reserves either. The reserve strengthening definition as currently written in the conference report is arbitrary and inconsistent with one of the goals of tax reform, that is, fostering positive behavioral response from corporate and individual taxpayers toward the Federal tax system.

The Senate bill's reserve strengthening provision was fair. The Internal Revenue Service, as it does under current law, would combat abusive reserving practices. The conference modification substitutes a simplistic, cookbook approach that is entirely inappropriate and will likely create tensions causing companies to underreserve to the potential detriment of their policyholders.●

TRIBUTE TO THE BOSTON RED SOX

● Mr. PELL. Mr. President, I wish to join with all of New England today in tipping my hat to the Boston Red Sox, the winners last night of their first American League pennant since 1975. The Red Sox have brought great pleasure and excitement to their fans, and I am particularly proud of the fact that 14 of the 24 players on the Red Sox team previously played for the Pawtucket Red Sox farm club. Included in this group are Roger Clemens, the winner of last night's pennant clinching game and a 24-game winner during the regular season, Marty Barrett, the Most Valuable Player in the just concluded playoffs, and Jim Rice, the captain of the Red Sox and successor to Ted Williams and Carl Yastremski as the left fielder and leader of the Boston club. Pawtucket, RI, has played a real role in the success of this year's team by serving as a training ground for so many future players and I am proud that my State is an integral part of the Boston Red Sox organization.

Autumn is always a beautiful season in New England, and it is an especially memorable time of year whenever the Red Sox hoist the American League flag high over Fenway Park in Boston. I join the thousands of baseball fans in my State in wishing the Red Sox well in the upcoming World Series against the New York Mets.●

THE TRIAL OF JUDGE HARRY E. CLAIBORNE

● Mr. EVANS. Mr. President, when the Senate tries an impeachment case, we take upon our shoulders the most weighty of the responsibilities U.S. Senators are obliged to bear. In the recent Claiborne trial, we were asked to cast our votes to acquit or convict a man whom the House of Representatives had voted unanimously to impeach. I trust that these votes were not easy for any Member.

No person delights in passing judgment on another. Even with appropriate standards of review, the task is difficult. That is why citizens sitting as jurors in criminal trials are given elaborate instructions and clear guidance. Senators sitting as jurors in an impeachment trial have little guidance. But what guidance we are given should be followed.

In a matter of this gravity it is wholly right and proper that we avail ourselves of all resources which might assist us in reasoned deliberations. Yet, in this case we chose to make do with incomplete information and a nonstandard of review. Although all 100 of us sat in judgment, only a chosen few heard testimony or examined witnesses.

A cardinal precept of the criminal law is that a conviction is proper only when judgment is rendered by a jury which has had full and complete exposure to the presentations of the prosecution and defense. An incomplete record is flatly insufficient as a basis for a final decision. But we voted not to have the full Senate hear witnesses or have an opportunity to question the accused.

Moreover, I believe that once the case has been presented to us, we should apply a consistent standard of review. While it is of course proper for the Senate to decide for itself what the standard it, once determined it should be applied by all. But we voted to deny to ourselves the benefit of an explicit standard of review.

Under the Constitution, "the Senate shall have the sole power to try all impeachments." What is left unanswered is whether judgment in cases of impeachment can be rendered without the Senate actually having had a chance to take sufficient time to hear

testimony, evaluate the credibility of witnesses, and assess the full range of evidence. If the Founding Fathers had foreseen that election year haste was a potential impediment to careful consideration in the Senate it is likely they would have handed down to us more detailed instructions.

In prior impeachment cases, the full Senate had an opportunity to receive all the evidence directly. No committee was appointed to serve as a buffer between the accused and those responsible for making the final judgment. This case was also unprecedented in another respect. While more judges have been tried than any other class of civil officer, this case apparently was the first one in which the accused had already been convicted in a court of law. Neither the Constitution nor previous cases shed much light on the path which is to be followed under such circumstances.

It is generally acknowleged that the framers of our Constitution borrowed heavily from the British when drafting the impeachment provisions. Yet, while a Senate impeachment trial is procedurally analogous to a trial before the House of Lords, the object of the proceedings is decidedly different. English impeachments contemplate imposition of criminal penalties upon conviction. In the case of Archbishop Laud, the lords went so far as to impose the death penalty.

Under our Constitution the penalty for conviction is limited to removal from office. Subsequent civil or criminal actions are not precluded, nor are they required. Once convicted, a civil officer must be removed from office because neither immunity from prosecution nor Presidential pardon are available to those whom the Senate has voted to convict.

Our vote was the final word on Judge Claiborne's career. We were the trial court and the appellate court at the same time. It was thus incumbent upon us to take the utmost care to ensure that our proceedings were proper. I believe we lost sight of the fact that the procedures of justice are often more important than the substance of the laws in creating the perception of fairness.

That brings us to a discussion of the actual charges. We considered four articles of impeachment. It was our obligation to decide whether any of those articles warranted conviction.

But what constitutes an impeachable offense? Article 2, section 4 of the Constitution states that civil officers "shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors." In this case, neither of the specifically enumerated crimes—treason and bribery—were alleged. We were limited then to considering whether the misconduct of Judge Claiborne was sufficiently egregious that it falls within the ambit of the general term.

Constitutional scholars generally agree that only a limited group of offenses qualify as "high crimes and misdemeanors." Evidence suggests that the framers intended that the English "great offenses" define the range of misconduct contemplated by our Constitution. At common law in England, misapplication of funds, abuse of official power, neglect of duty, encroachment on or contempt of legislative prerogatives, and corruption were impeachable offenses. Whether the list is exclusive is open to question.

During the impeachment trial of President Andrew Johnson, House manager John Bingham suggested that it may be inappropriate to take an overly narrow view of what constitutes impermissible behavior.

An impeachable high crime or misdemeanor is one in its nature or consequences subversive of some fundamental or essential principle of government or highly prejudicial to the public interest, and this may consist of a violation of the Constitution, of law, of an official oath, or of duty, by an act committed or omitted, or, without violating a positive law, by the abuse of discretionary powers from improper motives or for an improper purpose.

Clearly, our object here should have been to ensure that we took a balanced and fair approach to evaluating the acts for which Judge Claiborne was impeached. In making that evaluation, it was important to keep in mind that the stakes were higher than removal of a judge from office. The real issue was whether we would do more harm to the cause of justice by acting in undo haste than we might contribute to the cause of justice by removing a convicted felon from the Federal bench.

Under article III, section 1, judges "shall hold their offices during good behavior." Thus, it may have been appropriate to hold Judge Claiborne to a higher standard than that which might apply to civil officers generally. The judiciary play a critical role in our system of government and nothing would be more destructive than to permit the taint of official indifference to law to permeate the judicial system. It is equally true that we should not have allowed the Senate proceedings to adhere to any but the highest standards.

One critical question was whether the mere fact of conviction so besmirches the judicial facade that a thorough independent investigation was unnecessary. If so, what was the real point of these proceedings? I felt that we were bound to do more than simply ratify a decision already made.

Lawrence Tribe, an eminent constitutional scholar, has stated that "a showing of criminality is neither necessary nor sufficient for the specification of an impeachable offense." Certainly, violation of a speed limit would be insufficient by itself to warrant an impeachment. At the same time, a willing violation of the code of judicial conduct may be. In every instance, it is up to the Senate to evaluate all of the circumstances surrounding the conduct at issue. Only then can we truly say that we have discharged our responsibilities in full accord with the oath we have taken.

It may be that a full examination of the facts of this case would have lead me to a clear conclusion that Judge Claiborne acted with criminal intent and that conviction was justified. But, it may also be true that such an examination would have raised sufficient doubts in the minds of at least 34 Senators that we would have voted to acquit. The trial of an impeachment is no place for shortcuts or haste. Justice may be elusive, but that is no excuse for a half-hearted try to find it.●

OMB-AAU NEGOTIATED REVISION OF CIRCULAR A-21

● Mr. EVANS. Mr. President, recently, the Office of Management and Budget [OMB], and the Association of American Universities reached agreement on revision of circular A-21. This agreement marks the culmination of a long and arduous negotiation process that has involved Congress, OMB and the biomedical research community.

Circular A-21 governs reimbursement of indirect costs to grantees in support of Federal research grants. While there was general agreement by all that the circular needed revision to reflect changes in university administration affecting biomedical research, there was no clear consensus on how it could be redrafted.

I, along with the senior Senator from Washington [Mr. GORTON], and others have insisted that any OMB revision of A-21 be done in careful consultation with the university research community. I am pleased to report that a mutually accepted revision has been agreed to, in principle. I believe this agreement reflects much hard work and diligence by both OMB and the university research community. I am hopeful that it will be a final solution so we can move ahead to strengthen the capacity for research and advanced training in the nation's universities.

Mr. President, I ask unanimous consent that a statement in support of the agreed revision by Robert Rosenzweig, president of the Association of American Universities, and a description of the new proposal be inserted in the RECORD.

The material follows:

STATEMENT ON PROPOSED REVISION OF OMB CIRCULAR A-21

(Robert M. Rosenzweig, President, Association of American Universities, September 29, 1986)

The decision of OMB to amend its June 9 revision of Circular A-21 is welcome news. The new proposal (attached) is an improvement over earlier versions.

Reaching this agreement has been a long and difficult process. We are grateful for the assistance of OMB Deputy Director Joseph R. Wright, who helped, through discussions with the Government-University-Industry Research Roundtable, to seek balance among the concerns of government officials, university administrators, and faculty. The efforts of OMB to respond to university concerns affirm the importance of working together on important national research policy issues. We are extremely grateful to Members of Congress who encouraged and aided resolution of this contentious and complicated issue.

The original February proposal was published with no advance consultation with universities. Discussions since that time have improved the proposed revision. Nevertheless, it was clear from the start that the motivation for the change was budgetary and that a set of cost principles, developed over the years and closely linked to the nature of our peculiar system of higher education, was being used to "save" $100 million without regard to any other consequences.

It is important to understand that university people view A-21 as a document grounded in management considerations that have fiscal implications, rather than the other way around. To reverse those, as seems to have happened this year, exposes universities to the risk of sudden, uncontrollable, and unpredictable change. That sense of risk was compounded by the fact that the people in OMB who have historically been concerned with A-21 changes were not involved in this one, and those who were involved, able as they are, were largely unfamiliar with the issues and were impelled by their view of what the budget required.

On one point there is unanimity among university presidents, and that is that future changes in A-21 must be considered outside the framework of the annual budget. Obviously, budgetary consequences are relevant, but changes proposed primarily in order to meet a budgetary target will be strongly resisted. The proper way to deal with the budget is through the budget and appropriations process, not by manipulating the accounting principles.

The special studies on which OMB and the universities have agreed to cooperate will help lay the foundation for better policy. Additionally, the work of the Government-University-Industry Research Roundtable shows promise of producing more efficient and effective relationships in the area of research administration. We hope that we can now move forward to improve the system so that basic scientific research and the universities in which it takes place will remain strong and vital.

DESCRIPTION OF PROPOSED REVISION OF OMB CIRCULAR A-21

This revision of OMB Circular A-21 excludes from cost-based reimbursement the administrative activities of faculty, department heads, and other academic personnel with responsibilities equivalent to those of regular faculty (professional personnel conducting research and instruction) and substitutes a fixed rate of 3.6 percent of modified total direct costs. In effect, this revision concludes that the activities of these persons are too difficult and onerous to measure and to attribute to the costs of research and, therefore, it is best to substitute a fixed reimbursement for the current system of trying to measure actual costs through "effort reporting." This proposed revision will reduce "faculty effort reporting" that has long been considered by faculty to be one of the most unnecessary and burdensome of paperwork provisions.

PROPOSED REVISION OF OMB CIRCULAR A-21

Department administration expenses

Revise F.4.a.(2)(a):

(2) Academic departments—

(a) Salaries and fringe benefits attributable to the administrative work (including bid and proposal costs) of faculty (including department heads) and other professional personnel conducting research and/or instructin shall be allowed at a rate of 3.6 percent of modified total direct costs. This does not include professional business or professional administrative officers. This allowance shall be added to the computation of the indirect cost rate for major functions in section G; the expenses covered by the allowance shall be excluded from the departmental administration cost pool. No documentation is required to support this allowance.

General administration and general expenses

Add the following sentence to F.3.a.:

General administration and general expenses shall not include expenses incurred within non-university-wide dean's offices, academic departments, organized research units, or similar organizational units. (See section F.4., departmental administration expenses.)

Universities (in cooperation with OMB) will: collect data on actual costs covered by the 3.6 percent allowance; collect data on the extent of institutional cost sharing in federally sponsored research; collect data on the costs to universities of federal requirements.

OPINION OF SENATOR LEVIN ON THE CLAIBORNE IMPEACHMENT

● Mr. LEVIN. Mr. President, there is a legal maxim which holds that "hard cases make bad law." But I fear that the Senate's recently concluded impeachment proceedings in the case of Judge Claiborne provided us with a new piece of folk wisdom: "easy cases can make bad law too."

On its face, this appeared to be a relatively simple matter. The respondent, Judge Harry Claiborne, had been found guilty by a jury of his peers, his case had been appealed and those appeals had been denied. And while he still has additional motions pending—and may have them pending for years—they do not focus as much on the facts which contributed to the verdict of guilt as on the processes used to assemble those facts.

Given all that, there was, I fear, a natural tendency for members of the public and perhaps even some Members of the House and Senate, to believe that Mr. Claiborne did not deserve very much of our time or attention. In fact, in discussing the scheduling of the impeachment proceedings in the Senate, the operating assumption was always that it ought not take more than 2 days. The theory seems to have been that we should act quickly. But the Constitution requires that we act in other ways.

THE CONCEPT OF A TRIAL

I believe our constitutional role requires us to take adequate time—in any case brought before us—to reach a judgment ourselves; to determine as individuals and as a body whether or not the respondent is guilty of high crimes and misdemeanors so as to require removal from office.

The Constitution is clear: "the Senate shall have the sole power to *try* all impeachments," article I, section 3; it also provides that "the *trial* of all crimes except impeachment shall be by jury," article II, section 2. (Emphasis added.)

It seems clear from those constitutional requirements that in an impeachment, the Senate is required to act as a fact finder—for fact finding is the heart of trying any case. The respondent in this case made that point repeatedly. In briefs which are part of the record, the Senate is characterized again and again as "a finder of the facts." The House, in its briefs, never challenged that characterization. Indeed, the House seemed to accept it when they argued that the record before the Senate contained enough information to allow us to make a judgment on the facts—and those facts, they believed, required us to find that Harry Claiborne "willfully and knowingly" filed tax returns which he "did not believe to be true and correct."

So the Constitution gives the Senate the "sole power" to try impeachments, and it seems clear to all that the Senate's constitutional mandate is to independently evaluate both the disputed and the undisputed facts involved in any case brought before us.

THE ROLE OF WITNESSES BEFORE THE SENATE AS RELATED TO ARTICLES I AND II

When facts are in dispute—as they were in article I and II of the impeachment resolution as brought to us by the House—a finder of fact can reach a resolution of that dispute only if he or she is able to evaluate the credibility of key witnesses.

For 500 years, the law has recognized that the way in which a witness offers testimony—the nonverbal cues or demeanor of the witness—is an important element is evaluating credibility. That is why Wigmore, in his classic text on evidence, pointed out that the demeanor of a witness is "always assumed to be in evidence."

I believe this point is so well established that extended comment about its centrality to legal theory is not essential. But, for the record, let me cite

just a few statements which illustrate the point. Ullman, in a study of "Medieval Principles of Evidence" writes that the 14th century Postglossators held that the "indispensable requisite for the judge to form an opinion on the trustworthiness of witnesses was that they appear before him personally * * *. The personal impressions made upon the judge by the witnesses, their way of answering questions, their reactions and behavior in court, were the only means of ascertaining whether their statements were trustworthy or not." Judge Frank has commented that "a deposition has always been, and still is, treated as a substitute, a second-best, not to be used when the original is at hand for it deprives—justice—of the advantage of having the witness before the jury." And as Sir John Coleridge observed, a cold record "cannot give the look or manner of the witness: his hesitation, his doubts, his variations of language, his confidence or precipitancy, his calmness or consideration * * * it may be the dead body of the evidence without its spirit."

In his briefs, Judge Claiborne asked for a full trial before the Senate, by which he meant the right to call witnesses and have them questioned under oath before the Senate so that Senators could observe their demeanor. Clearly impeachment trials in the past have involved witnesses being heard by the full Senate. Yet only the "rule 11" committee heard the witnesses in this case and the committee did not make any formal findings relative to demeanor. Contrast that with the fact that even a master in equity must report to the court recommendations and findings on demeanor of witnesses if such findings are based at all on demeanor.

In opposition to both the respondent's argument and history, the House argued that a full trial was not required. They asserted that demeanor is simply one of a number of factors which make up credibility and, given the weight of evidence available—and the demeanor related judgments which we can assume the jury made. There was no need for the full Senate to see and hear witnesses directly. The record alone will suffice, they argued.

The House is partly right: demeanor is just one factor. But it can be a crucial factor, a deciding factor. And that is why we require witnesses to testify in open court and why we should have required them to testify before the Senate. As Judge Frank once wrote, "demeanor, to be sure, is no infallible guide to reliability of testimony; yet, as matters now stand, it is one of the best guides available." To a degree, even the Senate recognized the value of demeanor evidence when it authorized the "rule 11" committee to hold a hearing. After all, that hearing essentially covered the same ground that had already been covered in the courts. In other words, the Senate felt a need to develop its own record—as a result, 12 of us did hear and see witnesses, even though those 12 could have simply read their testimony in the record of a previous proceeding, the trial before the Federal jury.

The "rule 11" committee did an excellent job of developing a record. I have the greatest respect for the members and staff of the committee—they had a difficult job and they discharged it with dignity and devotion. The record they developed is essential to understanding the case. But, in my view, it was not adequate to let the Senate make findings in those disputed areas where witness demeanor or credibility is critical to the process of determining what the facts are. The Senate, as a finder of fact, did not hear or see a single witness. And, as a result, our ability to fairly reach decisions, when the facts were in dispute, was restricted.

To reach a judgment on issues involving disputed facts where the demeanor and credibility of the witnesses are important, I believe the Senate needed to see the witnesses—as the "rule 11" committee did—and not just see a record or even tapes of witnesses testifying.

When we voted not to hear any additional witnesses, we set up a process which made it impossible for the Senate, as the finder of fact, to fully and fairly evaluate the credibility of witnesses.

Now some might say that we did hear Judge Claiborne. He spoke to us. However, he did not appear before us as a witness; he was simply exercising his right to "participate in the summation" as Vice President BUSH explained to the Senate. And while some have suggested that Judge Claiborne did not take the opportunity in his speech to answer specific allegations, the Senate did not ask him any questions about those allegations and his failure to respond specifically and in detail can not be held against him. Indeed, the request, made in executive sessions by one Senator, to have Judge Claiborne appear as a witness and answer questions was rejected by the Senate.

So, as Judge Claiborne said, he was speaking primarily to let the Senate see him—which suggests that Judge Claiborne felt that there was some value in presenting his demeanor to the Senate. A similar value would have been attached to the appearance of a number of other witnesses.

ARTICLES III AND IV

While I could not on principle vote for a conviction on articles I and II, I believe that articles III and IV were proven. Let me discuss them briefly.

Article III asserts that Judge Claiborne was found guilty by a jury. His conviction, article III alleged, was indisputable evidence of misbehavior and high crimes in office. In my view, the record was more than sufficient to support the conviction.

Many of my colleagues had, it appears, concerns about this article. Two such concerns were expressed. First, it was argued that the Senate was, in essence, abdicating to the courts its responsibility as the sole authority to try impeachments and second, that this might set a precedent which suggests that any conviction must result in impeachment or, conversely, that any "not guilty" verdict would be grounds for a refusal to impeach a public official. Let me respond to both concerns.

As to abdication of responsibility, I must confess that I find it ironic that some are bothered about abdicating our responsibility by giving credibility to a final court judgment—if supported by the record—when, by refusing to hear witnesses, we in essence abdicated our responsibility as finders of fact—but, in this case, abdicated not in favor of a court but rather in favor of no one.

The record before the courts and the "rule 11" committee made it clear that the Senate could reach the conclusion that the conviction of the defendant was final and well supported by the record. That is precisely the conclusion I did reach in regard to article III. While the defense of Government misconduct is still pending, nothing in that appeal would alter the facts which were at the core of the judicial process that has been completed. And the results clearly established that Judge Claiborne was legally "found guilty by a 12-person jury of making and subscribing a false tax return. * * *"

As to the belief that conviction based on the fact of prior judicial determinations sets a precedent, that simply is not true. Again, the record before the "rule 11" committee and the House briefs made it clear that the even in the face of a conviction, the Senate must satisfy itself relative to the guilt of the defendant. We may chose to take a final court verdict of guilty as evidence of guilt, provided that we are satisfied that the record supports that finding. We are not bound to so utilize a court judgment—but surely we are free to do so. And if we do so, no precedent is established thereby. To satisfy myself on that point, I solicited the views of Chairman RODINO. In his capacity as a House manager, he clearly did not advance a claim of of precedent.

In my letter to the chairman, I asked the following question:

Would a conviction by the Senate on article III set a precedent, or be used for argument in later impeachment proceedings, that the House of Representatives is bound to impeach and the Senate is bound to con-

vict, following a Federal court conviction of a public official?

Chairman RODINO's response to me in a letter of October 9, 1986 was as follows:

You have asked me to address whether a conviction on article III would bind the Senate to convict in future cases, in which a public official similarly had been convicted. On behalf of the House of Representatives, I respectfully submit that the answer to this question is no.

My letter and Chairman RODINO's response were made part of the record during our deliberations.

It seems clear, then, that the Senate, as the sole authority over impeachment, can, in essence, decide to credit or ignore a jury verdict for whatever reasons it thinks adequate.

It is also clear that a verdict of "not guilty" in a trial court does not restrict the Senate's freedom to act on articles of impeachment sent over from the House. Senator HEFLIN's question on this point and the Presiding Officer's answer in open session make it clear that the Senate has freedom to act as it deems fit even if a House-impeached official comes before us armed with a "not guilty" verdict rendered by a court or jury. We all know that a "not guilty" verdict by a jury is far different from a finding of innocent. And while a person may be "not guilty" in a court of law, that does not mean that they are or should be found "not guilty" of the high crimes and misdemeanors which justify a conviction in the Senate.

Finally, article IV asked the Senate to agree that Judge Claiborne's actions have "betrayed the trust of the people of the United States and reduced confidence in the integrity and impartiality of the judiciary, thereby bringing disrepute to the Federal courts and the administration of justice by the courts." I believe that article IV can be fairly construed as incorporating the article III reference to the jury finding and, as I have indicated earlier, my review makes it clear that the jury verdict was amply supported by the record.

In addition, in the past, article IV type language has been viewed as a "catch all" or "character" charge. Such articles serve the function of stating that conviction is desirable because the respondent has engaged in misbehavior sufficient to justify removal from office by the Senate. In that context, I believe that Mr. Claiborne deserved to be convicted by the Senate on article IV.

CONCLUDING COMMENTS

Having discussed the specific articles and the process which was used by the Senate to conduct this trial, I have three final observations to make.

First, I was greatly disturbed by the conduct that the Government was alleged to have exhibited in this case. The evidence clearly suggests that the Government engaged in a pattern of selective prosecution, prosecutorial overreaching, and perhaps intimidation of witnesses and other improprieties. I support a full investigation of those charges as they relate to Mr. Claiborne in particular and other cases as well. I should hasten to add that even if such conduct is proven to have existed, that would not alter my votes on the various articles of impeachment. While such Government action might bring Mr. Claiborne a reversal in the courts, the Senate, acting as a Court of Impeachment, operates under different standards. The exclusionary rule, for example, does not apply in these proceedings and in other areas our laws differ from those applied by the courts. So while Mr. Claiborne may or may not deserve judicial relief, he is entitled to no relief from the judgment of the Senate.

Second, I feel compelled to register my strong objection to the manner in which the question on article III was put to the Senate by the Presiding Officer. On articles I, II and IV, the question put to the Senate was phrased as required by the rules: "Senators, how say you? Is the respondent, Harry E. Claiborne, guilty or not guilty?" But on article III, the question was put this way: "Senators, how say you? Is the respondent, Harry E. Claiborne, guilty or not guilty or do you vote present? The results which followed, with 35 Senators voting present, may or not have resulted from the way in which the question was presented—but the form in which the question was put was erroneous and violative of both the rules and the unanimous-consent agreement under which we were operating.

Third, while I have criticized the Senate for refusing to allow certain witnesses to be called and for other failures which I observed, I also want to compliment this body and my colleagues for their honest concern about commitment to the process. I have already indicated that the "rule 11" committee functioned magnificently; I indicate now that the staff of the Office of the Senate Legal Counsel and the Rules and Ethics Committees were also most supportive. And while my colleagues and I agreed on some issues and disagreed on others, I believe we shared a common desire to achieve justice as we understood it. Those who observed the seriousness with which the Senate viewed these proceedings will observed a free society at its best.

DR. J.C. WILLKE'S ARTICLE ON ASSAULT RAPE, AND PREGNANCY

● Mr. HATFIELD, the Senate has been the arena for countless debates on the issue of abortion since the Supreme Court handed down its Roe versus Wade decision. During the past 13 years, the Nation and Congress have not reconciled themselves to this fateful, far-reaching decision of our Nation's highest court.

Sadly, few of our discussions face the issue squarely: Should abortion on demand be legal in the United States? We have allowed ourselves to be limited to questions of Federal funding for elective abortions, to questions of the propriety of tax-exempt status for abortion providers, to questions of parental notification and informed consent. Most of these debates are void of important discussions as to why abortion is an acceptable alternative for the pregnant woman, and what pressures cause her to terminate the life of her unborn child.

One of the most emotional debates within the abortion issue is the rare case of abortion by a woman who becomes pregnant as a result of rape. Certainly, rape is a horrifying, dehumanizing crime which demands a compassionate response to the victim and swift punishment of the offender. But the undeniably traumatic experience of rape is being thrown about by abortion supporters as a key reason why abortion on demand should be available to every woman, regardless of the circumstances of conception.

In one of the most thoughtful pieces I have read on assault rape, and pregnancy, Dr. J.C. Willke expands the discussion of this narrow issue beyond the question of whether a woman should be allowed to abort the child conceived as a result of rape. He reveals some of the complex, conflicting emotions racing through the victim's mind. Also discussed is society's role in the victim's decisionmaking process. Dr. Willke lists options which should be made available to the pregnant woman. And finally, he voices the view, which I share, that the innocent child should not receive the death penalty for the crime of the father.

Mr. President, I ask that Dr. Willke's article, "Assault Rape, and Pregnancy" be printed in the RECORD.

The article follows:

[From the National Right to Life News, Oct. 9, 1986]

ASSAULT RAPE, AND PREGNANCY

(By J.C. Willke, M.D.)

When talking about assault-rape pregnancy, there are important considerations other than those we discussed in my two previous columns, little known but crucial facts.

For example, how would most people respond to the question, what—from the woman's point of view—is the worse thing about an assault rape for that tiny percentage of women who become pregnant?

Almost without thinking, most would say, "Well, of course, her main problem is the fact that she's pregnant." In fact, this is not true. Well-done studies show us that her chief complaint is not the fact of being pregnant, but rather how others treat her.

This is a sobering thought. If true, it is a terrible indictment of the society in which

we live. Do we treat these poor women with compassion and love? Do we invite them into our homes; into our arms? Have we given them the support they need? Or have we, as these studies suggest, treated these victims with contempt or suspicion? Have we too often "blamed the victim?" If we have, we have failed our obligations in a most profound way.

Why is this so important? Because no victim of an assault rape should be stigmatized for something that happened through no fault of her own. Furthermore, experience has shown that if we treat her with charity, with love, with tenderness, and with concern, there will be far less chance she will abort.

There's another aspect of assault rape that is really only now becoming an area that is discussed: How the woman will react later if she does have an abortion? The core fact here is one that few of us even thought of ten years ago, but one that we are learning about very effectively both from women who have carried to term and from those who have aborted babies in this situation. It is this.

The rape was something done to her. If the victim is treated with charity, compassion, and love, she may well have very little guilt later, or none at all. She may (they don't all) be able to fully accept the fact that the rape was not in any way her fault, but rather was a totally unjust assault upon her.

If, however, she gets an abortion, the results are far different. This is a very deliberate action, one that was done by her to another.

She may often bear a burden of guilt later for having had the abortion, similar to that so often experienced by women after any other abortion. She will have one of two memories. "I did the loving thing. I carried my baby. I gave him life." Or, the other memory, "I killed my baby."

Coincident with this is a biologic fact that women, pregnant from rape, have at least unconsciously always known, but that the men who advised them seemed completely unaware of. It is summed up in the simple statement, "The baby is also half hers."

Yes, this is the "rapist's child" but also her child. A woman pregnant from rape instinctively knows this. Unthinking men and other women, advising her, too often seem unaware of it. This simple biologic fact, to her undeniable, can and often does add to the burden of guilt that she may bear if she goes on to have an abortion.

Another factor that relates to this is that some women may not be able to bear the fact of "looking at that child every day of my life." They feel, "I could not bear to raise that child." If so, we understand. What is also obviously true, however, is that there are literally hundreds of thousands of outstretched arms aching to accept that child and love him or her for a lifetime. To deliver a child in such a situation must never be equated with keeping and raising the child, for that baby can be adopted into a loving home.

It is somewhat automatically assumed by most people that a woman, pregnant from assault rape, will always get an abortion if it is available. As a matter of fact, this is also not true. In the case of assault-rape pregnancy, where abortion was freely available and offered, and compassionate help is offered to her, only half of the women will choose to get an abortion. Interesting? Yes, and I think it is a real compliment to the women involved.

In an earlier column I discussed the fact that there was a very, very small number of women who got pregnant from assault rape, perhaps as few as 100 or 200 per year in the U.S. If only half of those who did get pregnant went on to choose an abortion, we can cut this number in half again.

One interesting minor argument that is sometimes posed relates to the issue of capital punishment. We in the Right-to-Life movement do not take an official position on capital punishment, for we limit our concern to the protection of innocent life. However, if we were to ask an average audience how many of them favor capital punishment, we would find a cross sectional break quite comparable to that of the general population—some for, some against. On the other hand, if we were to extend that question and ask "How many of you think there ought to be capital punishment for the rapist?" we find the number dropping way off, sometimes to zero. The question then to pose is, "If you do not favor capital punishment for the crime of assault rape, would you favor capital punishment for the innocent child conceived by that assault rape?" A rather interesting argument. It does make us think.

Let's finally, though, get back to our original argument, one that overshadows all of the others. That original statement is so clear and so concise that it simply says it all.

Should we kill an innocent baby for the crime of his father?●

RSVVP PROGRAM IS A SUCCESS

● Mr. SARBANES. Mr. President, earlier this week I brought to the attention of my colleagues the very important contribution being made by concerned Marylanders to alleviate hunger both here in the United States and abroad. The program, called "RSVVP"—Restaurants Sharing Ten Percent—was held on October 15 in connection with the observance of World Food Day, and involved the donation by participating restaurants of 10 percent of their gross receipts on that day. I understand from the organizers of the event that well over $30,000 was raised this year, a remarkable achievement.

Mr. President, I would once again like to thank and congratulate all who participated, and I submit the following articles about the program for the RECORD:

[The Baltimore Sun, Oct. 15, 1986]

HUNGER PAINS

(By Nora Frenkiel)

Jan Houbolt says he never goes to sleep at night wondering if his life has any meaning. As a longtime community organizer, advocate for the underprivileged and current executive director of the Maryland Food Committee, he has spent hours finding creative solutions for feeding the estimated 700,000 in this state who may go to sleep at night wondering where their next meals are coming from.

Today, thousands of patrons will dine at restaurants participating in the RSVVP program, another creative solution, which stands for Restaurants Sharing Ten Percent. Last year almost 200 restaurants—about the same number involved this year—turned over 10 percent of a day's receipts, which raised $34,000 or enough to feed 60,000 people for one day.

This year the organizers are hoping for an even better turnout. "It's easy for people to go out and do it," Mr. Houbolt says. "The restaurants are the ones being generous. The alternative is saying, 'Let's all fast for a day and give up the proceeds to fight hunger.' Frankly, that wouldn't raise as much money. And part of my job is to channel funds from those who have to those who don't have."

The people scanning menus can feel good about themselves and about feeding the hungry, which has been a fashionable cause for several years. But it's not quite as trendy as it once was. "It's already become less fashionable than it was two years ago," says Mr. Houbolt. "Two years ago there was a presidential task force on hunger. Now the concerns are drugs and child abuse. We're not in the front as we were, and it's partly due to the economic recovery. Yet for a number of people, life is much worse than it ever was."

Ann Miller, longtime advocate of the cause and a founder of the Maryland Food Committee, admits the struggle goes on. "We're very good at this business of making statements and making it sound as if we're terribly concerned, but when the opportunity arises to actually do the work, very few people do. It's very difficult to do good and Jan does good. And he has a long hard road ahead of him."

At 40, Jan Houbolt, despite a few wrinkles, retains his boyishness. In his small Mount Vernon office, where the paint is peeling, he talks about a renewed energy to continue his work. Three years ago he came aboard as the executive director of the Food Committee, which has a dual approach—direct service and funding to organization that feed the hungry, and a lobbying effort to encourage change in legislation affecting the poor.

"We were nearly bankrupt," he says. "We had a staff of three and a small budget." Today the picture is one of success: 10 employees, an annual budget of $500,000 (almost all of it privately raised) and the funding of 53 soup kitchens and emergency food centers across the state.

"I credit this turnaround all to Jan," says Eileen Yoffe, president of the organization's board of directors. "He's a real go-getter and he cares tremendously about the work he's doing. Although he's very aggressive about solving problems, he's also one of the most compassionate people I've ever met."

Ms. Miller credits the director with "a sensitivity and ability to reach out into the community." Part of that outreach is a hand outstretched asking for money, since all but $29,000 funded from a federal block grant through the Department of Human Resources, is raised from the private sector—from churches and synagogues, from corporations and individuals.

"At first I didn't like asking people for money," Mr. Houbolt admits. "It's hard to do. But now I take a hard look and think about how much I believe in what I'm doing. Some people make it very easy. But for others you really have to jump through that hoop. I'll do it now if they require it," he says with a grin.

One day he'll find himself power-lunching at the Centre Club with a Food Committee supporter. And then he'll turn around, with all that boyish charm, and say, "Let me treat you to lunch next time." And so he takes the CEO to Paul's Place Soup Kitchen in Southwest Baltimore, where lunch might

be a peanut butter and jelly sandwich and sweet potatoes, and the utensil a sturdy plastic spoon. It's a power lunch and results more often than not with a generous donation.

Spending time with those CEOs led to a brief crisis in Mr. Houbolt's life within the last year. The man who says, "I didn't seek out a career, I followed my values and this just happened," now says, "I took a look at my life and realized that I was turning 40 and I was asking myself whether or not I could afford a washer and dryer." He listened to his colleagues on the Greater Baltimore Leadership Committee, who told him in earnest voices: "You've done your part. You've done your good work. Why don't you think about switching to private industry?"

He talked with his wife, Rachel Wohl, who works at Urban Services and is completing a law degree at the University of Maryland. "She operates out of the same tradition that I do," he says. They live in a row house in South Baltimore.

He took time to review his life: son of an immigrant from the Netherlands who worked for the State Department, he grew up in Taiwan, Okinawa, New York and finally in Arlington, Va. His parents currently live in Loudoun County, Va., and he says, "My mother is one of those great do-gooders." She was named Woman of the Year in her community last year.

His background: a bachelor's degree from Howard University in Washington, "where I learned what it was like to be in the minority and learned about the civil rights struggle," and a Ph.D. in sociology from American University in 1981, with teaching stints in New York and at the University of Baltimore. Grassroots work—with the Northeast Baltimore Community organization and the Neighborhood Rental Services—led to the job at the Maryland Food Committee. And somehow, as he sees it now, values matched the job.

"I look at older people, blue-collar people, who've been working all their lives and now they're retired and they've been wiped out by medical bills and they're poor. And I realized I don't have a pension. And I don't want to end up that way."

Crisis, however, was resolved. "I decided this is the path for me. This is the work I want to be doing." Yet there still are occasional moments of disappointment. "The thing about this," says Ms. Miller, "is that you do get terribly discouraged and you start writing an annual report and you realize how much has happened. Only on the small gains do you get what you finally achieve and be awfully grateful."

Frustration, however, comes and goes. "On the one hand," says Mr. Houbolt, "we're a big success with an annual budget of $500,000. But on the other hand that's worth three months for Joanne Carson's alimony payment."

Yet, Mr. Houbolt doesn't dwell on that inequity for long. "I'm confident enough the world can be a more reasonable place than it is. There may always be hungry people. But there's always something that can be done."

[The Baltimore Evening Sun, Oct. 15, 1986]

RSVVP

Last October Marylanders had the opportunity to celebrate World Food Day by participating in an unusual fundraising technique. RSVVP stands for Restaurants Sharing 10 Percent (the two V's represent the Roman numeral five—totaling 10). The project, initiated by the Maryland Food Committee, sparked national attention and raised enough money through participating restaurants to help feed 60,000 people.

This year about 200 restaurants in central Maryland have agreed to participate by donating 10 percent of today's gross receipts. The proceeds will be divided between the Maryland Food Committee and the Emergency Taskforce on Africa.

RSVVP is one of those welcome fundraising events in which everybody can come out ahead. Restaurant patrons can help those in need while enjoying a restaurant meal at the usual prices, while restaurants are likely to see an increase in customers to cover the donation of part of their proceeds.

That's the reason enough to go out to dinner—RSVVP.●

DR. ABEL WOLMAN

● Mr. SARBANES. Mr. President, today Baltimore honors an international expert in health and sanitation who for more than 50 years has been a pioneer for the safer and more efficient water and sewer systems necessary in the modern world. Dr. Abel Wolman, an extraordinary and remarkable man who served the people of the world for more than 50 years, is receiving a high and fitting recognition for his continuing work.

Dr. Wolman, the man responsible for designing water and sewer systems in cities around the world and who designed an outstanding system which has served Baltimore for half a century of growth and which has been held up as a model for other cities to emulate, was recognized for his contributions to Maryland and the public water systems of many cities around the world.

Today the city of Baltimore renamed the municipal office building, where Dr. Wolman continues to work on sanitation problems facing our people, in honor of this pioneering engineer and Baltimore native. Now an active 94 years of age, Dr. Wolman was born and educated in Baltimore, where he received both his undergraduate and engineering degrees from the Johns Hopkins University. Dr. Wolman has traveled around the world representing the United States at public health policy conferences and consulting with leaders on water and health problems.

Mr. President, I ask that two articles, from today's Baltimore Sun and Baltimore Evening Sun, describing some of Dr. Wolman's many achievements and today's honor, be reprinted in the RECORD.

The articles follow:

[From the Baltimore Sun, Oct. 16, 1986]

BUILDING NAMED AFTER SANITARY ENGINEER

(By Ann LoLordo)

When he wasn't in Geneva devising ways to get clean water to the world's 2.5 billion people who don't have it or in California addressing 600 engineers who make their living studying water problems too, Dr. Abel Wolman might well have been found in a conference room in the city's Municipal Building.

After all these years of telling local governments and foreign leaders everything they've ever wanted to know about water, the 94-year-old sanitary engineer still returns monthly to the seventh floor of 200 N. Holliday St. And, over a tongue sandwich and a piece of pie, he talks to public works officials about the water and waste water systems perhaps he knows best—Baltimore's.

"It is my city. I happen to love it. The city of Baltimore and every other city in the world is a going concern. I quote Mencken, 'We've always got solutions—mostly wrong.'"

When Dr. Wolman arrives at the Municipal Building today, he will come not as a consultant but as an honored guest. The limestone structure in which he has met with public works officials for more than 40 years will be rededicated as the Abel Wolman Municipal Building."

It seems a fitting tribute to the veteran Johns Hopkins University professor who as a boy in East Baltimore had to carry water from a well, a diminutive man who designed a water works system for his hometown that to date outshines its counterparts.

The dedication was supposed to be a surprise—but an invitation arrived at his North Charles Street town house last Friday. "I was absolutely stunned. It was an amazing tribute," Dr. Wolman said.

Up until he opened his mail, he knew only that he was to keep the date open. Mayor William Donald Schaefer had "told me. 'Put down Oct. 16 in your black book,'" Dr. Wolman said.

He returned the invitation, saying he would attend the dedication.

Throughout his long and illustrious career. Dr. Wolman has searched for water in the Negev desert in Israel and walked the crowded streets of Calcutta to determine how the city could bring clean water to its people. And the people with whom he works marvel at the genuine concern and devotion with which he performs his work.

"Even with all the knowledge that he has, he attacks a problem as if it's the first time in his life he's ever encountered it," remarked Francis W. Kuchta, the city's public works director for the past 12 years. "He has this long experience, not only in this country but in many countries around the world, in water and waste water problems and can bring it to bear on the problems that we have in the city of Baltimore."

When the two men met on Friday, they talked about the drought that has plagued Maryland, the city's reliance on the Susquehanna River for its water, and the problems at the Back River and Patapsco waste water treatment plans.

Dr. Wolman finds amusing the technological terms that have developed in the industry: "Waste water is good old sewage," he says, "Solid wastes are good old garbage."

But he said the problems plaguing waste water treatment plants are indeed serious.

"Under the flood of capital money from the Environmental Protection Agency, now approaching $60 billion in waste water treatment, we built—in a hurry—plants throughout the United States of the highest sophistication," he said. "Having done so we woke up with the reality that with very few exceptions we did not have the skill to operate them. Period.

"Nobody knows what to do with sludge," he said, pausing, "in the world."

When Abel Wolman was a student at Johns Hopkins University, his interest was medicine, not water.

"I was headed for that until the day I got my bachelors degree," he said. "When I came home, my family announced to me they had had the usual family conclave—to which I was not invited—and it was announced it would be a good thing for me to enter the engineering school [at Hopkins]. You're looking at the first graduate."

What does he think of now of the city water system he designed more than 50 years ago? "One of the best in the United States."

[From the Baltimore Evening Sun, Oct. 16, 1986]

CITY RENAMING MUNICIPAL BUILDING FOR ABEL WOLMAN

(By Kaye Thompson)

Abel Wolman, the sanitary engineer responsible for designing the city's water system and many other cities around the world, will be honored today when the Municipal Building is renamed in his honor.

The building, at 200 N. Holliday St., now will be known as the Abel Wolman Municipal Building.

Wolman, 94, has been a consultant to the city on issues of water supply, sewerage and refuse disposal since 1931. He is also a professor emeritus of engineering at Johns Hopkins University.

A slight man with snow white hair and a gaunt face, Wolman has been a leader in the public health field for more than seven decades. He has also applied his keen mind and wit to a range of other topical problems confronting both his native Baltimore and countries as foreign and far away as India and Israel.

Wolman first distinguished himself as an engineer in the 1920s and 30s when, along with a Johns Hopkins classmate, he devised a method for standardized chlorination of drinking water and implemented the method at the city's Montebello Filtration Plant. This treatment of water has been cited as the single most important factor in controlling diseases caused by waterborne bacteria and viruses.

It has been adopted by most municipal water systems in this country and many abroad.

Wolman is also credited for designing a water system in the city that has adequately met the needs of a growing population for more than 50 years and has been held up as a model for other cities to emulate.

Wolman has traveled around the world to help other countries with their water and public health problems and represented the United States at world conferences. He has also sat on multiple task forces looking into everything from sludge to the dilemma of "white flight" out of the city to a governor-appointed task force on graft in the early 1970s.

Wolman was born in Baltimore in 1892 and graudated from Johns Hopkins University twice—first with a bachelor of arts degree and later with a degree in engineering. He has been awarded an honorary doctorate in engineering from Hopkins, the National Medal of Science, the Tyler Ecology Award and, just this year, the John Wesley Powell Award of the U.S. Geological Survey.

IMPEACHMENT TRIAL OF JUDGE HARRY E. CLAIBORNE

● Mr. GORE. Mr. President, the Constitution of the United States establishes that Federal judges shall serve during "good behaviour." Article III, section 1. It further provides that:

The President, the Vice President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

Article II, section 4. The House of Representatives is empowered to draft articles of impeachment and the Senate possesses "the sole Power to try all Impeachments." Article I, section 6.

When the framers adopted the British model and assigned the impeachment power to the House and Senate, they recognized the important and difficult role that impeachments serve in protecting the public trust:

A well-constituted court for the trial of impeachments is an object not more to be desired than difficult to be obtained in a government wholly elective. The subjects of its jurisdiction are those offences which proceed from the misconduct of public men, or, in other words, from a nature which may with peculiar propriety be denominated "political," as they relate chiefly to injuries done immediately to the society itself. The prosecution of them, for this reason, will seldom fail to agitate the passions of the whole community, and to divide it into parties more or less friendly or inimical to the accused. In many it will connect itself with the preexisting factions, and will enlist all their animosities, partialities, influence, and interest on one side or on the other; and in such cases there will always be the greatest danger that the decision will be regulated more by the comparative strength of the parties, than by the real demonstrations of innocence or guilt. * * * The convention, it appears, thought the Senate the most fit depositary of this important trust. Those who can best discern the intrinsic difficulty of the thing, will be least hasty in condemning that opinion, and will be most inclined to allow due weight to the arguments which may be supposed to have produced it.

Federalist No. 65. Six centuries of experience with impeachments in Great Britain and the United States serve as a guide.

Impeachment Articles have been brought against 12 Federal officials. Of those, six resulted in acquittal, four in removal and two in dismissal.

Prior to the Senate floor proceeding concerning this matter, I served as a member of the Senate Impeachment Trial Committee established pursuant to rule XI of the Senate Rules. Though never used prior to this proceeding, the committee process was established in anticipation of the last impeachment proceeding to come before the Senate, some 50 years ago. The procedure is consistent with the British system as well as the Supreme Court's practice when considering cases pursuant to its Article III original jurisdiciton provision. Compare N. Williams, "The Historical and Constitutional Bases for the Senate's Power to Use Masters or Committees to Receive Evidence in Impeachment Trials," 50 N.Y.U. L. Rev. 512 (1975) with R. Berger "Impeachment, the Constitutional Problems" (Harv. Univ. Press 1973). The committee heard testimony of witnesses called by the House managers and Judge Claiborne over a period of 7 days. Over a dozen witnesses testified, including Claiborne. Transcripts and videotape recordings of the committee proceedings have been made available to the full Senate.

Based on the testimony adduced, the numerous exhibits and pleadings submitted in this proceeding, and the arguments of counsel, I have voted in favor of conviction on Articles I, II, and IV of the Articles of Impeachment. Because Claiborne has been afforded a full trial before the Senate, consideration of the third article is not necessary.

BACKGROUND

Claiborne was convicted on two tax charges and sentenced to 2 years in prison plus fines in October 1984. He had been indicted in early 1984 on bribery, tax, and Ethics in Government Act charges. His first trial resulted in a hung jury and he was retried on the tax and Ethics Act charges. The conviction after the second trial was affirmed by the ninth circuit court of appeals and the Supreme Court declined to review the case. He has exhausted his direct appeals. He began serving his sentence in May of this year and has filed two motions for collateral relief in Federal district court.

ANALYSIS

The House of Representatives presented four articles of impeachment of the Senate. A two-thirds vote in favor of conviction on any one of the articles is sufficient to warrant removal from office. The first two articles stem from the facts giving rise to Claiborne's conviction under 26 U.S.C. 7206(1) for willfully making and subscribing false tax returns in 1979 and 1980. The third article seeks removal from office because of the felony conviction. The fourth article urges removal because Claiborne's false income statements on his 1979 and 1980 Federal tax returns "betrayed the trust of the people of the United States and reduced confidence in the integrity and impartiality of the judiciary."

The elements of an offense under Section 7206(1) are as follows:

(1) the defendant made and subscribed a return, statement, or other document that was incorrect as to a material matter; (2) the return, statement, or other document subscribed by the defendant contained a written declaration that it was made under the penalties of perjury; (3) the defendant did not believe the return, statement, or other document to be true and correct as to every material matter; and (4) the defendant falsely subscribed to the return, statement, or other document willfully, with the specific intent to violate the law.

United States v. *Marabelles*, 724 F.2d 1374, 1380 (9th Cir. 1984). Since there is virtually no dispute that the tax returns at issue failed to report taxable income, the gravamen of the offense in this instance is the element of "willfullness."

The Supreme Court has concluded that willfulness does not require a finding of a bad purpose or evil motive, but rather that "willfulness simply means a voluntary, intentional violation of a known legal duty." *United States* v. *Pomponio*, 429 U.S. 10, 12 (1976). Just as "willfullness" does not connote an evil motive on the one hand, it does not embrace conduct which is merely negligent or mistaken on the other. E.g., *United States* v. *Daniels*, 617 F.2d 146, 148 (5th Cir. 1980).

Courts infer willfulness from the presence of any of a variety of factors in cases under 26 U.S.C. 7206, including, for example:

/S/uch circumstantial evidence as "a consistent pattern of understating large amounts of income, coupled with evidence of falsehood, surreptitious cash transactions and inadequate records kept by the taxpayer," substantial understatement of taxable income and tax liability for the years in question, the withholding of material information from the taxpayer's bookkeepers by giving them only summary sheets of the records in question, and the expenditure of large amounts of cash that cannot be reconciled with the amount of income reported.

United States v. *Hughes*, 766 F.2d 875, 878 (5th Cir. 1985). Virtually all of these factors are present in this case.

A. THE 1979 TAX RETURN

In addition to his 1979 judicial salary, Claiborne received $41,072.93 in ordinary income, pursuant to a legitimate feesplitting arrangement with his former business associates. Only half of the additional income was reported on his 1979 tax return. His conduct leading to the preparation and filing of the return virtually assured that some or all of his fee income would go unreported.

The money was received in the form of 14 checks, cashed at local casinos. This was a significant departure from his financial practice over the three previous decades. Prior to assuming the bench, all of his legal fee checks were deposited into bank accounts which were tracked by his accountant who, in turn, received bank statements for the accounts and copies of deposit records. Claiborne directed Joseph Wright, an accountant who kept the books for his law practice and prepared his tax returns, to treat all deposits as income unless specifically directed otherwise. Wright also understood that he was to give the Government the benefit of the doubt if questions arose.

The respondent opted for this practice in order to "show every penny" that passed through his office. After adhering steadfastly to the practice for many years, he abandoned it in favor of cashing the checks at casinos in 1979 for, as he claimed, convenience and the need for "pocket money." Claiborne did not inform Wright that he had begun cashing legal fee checks at casinos, and he stopped providing Wright with any information setting forth his additional income. He instead chose to record the amounts periodically in a personal diary he began keeping.

Claiborne eventually provided Wright with conflicting information regarding the precise amount of his 1979 income. In March 1980 he crafted a memorandum for Wright which purported to detail his 1979 fee earnings. Curiously, he based the figures upon "bank deposits" that he believed were fee income, apparently forgetting that the fee checks in question included many which had been cashed rather than deposited. Claiborne prepared the memorandum in order to secure a bank loan with Wright's help. Composed from memory because he had misplaced his financial diary, the memorandum estimated the fee income as about $46,000, roughly twice the amount later reported on his taxes and twice the amount he later told Wright.

To compound matters, Claiborne later suggested to Wright over the telephone that only four of the seven items listed in the March 1980 memorandum could be characterized as fees. The four items totaled $22,332.87. He listed a similar amount on his judicial ethics disclosure. He told Wright the remaining items in the memorandum constituted interest income, proceeds from a time certificate of deposit and the sale of an airplane.

Though unsure of the details of the conversation, Claiborne acknowledges that he described at least one item as nonfee income. Wright had no other means of ascertaining Claiborne's income; his notations on the document itself are consistent with his testimony and could have been generated either through guesswork or through the telephone conversation he had with his client. Finally, Wright's testimony is consistent with the prior practice of treating all deposits as income unless directed otherwise.

Claiborne interposes a number of claims in defense. He asserts, for example, that he cashed the fee checks in 1979 rather than depositing them in his bank accounts in order to obtain "pocket money." While $40,000 over the course of several months may resemble pocket money to some, the significance of Claiborne's behavior lies in its stark departure from a history of depositing fee checks in bank accounts so as to allow his accountant to maintain accurate income records. Whatever the reason for the change, the record clearly shows that its effect was to leave no bank record of the receipt or cashing of these checks. Claiborne thereby denied Wright the very information necessary to account for the additional income.

The lynchpin of his defense to the 1979 tax charge is his claim that on April 11, 1980, he sent Wright a letter stating his fee income, together with his W-2 form and a check. Wright neither recalls requesting the letter nor has a recollection of it. He has not been able to produce a copy from his files. Judy Ahlstrom, Claiborne's secretary, apparently delivered the information to Wright and she corroborates Claiborne's claim regarding the delivery of the information and its general contents. This testimony, however, is at odds with common sense and with the testimony of Wright and his wife who also worked in the accounting office.

None of the witnesses on this issue was particularly compelling, although the evidence suggests that Ahlstrom delivered something to Wright's office on April 11, 1980; whether the delivery included the April 11 letter is not clear. Claiborne did not see the completed tax return, having signed it in blank prior to leaving town on business.

Although several possible scenarios suggest themselves, only one seems plausible. On the one hand, the April 11 letter could have been delivered to Wright's office, only to be the one item from the relevant file which was later lost or stolen, leaving Wright with only the earlier memorandum and telephone data from Claiborne as to his income. Under these scenarios, Claiborne gave his accountant conflicting information, at best.

The more plausible scenario is that the self-serving story behind Claiborne's April 11 letter is fictitious. By April 11, his accountant had at least two statements of his 1979 fee income, a circumstance fully consistent with Wright's contention that the April 11 letter was not requested. Claiborne questions the credibility of the Government's witnesses on this issue, pointing to their failure to recall burglaries of their premises and a move which could have caused the loss of the April 11 letter; he has not, however, suggested a convincing motive which would explain why they would adjust their stories. Moreover, no other documents from the file were misplaced.

Too many leaps of logic are required to accept his defense. Many of the factors surrounding the preparation and filing of his 1979 return are factors from which courts readily infer willfulness. Most important, if he did not know precisely what was reported in the 1979 tax return, he certainly should have known that his behavior served only to confuse his accountant

and prevent him from developing an accurate picture of his true income.

B. THE 1980 TAX RETURN

Claiborne's 1980 tax return also underreported his income. That discrepancy allowed him to pay only $1,103 in taxes rather than $97,864. The difference was attributable to his failure to report $87,912 in legal fee income and the improper treatment of the tax consequences flowing from the sale of his home.

Although the precise facts are not entirely clear, the record demonstrates that Claiborne abandoned his longtime accountant, Joseph Wright, and retained Creative Tax Consultants, headed by Jerry Watson. In contrast to the $600 annual fee charged by Wright for bookkeeping and preparation of tax returns, Watson earned $2,000 for his work on the 1980 tax return. That fee was measured in part by the size of the refund Watson was able to generate.

The change in accountants was the result of a belief that Wright was no longer interested in keeping the respondent as a client, combined with the fact that Watson happened to impress the respondent with his ability. While Claiborne was apparently unaware of Watson's nefarious reputation in the community, Watson held himself out as one willing to generate tax savings through "innovative" means. Since Claiborne was well aware of the substantial tax liability he faced in 1980, Watson's "talents" certainly factored into the decision to retain him and discard Wright. That conclusion is buttressed by the timing of Claiborne's decision to change accountants: after Watson suggested that he could dramatically reduce Claiborne's tax liability.

Watson developed a method to treat the sale of Claiborne's home as a tax free transaction, notwithstanding a taxable gain of over $200,000. Despite the fact that his erstwhile law practice did not have the requisite cost basis to substantiate such a claim, Watson also recorded a "loss" based upon the termination of Claiborne's law practice when he became a judge. The two men discussed these plans.

Chief among his claims in response, Claiborne rejects the inference that he abruptly switched accountants in order to gain the services of someone more willing to engage in tax law brinksmanship. He adds that he neither read the completed 1980 tax return, nor understood or was aware of the import of Watson's dubious calculations. Whether he read the return prior to filing, he acknowledges discussing with Watson the notions of claiming the gain from the home sale as a tax free transaction and taking a loss on his former law practice. He recognized within days after the filing that the return may well have been faulty, but was assured by Watson that two experienced Internal Revenue Service officials had vouched for the accuracy of the calculations. Notwithstanding his uneasiness with the return and the sizable refund it yielded, Claiborne retained Watson's services for 2 additional years and took no steps to check the 1980 tax return further.

Claiborne's conduct compels the conclusion that he willfully understated his 1980 income. Whether he was truly unaware of how incorrect his tax return was, he certainly turned a blind eye to questionable circumstances which otherwise would have been obvious to him. His change in accountants suggests a desire to conceal income. He resorted to extensive cash transactions. He underreported a significant amount for a second year in a row.

CLAIMS OF GOVERNMENTAL MISCONDUCT

Claiborne has urged the Senate to permit him to call several dozen witnesses ranging from prosecutors and investigators to the trail judge in his criminal proceeding. He contends that their testimony will reveal a vendetta which led to his conviction, and an unwillingness of several dozen Federal judges to expose its illegality out of fear that public opinion would question whether the vendetta issue was a mere subterfuge erected to protect a fellow jurist.

Even assuming all of Claiborne's allegations of governmental misconduct to be true, the same conclusions as to his conduct obtain. No individual claim or combination of claims can or should detract from the conclusion that he willfully submitted false income tax returns in 1979 and 1980. The Senate need go no further than it already has in assessing the merits of these claims. Although Claiborne views these theories as the overarching issue in this proceeding, he is mistaken.

His contention seems to be that but for a vast conspiratorial vendetta, his innocence would have been proven or the charges would never have been brought. Claiborne contends that full consideration of his claims on this score leads to several conclusions which will exonerate him. Specifically, he suggests that Federal prosecutors pursued him so relentlessly and unscrupulously that they bargained for perjured testimony from a known criminal and spearheaded an illegal burglary of his home in search of inculpatory evidence. He claims that exculpatory evidence was withheld and that witnesses were either intimidated or unfairly coached. If accurate, these claims warrant serious scrutiny and I have cosponsored legislation to establish a special subcommittee to investigate the issue further. If the claims have merit, steps should be taken to rectify the wrong. Remedial measures, however, will in no way abrogate the finding that Claiborne engaged in impeachable conduct.

He further asserts that he could not have had the requisite willful intent, given the predisposition of Federal prosecutors; that claim rests on the notion that no one whose every move is under intense scrutiny by Federal prosecutors would willfully violate the law or knowingly submit such faulty tax returns. This assertion is untenable, given the clear findings regarding Claiborne's conduct.

Claiborne alleges that sympathy for prosecutors and fear of public criticism led several dozen Federal judges to gloss over his defenses. He points to two dissenting appellate opinions in his case suggesting that some of the members of the reviewing panel may have rendered their decision without fully examining the record. Conveniently, Claiborne fails to address the fact that the Supreme Court, when presented with the full record in his case and the dissenting opinions upon which Claiborne now relies, also refused to overturn his criminal convictions.

Finally, Claiborne points to the departure from typical tax investigation procedures as an indication that he received uniquely harsh treatment. He contends that he was denied opportunities to negotiate with the Internal Revenue Service which would have obviated the need to resort to a criminal indictment. In so claiming, the respondent joins the many who believe that the discretion of the Internal Revenue Service and Federal prosecutors in deciding whether to pursue criminal charges is overbroad and should be curtailed. The law currently provides that discretion. Whether it should is a question which may well warrant inquiry but does not alter the finding in this proceeding.

CONCLUSION

The conclusion is inescapable that Claiborne filed false income tax returns and that he did so willfully rather than negligently. While I do not believe that the Senate must apply a reasonable doubt standard in impeachment proceedings, I nevertheless believe that Claiborne has advanced no reason to doubt the conclusions that I have reached about his conduct.

Although a convicted felon, Claiborne arrived before the Senate as a member of the Federal judiciary. He has been afforded the procedural protections which the constitution reserves for that important position. Given the circumstances, it is incumbent upon the Senate to fulfill its constitutional responsibility and strip this man of his title. An individual who has knowingly falsified tax returns has no business receiving a salary derived from the tax dollars of honest citizens. More importantly, an individual guilty of such reprehensible conduct ought

not be permitted to exercise the awesome powers which the constitution entrusts to the Federal judiciary.●

FEDERALISM ACT OF 1986

Mr. EVANS. Mr. President, yesterday I joined with my good friend and colleague Senator DURENBERGER to introduce S. 2926, the Federalism Act of 1986. I ask that this bill be printed in the CONGRESSIONAL RECORD.

The bill is as follows:

S. 2926

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

SECTION 1. This Act may be cited as the "Federalism Act of 1986".

SEC. 2. STATEMENT OF POLICY AND PURPOSE.

(a) STATEMENT OF POLICY.—It is the policy of the United States that—

(1) the Federal Government should assume responsibility if—

(A) nationwide uniformity of policy, finance, or administration is important to the solution of a problem, or

(B) it is necessary to raise revenues from the Nation as a whole and to distribute them to the various parts of the Nation;

(2) State and local governments should assume responsibility if—

(A) diversity of policy, finance, or administration is important to the solution of a problem, or

(B) experimentation by State and local officials with a knowledge of local conditions is important to meeting public needs; and

(3) State governments, rather than local governments, should assume responsibility if—

(A) the State constitution does not assign responsibility with specificity to the State government or to local governments,

(B) the multiplicity and diversity of local governments create barriers to raising revenues and delivering services effectively, or

(C) there is no compelling reason for the Federal Government to determine the distribution of resources and responsibilities.

(b) PURPOSE.—In furtherance of the principles set forth in subsection (a), it is the purpose of this Act—

(1) to terminate a number of shared programs and allow States to set their own priorities;

(2) to create greater nationwide uniformity of benefits in the Federal "safety-net" programs;

(3) to promote the employment of welfare recipients;

(4) to remove the tangled web of regulations imposed by the Federal government on State and local governments;

(5) to level the fiscal disparities between the poorest and wealthiest States and localities; and

(6) to reform intergovernmental relationships while assisting in the elimination of the Federal deficit crisis.

(c) BUDGET NEUTRALITY.—The principles and purposes set forth in subsections (a) and (b) shall be implemented gradually and on a fiscally neutral basis.

TITLE I—AID TO FAMILIES WITH DEPENDENT CHILDREN

SUBTITLE A—BENEFITS AND FEDERAL PARTICIPATION

SEC. 101. AFDC MINIMUM BENEFIT AMOUNT.

(a) MINIMUM BENEFIT AMOUNT.—

(1) Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended—

(A) by striking "and" at the end of paragraph (38),

(B) by striking the period at the end of paragraph (39) and inserting in lieu thereof "; and", and

(C) by inserting after paragraph (39) and before the matter following such paragraph the following new paragraph:

"(40) provide that aid provided under the plan shall be equal to or greater than the minimum benefit amount specified in section 411.".

(2) Part A of title IV of such Act is amended by inserting between sections 410 and 412 the following new section:

"MINIMUM BENEFIT AMOUNT

"SEC. 411. (a) The minimum monthly benefit amount for aid furnished in any month under a plan approved under this part with respect to any dependent child (including the relative with whom the child is living and any other individual in the same home as the child, whose needs are taken into account in making the determination under section 402(a)(7)) shall be an amount that, when added to the value of any food stamp allotment to which the family or its household is entitled for such month, is equal to the applicable percentage of the nonfarm income official poverty line established by the Office of Management and Budget (and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) for a family of the same size.

"(b) For purposes of this section—

"(1) the term 'applicable percentage' means—

"(A) 50 percent with respect to months beginning in fiscal year 1989,

"(B) 52 percent with respect to months beginning in fiscal year 1990,

"(C) 54 percent with respect to months beginning in fiscal year 1991,

"(D) 56 percent with respect to months beginning in fiscal year 1992,

"(E) 58 percent with respect to months beginning in fiscal year 1993,

"(F) 60 percent with respect to months beginning in fiscal year 1994, and

"(G) 62 percent with respect to months beginning in any fiscal year after fiscal year 1994; and

"(2) the term 'fiscal year' has the meaning given to such term in section 1102 of title 31, United States Code.".

(b) FEDERAL MATCHING RATE.—Section 1118 of the Act (42 U.S.C. 1318) is amended—

(1) by striking the second sentence,

(2) by inserting "(a)" after "Sec. 1118.", and

(3) by striking the last sentence, and

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

"(b) For purposes of subsection (a), the term 'Federal medical assistance percentage' shall mean—

"(1) 90 per centum with respect to any amounts expended by the State (as aid to families with dependent children) to meet the minimum benefit requirements of section 402(a)(40), and

"(2) the Federal medical assistance percentage (as defined in section 1905) with respect to any amounts (expended by the State as aid to families with dependent children) in excess of the amounts necessary to meet such requirements.".

(c) EFFECTIVE DATE.—Except as otherwise specifically provided, the amendments made by subsections (a) and (b) shall become effective October 1, 1988.

SEC. 102. MANDATORY PROVISION OF AID WITH RESPECT TO DEPENDENT CHILDREN IN TWO-PARENT FAMILIES.

REQUIREMENT THAT AID BE PROVIDED.—Section 402(a) of the Social Security Act, as amended by section 101 of this Act, is further amended—

(1) by striking out "and" after the semicolon at the end of paragraph (39);

(2) by striking out the period at the end of pararaph (40) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (40) the following new paragraph:

"(41) provide that payments of aid will be made under the plan with respect to dependent children of unemployed parents, in accordance with section 407.".

(b) CONFORMING AMENDMENTS—

(1) Section 407(b) of such Act is amended by striking out "(b) The provisions" and all that follows down through "(1) requires" and inserting in lieu thereof the following:

"(b) In providing for the payment of aid under the State's plan approved under section 402 in the case of families which include dependent children within the meaning of subsection (a) of this section, as required by section 402(a)(41), the State's plan—

"(1) shall require".

(2) Section 407(b)(2) of such Act is amended by striking out "provides—" and inserting in lieu thereof "shall provide—".

(c) EFFECTIVE DATE.—Except as otherwise specifically provided, the amendments made by subsections (a) and (b) shall become effective October 1, 1988.

SEC. 102. MANDATORY PROVISION OF AID WITH RESPECT TO DEPENDENT CHILDREN IN TWO-PARENT FAMILIES.

(a) REQUIREMENT THAT AID BE PROVIDED.—Section 402(a) of the Social Security Act, as amended by section 101 of this Act, is further amended—

(1) by striking out "and" after the semicolon at the end of paragraph (39);

(2) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (40) the following new paragraph:

"(41) provide that payments of aid will be made under the plan with respect to dependent children of unemployed parents, in accordance with section 407.".

(b) CONFORMING AMENDMENTS.—

(1) Section 407(b) of such Act is amended by striking out "(b) The provisions" and all that follows down through "(1) requires" and inserting in lieu thereof the following:

"(b) In providing for the payment of aid under the State's plan approved under section 402 in the case of families which include dependent children within the meaning of subsection (a) of this section, as required by section 402(a)(41), the State's plan—

"(1) shall require".

(2) Section 407(b)(2) of such Act is amended by striking out "provides—" and inserting in lieu thereof "shall provide—".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1988.

Subtitle B—Work-Related Requirements

SEC. 111. STATE PLAN REQUIREMENTS; REGISTRATION OF AFDC APPLICANTS AND RECIPIENTS FOR WORK-RELATED COUNSELING, ASSESSMENT, AND ASSIGNMENT.

(a) REQUIREMENT OF REGISTRATION.—Section 402(a)(19) of the Social Security Act is amended—

(1) in subparagraph (A)—

(A) by striking out "shall register" and all that follows down through "regulations issued by him," in the matter preceding clause (i) and inserting in lieu thereof "shall register with the State agency designated under section 416, in accordance with regulations issued by the Secretary, for work-related counseling, assessment, and assignment to employment, training, education, and other employment-related activities as described in section 416(b),";

(B) by striking out clause (iii) and inserting in lieu thereof the following:

"(iii) a person so remote from appropriate employment related activities that his or her effective participation in such activities is precluded;";

(C) in clause (v) by inserting "(or such younger age as the State may designate)" after "six";

(D) by striking out "to participate under a work incentive program or accept" in clause (vi) and inserting in lieu thereof "to participate in good faith in counseling and assessment with such agency and in employment, training, or education pursuant to an assignment under that section, or to accept";

(E) by striking out "the Secretary of Labor" in clause (v) and inserting in lieu thereof "the State agency designated under section 416";

(F) by striking out "or" at the end of clause (viii);

(G) by adding "or" after the semicolon at the end of clause (ix);

(H) by inserting after clause (ix) and before the matter following such clause the following new clause:

"(x) any individual with respect to whom the State agency designated under section 416 makes the determination that counseling, assessment, and the employment-related activities described in section 416(b) will not improve the employment prospects of the individual;"; and

(I) in the matter following clause (x)—

(i) by striking out "any individual referred to in clause (v)" in the matter following clause (ix) and inserting in lieu thereof "(I) any individual exempt from registration under the preceding provisions of this subparagraph", and

(ii) by striking out "register;" the second place it appears and inserting in lieu thereof "register, and (II) no individual providing care for a child under the age of six shall be required to register by reason of the parenthetical expression in clause (v) unless the State agency designated under section 416 is able to make necessary transportation and child care arrangements available to such individual;";

(2) in subparagraph (B), by striking out "or the individual's certification" and all that follows and inserting in lieu thereof "or the individual's certification under subparagraph (G) of this paragraph to the State agency designated under section 416, or by reason of an individual's participation in employment, training, or education pursuant to an assignment made by such agency under section 416(b)(3);";

(3) in subparagraph (C), by striking out "a non-Federal contribution to the work incentive programs" and all that follows and inserting in lieu thereof "a non-Federal contribution by appropriate State and local agencies and private organizations to the work incentive programs established by part C, and to any other work-related programs to which individuals are assigned under section 416(b)(3), as specified in section 416(e);";

(4) in subparagraph (D), by striking out "under section 434" and "a program established by section 432(b) (2) or (3)" and inserting in lieu thereof "under a program to which individuals are assigned by the State agency designated under section 416" and "such a program", respectively;

(5) in subparagraph (F)—

(A) by striking out "that if" and all that follows down through "purposes of such part C" (in the matter preceding clause (i)) and inserting in lieu thereof "that if (and for such period as is prescribed under regulations of the Secretary) any child, relative, or individual required to register under subparagraph (A) has been found by the State agency designated under section 416 to have refused without good cause to so register, or has refused without good cause to participate in good faith in counseling and assessment with the State agency designated under section 416 or in employment, training, or education pursuant to an assignment made by such agency under section 416(b)(3),"; and

(B) by adding after and below clause (v) the following:

"and for purposes of this subparagraph a refusal by an individual to accept employment shall be considered to have been made with good cause if the acceptance of such employment would result in a net loss of income by such individual;".

(6) in subparagraph (G)—

(A) by striking out "for the administration of programs established pursuant to section 432(b) (1), (2), or (3)" and inserting in lieu thereof "by the State agency designated under section 416";

(B) by striking out "the order of priority listed in section 433(a)" and inserting in lieu thereof "with the order of priority determined by the State";

(C) by striking out "under section 432(b) (1), (2), or (3)" each place it appears and inserting in lieu thereof "under the work-related program involved";

(D) by striking out "the Secretary of Labor" each place it appears and inserting in lieu thereof "the State agency designated under section 416";

(E) by striking out "accepts employment" and "retain such employment" and inserting in lieu "accepts counseling, assessment, job search, employment, training, or education" and "continue such counseling, assessment, job search, employment, training, or education", respectively; and

(F) by striking out clause (iii) and redesignating clause (iv) as clause (iii); and

(7) in subparagraph (H), by striking out "under section 432(b) (1), (2), or (3)" and inserting in lieu thereof "under section 416".

(b) REQUIREMENT OF CONSOLIDATED ADMINISTRATION OF WORK-RELATED PROGRAMS.—Section 402(a) of such Act is further amended—

(1) by striking out "and" after the semicolon at the end of paragraph (38);

(2) by striking out the period at the end of paragraph (39) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (39) the following new paragraph:

"(40) consolidate the administration of the State's work-related functions under this part, by providing for the assignment of registered individuals by the State agency designated under section 416 to work-related counseling, assessment, and to employment and training programs (as described in such section) and for the performance by such agency of its other duties under that section and under paragraph (19) of this subsection.".

SEC. 112. CONSOLIDATED ADMINISTRATION OF WORK-RELATED PROGRAMS.

Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"CONSOLIDATED ADMINISTRATION OF WORK-RELATED PROGRAMS

"SEC. 416. (a)(1) The Governor of each State with a plan under this part shall designate a State agency to perform the functions specified in this section and in section 402(a)(19).

"(2) It shall be the purpose of the State agency designated under this subsection to assist applicants for and recipients of aid to families with dependent children in finding gainful employment and in obtaining any training and education which may be necessary to enable them to perform such employment, with the objective of reducing the number of individuals on the welfare rolls by providing such applicants and recipients with a realistic opportunity to become self-sufficient.

"(b) In carrying out the purpose described in subsection (a)(2), the State agency designated under subsection (a) shall—

"(1) provide for the registration of all applicants for and recipients of aid to families with dependent children, consistent with section 402(a)(19), and for the determination of the appropriate employment-related activities (including counseling, assessment, and job search) with respect to each such individual;

"(2) administer, or enter into arrangements with administering authorities for, the participation of such applicants and recipients in employment, training, and education activities determined by the State agency designated under subsection (a) to be in furtherance of the objective stated in subsection (a)(2), including—

"(A) the work incentive program under part C of this title,

"(B) the work incentive demonstration program under section 445,

"(C) the State's community work experience program under section 409,

"(D) the State's work supplementation program under section 414, and

"(E) a work demonstration program under section 1115;

"(F) any program under the Job Training Partnership Act,

"(G) any program of job search and related services, including services offered by vocational education agencies and the public employment offices of the State, and

"(H) any other program (Federal, State, local, or private) which could be made effectively available to such applicants and recipients and participation in which would further such objective;

"(3) assign each such applicant or recipient to activities or programs with respect to which arrangements have been entered into under paragraph (2) and which are determined by the State agency designated under subsection (a), to be appropriate for such applicant or recipient, and provide all possible assistance to such applicant or recipient in preparing for, enrolling in, and participating in such program or programs; and

"(4) take all other actions, not inconsistent with the provisions of this section or of the law governing the program or programs involved, which may be necessary or appropriate to achieve the objective stated in subsection (a)(2).

"(c)(1) The terms and conditions of participation in employment, training, and education activities as described in subsection (b)(2), and the manner in which the provisions of the programs involved are to apply with respect to applicants and recipients registered under section 402(a)(19), shall be determined (subject to the specific requirements of this title and of such programs) by the State agency designated under subsection (a) in consultation with the administering authorities of such programs.

"(2) To the maximum extent possible, the steps taken in providing for participation in counseling, assessment, and job search, and the employment, training, and education activities as described in subsection (b)(2) shall include coordination of the services furnished and activities conducted under the various programs involved with respect to registered applicants and recipients in order to avoid inefficiency and duplication of effort and to assure the widest possible availability to such applicants and recipients of services and activities which will further the objective stated in subsection (a)(2). Under regulations prescribed by the Secretary, this section and all functions performed by State agencies and entities under this section shall be coordinated with the work and training requirements which apply to applicants for and recipients of benefits under the Food Stamp Act of 1977.

"(d) The State agency designated under subsection (a) shall make available to registered applicants and recipients who are assigned for employment, training, or education under subsection (b)(3) such child care services and transportation, and such other assistance not inconsistent with law, as may be necessary or appropriate to achieve the objective stated in subsection (a)(2).

"(e)(1) Notwithstanding any other provision of law, and except as provided in paragraphs (4) and (5), the Federal contribution to the costs incurred by the State agency designated under subsection (a) in any fiscal year, and to the costs incurred by any other State agency or entity in carrying out a program referred to in subsection (b)(2) with respect to individuals assigned to that program under subsection (b)(3) in any fiscal year shall be equal to the applicable percentage of such costs as determined under paragraph (2).

"(2)(A) For purposes of paragraph (1), the applicable percentage of the costs described in that paragraph which are incurred by any State agency or entity in fiscal year 1988 shall be 90 percent.

"(B) For purposes of paragraph (1), the applicable percentage of the costs described in paragraph (1) which are incurred by any State agency or entity in a fiscal year beginning after fiscal year 1988 shall be—

"(i) 90 percent, with respect to so much of a State's allotment for such fiscal year under subsection (f) as does not exceed the amount allotted to the State under such subsection for fiscal year 1988,

"(ii) 70 percent, with respect to one-half of the amount by which the amount allotted to the State for the fiscal year under subsection (f) exceeds the amount allotted to the State under such subsection for fiscal year 1988, and

"(iii) a percentage (not more than 90 percent and not less than 70 percent) specified by the Secretary on the basis of the performance of the State agency designated under subsection (a), with respect to one-half of the amount by which the amount allotted to the State for the fiscal year under subsection (f) exceeds the amount allotted to the State under such subsection for fiscal year 1988.

"(3)(A) In any fiscal year beginning after fiscal year 1988, the percentage specified by the Secretary under paragraph (2)(B)(iii) shall be determined in accordance with performance standards developed and prescribed by the Secretary of Health and Human Services, in consultation with the Secretary of Labor, appropriate State officials designated for purposes of this paragraph by the Governors of the several States, and other appropriate experts.

"(B) Such performance standards (which shall be coordinated with the corresponding performance standards under the Job Training Partnership Act)—

"(i) shall be measured by outcomes and not by levels of activity or participation, and shall be based on the degree of success which may reasonably be expected of States (in carrying out their employment-related programs with respect to registered individuals assigned under subsection (b)(3)) in helping such individuals to achieve self-sufficiency and reducing welfare costs;

"(ii) shall take into account the greater difficulties in achieving self-sufficiency that face individuals with limited prior employment experience; and

"(iii) shall encourage States to give appropriate recognition to the greater difficulties in achieving self-sufficiency that face individuals with limited prior employment experience.

"(4) The Federal contribution for administrative costs shall be 50 percent.

"(5) The Federal contribution for the costs of providing (or making available) transportation, child care, and other employment-related support services (as defined by the Secretary in regulations) to registered individuals assigned to a program under subsection (b)(3) shall be 90 percent.

"(f)(1) Notwithstanding any other provision of law, there are authorized to be appropriated—

"(A) $500,000,000 for fiscal year 1988,

"(B) $600,000,000 for fiscal year 1989,

"(C) $700,000,000 for fiscal year 1990,

"(D) $800,000,000 for fiscal year 1991,

"(E) $900,000,000 for fiscal year 1992, and

"(F) $1,000,000,000 for each of the fiscal years 1993, 1994, and 1995,

to carry out the activities under this section.

"(2) The amount allotted to a State under paragraph (1) for a fiscal year shall be an amount that bears the same ratio to the amount appropriated under such paragraph for such fiscal year as—

"(A) the average number of AFDC recipients in such State during the most recent 12-month period preceding the commencement of such fiscal year for which satisfactory data are available, bears to

"(B) the average number of AFDC recipients during such period in all the States.

SEC. 113. OPTIONAL COVERAGE OF EMPLOYMENT-RELATED SUPPORT SERVICES FOR CERTAIN INDIVIDUALS.

(a) IN GENERAL.—Section 402(a) of the Social Security Act, as amended by sections 101 and 102 of this Act, is further amended—

(1) by striking out "and" at the end of paragraph (40);

(2) by striking out the period at the end of paragraph (41) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (41) the following new paragraph:

"(42) at the option of the State, provide that, in any case where a family has ceased, by reason of increased income from employment, to be eligible for aid under the State plan approved under this part (A) payment under the plan for child care, transportation, and other employment-related support services (as defined by the Secretary in regulations) will continue for such family for a period of up to twelve months after the family has ceased to be eligible for such aid, and (B) at the option of the State, a family contribution for such services (determined in accordance with a sliding scale based on income) will be required.".

(b) REIMBURSEMENT.—Section 416(e)(5) of such Act, as added by section 112 of this Act, is amended by inserting "(and to other individuals eligible for such services in accordance with section 402(a)(42))" after "subsection (b)(5)".

SEC. 114. TECHNICAL, CONFORMING, AND MISCELLANEOUS AMENDMENTS.

(a) AMENDMENTS TO PART A OF TITLE IV.—(1) Section 402(a)(8)(A)(iv)(II) of the Social Security Act is amended by striking out "under the programs established by section 432(b) (2) and (3)" and inserting in lieu thereof "under any training, education, or public service employment program to which such child or relative has been assigned pursuant to section 416(b)(3)".

(2) Section 403(c) of such Act is amended by striking out "certified to the local employment office of the State as being ready for employment or training under section 432(b) (1), (2), or (3)" and inserting in lieu thereof "assigned by the State agency designated under section 416(a) for counseling, assessment, or job search, or for any employment, training, or education activities pursuant to section 416(b)(3)".

(3) Section 407(b)(2)(C)(i) of such Act is amended by striking out "for the work incentive program" and all that follows and inserting in lieu thereof ", and".

(4) Section 407(d)(1) of such Act is amended by striking out "a community work experience program under section 409, or the work incentive program established under part C" and inserting in lieu thereof "a program with respect to which the State agency designated under section 416(a) has provided under section 416(b)(2) for participation by registered individuals in employment, training, and education activities".

(5) Section 407(e) of such Act is amended—

(A) by striking out "and the Secretary of Labor shall jointly" and inserting in lieu thereof "shall";

(B) by striking out "for the work incentive program" and all that follows down through "or in connection" and inserting in lieu thereof "and in connection"; and

(C) by striking out "both the work incentive program" and inserting in lieu thereof "both the programs referred to in section 416(b)(2)".

(6) Section 414(h) of such Act is amended by striking out "or part C".

(b) AMENDMENTS TO PART C OF TITLE IV.—(1) Part C of title IV of such Act is amended—

(A) by striking out section 431;

(B) in section 432(a), by striking out "The Secretary of Labor (hereinafter in this part referred to as the Secretary)" and inserting in lieu thereof "The Secretary";

(C) in section 436(b), by striking out "prescribed jointly by him and the Secretary of Health and Human Services" and inserting in lieu thereof "prescribed by him";

(D) in section 439—

(i) by striking out "and the Secretary of Health and Human Services" where it first appears, and

(ii) by striking out ", jointly by the Secretary and the Secretary of Health and Human Services," and inserting in lieu thereof "by the Secretary";

(E) in section 441, by striking out "(jointly with the Secretary of Health and Human Services)";

(F) in section 443—

(i) by striking out "of Health and Human Services" in the first and second sentences, and

(ii) by striking out "and shall be paid by the Secretary of Health and Human Services to the Secretary" in the fourth sentence;

(G) in section 444(a), by striking out "by the Secretary of Health and Human Services"; and

(H) in section 445—

(i) by striking out "of Health and Human Services" each place it appears in paragraphs (1) and (2) of subsection (b) and in subsection (e), and

(ii) by striking out paragraph (3) of subsection (b).

(2) Section 433(a) of such Act is amended—

(A) by striking out "certified to him by a State, pursuant to section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 416(b)(3)"; and

(B) by striking out "certified to him under section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 416(b)(3)".

(3) Section 433(b)(3) of such Act is amended by striking out "certified to him pursuant to section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 416(b)(3)".

(4) Section 433(g) of such Act is amended by striking out "certified to the Secretary pursuant to section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 416(b)(3)".

(5) Section 435(a) of such Act is amended by striking out "shall not exceed 90 per centum of the costs of carrying out this part" and inserting in lieu thereof "shall be equal to the applicable percentage of the costs of carrying out this part as determined under section 416(e)".

(6) Section 444(a) of such Act is amended by striking out "individuals certified" and all that follows and inserting in lieu thereof "individuals assigned to the work incentive program pursuant to section 416(b)(3).".

(7) Section 444(d) of such Act is amended by striking out "certified to the Secretary by such agency under section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the State agency designated under section 416".

(8) Section 445 of such Act is amended—

(A) by striking out "Not later than June 30, 1985, the" in subsection (b)(1) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "The";

(B) by striking out ", and shall be required to participate in," in subsection (b)(1)(B); and

(C) by striking out "shall be in force for a three-year period" in subsection (d) and inserting in lieu thereof "shall be in force for such period as may be specified in the letter of application submitted under subsection (b)(1), and may be renewed (upon the submission by the Governor of an appropriate letter of application, subject to approval in the manner described in subsection (b)(2)) for an additional period or periods".

(c) RELATIONSHIP WITH OTHER WORK-RELATED PROGRAMS.—Whenever a provision of section 416 of the Social Security Act, or any other provision of such Act which is amended by the preceding provisions of this Act, is determined to be inconsistent with a provision of any of the work-related programs referred to in section 416(b)(2) of such Act or of any other work-related program which may involve or affect individuals who have registered under section 402(a)(19) of such Act and are assigned to such program under section 416(b)(3) of such Act, the provision of section 416 of the Social Security Act (or other provision of such Act as amended by this Act) shall govern.

SEC. 115. EFFECTIVE DATE.

Except to the extent otherwise specifically provided, the amendments made by this subtitle shall take effect October 1, 1987.

Subtitle C—Hold Harmless

SEC. 121. HOLD HARMLESS.

Notwithstanding any other provision of title IV or XI of the Social Security Act, the Federal percentage shall be 100 per centum with respect to—

(1) amounts expended by a State as aid to families with dependent children (or for employment-related activities consolidated under part A of title IV) in calendar quarters beginning in fiscal year 1988, and

(2) amounts expended by a State as aid to families with dependent children (or for employment-related activities consolidated under part A of title IV) in calendar quarters beginning in fiscal year 1989,

that are in excess of the amounts expended by the State for such aid and activities for calendar quarters beginning in fiscal year 1987 and that are attributable to the amendments made by this Act.

TITLE II—MEDICAID

SEC. 201. MEDICAID ELIGIBILITY FOR POOR CHILDREN AND PREGNANT WOMEN.

(a) QUALIFIED PREGNANT WOMEN AND CHILDREN.—

(1) Section 1905(n) of the Social Security Act (42 U.S.C. 1396f(n)) is amended to read as follows:

"(n)(1) The term 'qualified pregnant woman or child' means—

"(A) women during pregnancy (and during the 60-day period following pregnancy),

"(B) infants and children under five years of age,

"(C) children who have attained five years of age but have not attained six years of age,

"(D) children who have attained six years of age but have not attained seven years of age,

"(E) children who have attained seven years of age but have not attained eight years of age,

"(F) children who have attained eight years of age but have not yet attained nine years of age,

"(G) children who have attained nine years of age but have not yet attained ten years of age,

"(H) children who have attained ten years of age but have not yet attained eleven years of age, and

"(I) children who have attained eleven years of age but have not yet attained twelve years of age,

whose family income does not exceed 100 percent of the nonfarm income official poverty line defined by the Office of Management and Budget (and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(2) Notwithstanding subsection (a)(17), for purposes of this subsection family income shall be determined in accordance with the methodology employed under section 5 of the Food Stamp Act of 1977. Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(17), require or permit such treatment for other individuals.".

(2)(A) Section 1902(a)(17) of such Act (42 U.S.C. 1396a(a)(17)) is amended by inserting "except as provided in subsection (n)," after "(17)".

(B) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended by inserting "for any individual described in section 1902(f)(1) or" after "as medical assistance".

(b) REQUIRED SERVICES.—Section 1902 of such Act (42 U.S.C. 1396a), as amended by subsection (a), is further amended by adding at the end thereof the following new subsection:

"(l) The Secretary shall establish uniform national minimum standards with respect to the types of care and services described in section 1905(a) that shall be made available to qualified women and children under State plans approved under this title. Such services shall include, with respect to pregnant women, at least the services described in subsections (a)(10)(C)(iii)(II) and (e)(5).".

(c) EFFECTIVE DATE.—

(1) Except as provided in paragraphs (2) and (3), the amendments made by this Act shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1987.

(2)(A) Subparagraph (C) of section 1902(n)(1) of the Social Security Act, as added by subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1988.

(B) Subparagraph (D) of section 1902(n)(1) of the Social Security Act, subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1989.

(C) Subparagraph (E) of section 1902(n)(1) of the Social Security Act, subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1990.

(D) Subparagraph (F) of section 1902(n)(1) of the Social Security Act, subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1991.

(E) Subparagraph (G) of section 1902(n)(1) of the Social Security Act, subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1992.

(F) Subparagraph (H) of section 1902(n)(1) of the Social Security Act, subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1993.

(G) Subparagraph (I) of section 1902(n)(1) of the Social Security Act, subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1994.

(3) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to

comply with the requirements of such title solely on the basis of its failure to meet such additional requirements until the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after October 1, 1987.

(4) The amendments made by this section shall become effective without regard to whether the Secretary of Health and Human Services has promulgated final regulations with respect to the standards required by section 1902(l) of the Social Security Act.

SEC. 202. MEDICAID ELIGIBILITY FOR CERTAIN OTHER INDIVIDUALS.

(a) IN GENERAL.—

(1) Subsection (f) of section 1902 of the Social Security Act (42 U.S.C. 1396a(F) is repealed.

(2) Section 1902(a)(10)(A)(i) of the Social Security Act, as amended by section 201, is further amended—

(A) by striking "or" at the end of subclause (II),

(B) by striking the semicolon at the end of subclause (III) and inserting in lieu thereof a comma, and

(C) by adding at the end thereof the following new subclauses:

"(IV) who are eligible to have paid with respect to them supplemental security income benefits under title XVI, or

"(V) who would be eligible (if they were not in a medical institution) to have paid with respect to them, aid or assistance under the appropriate State plan described in subclause (I), supplemental security income benefits under title XVI.".

(3)(A) Section 1843(b) of such Act (42 U.S.C. 1395v(b)) is amended by striking "subject to section 1902(f),".

(B) Section 1902(a)(10)(A)(ii)(IV) of such Act is amended to read as follows:

"(IV) with respect to whom there is being paid, or who are eligible to have paid with respect to them, aid or assistance under the appropriate State plan described in clause (i);".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1988.

SEC. 203. MEDICALLY NEEDY PROGRAM REQUIRED.

(a) IN GENERAL.—Section 1902 of the Social Security Act, as amended by sections 201 and 202, is further amended by adding at the end thereof the following new subsection:

"(m) In order to be approved under this section, a State plan shall, pursuant to subsection (a)(1)(C), include medical assistance for one or more groups of individuals described in section 1905(a) who are not described in subsection (a)(1)(A) of this section.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1988.

SEC. 204. FEDERAL MEDICAL ASSISTANCE PERCENTAGE.

Section 1905(b) of the Social Security Act 942 U.S.C. 1396d(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(2) by inserting "(1)" after "(b)",

(3) by striking "Hawaii;" and inserting in lieu thereof "Hawaii, decreased by the applicable number of percentage points;",

(4) by striking "83 per centum" and inserting in lieu thereof "90 per centum",

(5) by striking "Act)." and inserting in lieu thereof "Act). Notwithstanding the first sentence of this subsection, the Federal medical assistance percentage shall be 80 per centum with respect to amounts expended as medical assistance for qualified pregnant women and children (as defined in section 1902(n)) for calendar quarters beginning on or after October 1, 1987, and before October 1, 1988, and 90 per centum with respect to amounts so expended in calendar quarters beginning on or after October 1, 1988.", and

(6) by adding at the end thereof the following new paragraph:

"(2) For purposes of paragraph (1), the applicable number of percentage points (by which a State percentage shall be reduced) is—

"(A) in the case of calendar quarters beginning on or after October 1, 1988, and before October 1, 1989, 2 percentage points,

"(B) in the case of calendar quarters beginning on or after October 1, 1989, and before October 1, 1990, 4 percentage points,

"(C) in the case of calendar quarters beginning on or after October 1, 1990, and before October 1, 1991, 6 percentage points,

"(D) in the case of calendar quarters beginning on or after October 1, 1991, and before October 1, 1992, 8 percentage points,

"(E) in the case of calendar quarters beginning on or after October 1, 1992, and before October 1, 1993, 10 percentage points, and

"(F) in the case of calendar quarters beginning on or after October 1, 1993, and before October 1, 1994, 12 percentage points, and

"(F) in the case of calendar quarters beginning on or after October 1, 1994, 14 percentage points.".

SEC. 205. HOLD HARMLESS.

Notwithstanding any other provision of title XI or XIX of the Social Security Act, the Federal medical assistance percentage shall be 100 per centum with respect to—

(1) amounts expended by a State for medical assistance furnished in calendar quarters beginning in fiscal year 1988, and

(2) amounts expended by a State for medical assistance furnished in calendar quarters beginning in fiscal year 1989,

that are in excess of the amounts expended by the State for medical assistance for calendar quarters beginning in fiscal year 1987 and that are attributable to the amendments made by this Act.

TITLE III—TERMINATION OR REDUCTION OF CERTAIN FEDERAL PROGRAMS

SEC. 301. REPEAL OF CERTAIN STATUTES.

The following provisions of law are hereby repealed:

(1) APPALACHIAN REGIONAL COMMISSION.—Section 101 of the Appalachian Regional Development Act of 1965 (Public Law 89-4; 79 Stat. 5).

(2) ECONOMIC DEVELOPMENT ADMINISTRATION.—Public Works and Economic Development Act of 1965 (Public Law 89-136; 79 Stat. 552).

(3) URBAN MASS TRANSIT INTERSTATE TRANSFER.—Section 4(g) of the Urban Mass Transportation Act of 1964.

(4) URBAN MASS TRANSIT FORMULA GRANTS.—Section 9 of the Urban Mass Transportation Act of 1964.

(5) URBAN MASS TRANSIT RESEARCH.—Section 11 of the Urban Mass Transportation Act of 1964.

(6) UDAG AND CDBG.—Title I of the Housing and Community Development Act of 1974.

(7) IMPACT AID.—

(A) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress).

(B) The Act of September 23, 1950 (Public Law 815, Eighty-first Congress).

(8) CONSOLIDATION OF EDUCATION PROGRAMS.—Chapter 2 of the Education Consolidation and Improvement Act of 1981.

(9) VOCATIONAL EDUCATION.—Carl D. Perkins Vocational Education Act.

(10) COMMUNITY SERVICES BLOCK GRANTS.—Community Services Block Grant Act.

(11) WASTEWATER.—Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.).

(12) RURAL WATER WASTE DISPOSAL.—Section 306 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1926).

SEC. 302. REDUCTION IN HOUSING ASSISTANCE PROGRAM OUTLAYS.

(a) PROGRAMS TO WHICH REDUCTIONS APPLY.—The reductions required by subsection (b) shall apply to the following housing assistance programs:

(1) Housing assistance payments under section 8 of the United States Housing Act of 1937.

(2) Public housing assistance and loans under the United States Housing Act of 1937.

(3) Rental housing assistance under section 236 of the National Housing Act.

(4) Loans for the development of housing for the elderly and handicapped under section 202 of the Housing Act of 1959.

(5) Congregate services assistance under the Congregate Housing Services Act of 1978.

(6) Operating assistance under section 201 of the Housing and Community Development Amendments of 1978.

(b) AMOUNT OF REDUCTIONS.—The Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall report legislation to their respective Houses reducing the aggregate outlays for the programs referred to in subsection (a) from the fiscal year 1986 aggregate baseline outlay amount, as determined by the Director of the Congressional Budget Office, by the following cumulative amounts:

(1) For fiscal year 1987, $700,000,000.
(2) For fiscal year 1988, $800,000,000.
(3) For fiscal year 1989, $900,000,000.
(4) For fiscal year 1990, $1,000,000,000.
(5) For fiscal year 1991, $1,000,000,000.
(6) For fiscal year 1992, $1,200,000,000.
(7) For fiscal year 1993, $1,300,000,000.
(8) For fiscal year 1994, $1,400,000,000.

SEC. 303. REDUCTION AND TERMINATION OF SOCIAL SERVICES BLOCK GRANT.

(a) REDUCTION.—Section 2003(c)(3) of the Social Security Act (42 U.S.C. 1397b(c)(3)) is amended to read as follows:

"(3) $2,000,000,000 for each of the fiscal years 1988 and 1989.".

(b) TERMINATION.—Effective October 1, 1989, title XX of the Social Security Act is repealed.

TITLE IV—FISCAL CAPACITY GRANTS

SEC. 401. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) with the same level of tax effort, high fiscal capacity communities can generate twice the tax revenues of low fiscal capacity communities;

(2) such unevenness in revenue raising ability is responsible for substantial differences in the level and quality of basic community services such as public safety, emergency services, assistance to the homeless,

indigent and elderly public health, and transportation;

(3) low-income communities generally have higher concentrations of poor individuals who have above average needs for public services and place additional burdens on local governments;

(4) these communities are further burdened by the numerous, unfunded Federal mandates with which they must comply;

(5) it is a responsibility of the Federal government to help ensure that all citizens enjoy a minimum level of basic public services;

(6) it is in the national interest to strengthen the weaker partners in the Federal system by lessening the fiscal disparities that exist among communities;

(7) overall, the current system of Federal aid is only mildly targeted to needy State and local government and does little to lessen fiscal disparities; and

(8) a well-targeted program of general purpose fiscal assistance, with a moderate funding level, could reduce fiscal disparities between high-income and low-income local governments.

(b) PURPOSE.—It is the purpose of this title to establish a program that will—

(1) reduce fiscal disparities among State and local governments, and

(2) ensure that all communities can provide their citizens with a safety net of basic public services,

by providing general purpose fiscal assistance to needy communities.

SEC. 402. DEFINITIONS AND SPECIAL RULES OF APPLICATION.

(a) DEFINITIONS.—For purposes of this title—

(1) The term "unit of general local government" means—

(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

(B) except under sections 407(b), 408, and 409(a)(2), the District of Columbia and the recognized governing body of an Indian tribe or Alaskan native village that carries out substantial governmental duties and powers.

(2) The term "entitlement period" means each one-year period beginning on October 1 of 1987, 1988, 1989, 1990, 1991, 1992, and 1993.

(3) The term "State and local taxes" means taxes imposed by a State government or unit of general local government or other political subdivision of the State government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) as determined by the Secretary of Commerce for general statistical purposes.

(4) The term "other charges" means the other charges imposed by a State government or unit of general local government as determined by the Secretary of Commerce for general statistical purposes.

(5) The term "adjusted taxes of a unit of general local government" means the taxes imposed by the unit of general local government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) determined by the Secretary of Commerce for general statistical purposes and adjusted (under regulations of the Secretary of the Treasury) to exclude amounts properly allocated to education expenses.

(6) The term "income" means the total money income received from all sources as determined by the Secretary of Commerce for general statistical purposes.

(7) The term "per capita income" means—

(A) in the case of the United States, the income of the United States divided by the population of the United States;

(B) in the case of a State, the income of that State, divided by the population of that State; and

(C) in the case of a unit of general local government, the income of that unit of general local government divided by the population of the unit of general local government.

(8) The term "finding of discrimination" means a decision by the Secretary of the Treasury about a complaint described in section 419(b), a decision by a State or local administrative agency, or other information (under regulations prescribed by the Secretary) that it is more likely than not that a State government or unit of general local government has not complied with subsection (a) or (b) of section 414.

(9) The term "holding of discrimination" means a holding by a United States court, a State court, or an administrative law judge appointed under section 3105 of title 5, that a State government or unit of general local government expending amounts received under this Act has—

(A) excluded a person in the United States from participating in, denied the person the benefits of, or subjected the person to discrimination under, a program or activity because of race, color, national origin, or sex; or

(B) violated a prohibition against discrimination described in section 414(b) of this Act.

(10) The term "Trust Fund" means the General Fiscal Assistance Trust Fund.

(11) The term "Secretary" means the Secretary of the Treasury.

(b) BOUNDARY AND OTHER CHANGES.—When a boundary line change, a State statutory or constitutional change, annexation, a governmental reorganization, or other circumstance results in the application of this Act in a way that does not carry out the purposes of this Act, the Secretary shall apply this Act under regulations of the Secretary in a way that is consistent with those purposes.

SEC. 403. PAYMENTS TO STATE AND LOCAL GOVERNMENTS.

(a) PAYMENT OF ENTITLEMENTS.—Each State government and unit of general local government is entitled to an amount equal to the amount allocated to such government under this Act for each entitlement period. The Secretary of the Treasury shall pay each amount out of the General Fiscal Assistance Trust Fund.

(b) TIMING OF PAYMENTS.—Except as provided under regulations of the Secretary, the Secretary shall determine allocations under this Act for an entitlement period by the first day of the third month before the beginning of the entitlement period. The Secretary shall pay such allocations in installments. An installment shall be paid at least once a quarter by the fifth day after the end of the quarter. The Secretary initially may estimate the amount of each installment.

(c) ADJUSTMENTS.—The Secretary shall adjust a payment under this Act to a State government or unit of general local government to the extent that a prior payment to the government was more or less than the amount required to be paid. However, the Secretary may increase or decrease a payment to the government only when the Secretary or the government demands the increase or decrease within one year after the end of the entitlement period for which the payment was made.

(d) RESERVATION FOR ADJUSTMENTS.—The Secretary may reserve a percentage (of not more than 0.5 percent) of the amounts otherwise required to be paid under this section for an entitlement period for a State government and units of general local government in the State when the Secretary considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of general local government in the State.

SEC. 404. GENERAL FISCAL ASSISTANCE TRUST FUND.

(a) ADMINISTRATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the "General Fiscal Assistance Trust Fund". The Secretary of the Treasury shall be the trustee of the Trust Fund. Amounts in the Trust Fund—

(1) except as provided in this Act, may be used only for payments to State governments and units of general local government under this Act; and

(2) remain available until expended.

(b) APPROPRIATIONS.—(1) The Trust Fund shall consist of amounts appropriated to the Trust Fund.

(2) There are authorized to be appropriated to the Trust Fund for each entitlement period—

(A) $2,500,000,000 for the purpose of making payments to State governments under this Act, and

(B) $1,500,000,000 for the purpose of making payments to units of general local government under this Act.

(c) TRANSFER OF EXCESS TO GENERAL FUND.—The Secretary shall transfer to the general fund of the Treasury amounts in the Trust Fund the Secretary decides are not necessary for payments to State governments and units of general local government under this Act.

(d) APPROPRIATION AUTHORIZED FOR CERTAIN ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the Department of Commerce for each entitlement period $500,000 for the purpose of making the determinations required under sections 402(a)(4) and 407(c)(3).

SEC. 405. QUALIFICATIONS.

(a) IN GENERAL.—Under regulations prescribed by the Secretary, a State government or unit of general local government qualifies for payment under this Act for an entitlement period only after establishing to the satisfaction of the Secretary that—

(1) the government will establish a trust fund in which the government will deposit all payments received under this Act;

(2) the government will use amounts in the trust fund (including interest) during a reasonable period provided in such regulations;

(3) if at least 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of the trust fund, individuals in the occupation any part of whose pay is paid out of the trust fund will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

(4) if at least 25 percent of the costs of a construction project are paid out of the trust fund, laborers and mechanics employed by contractors or subcontractors on the project will receive pay at least equal to the prevailing rate of pay for similar construction in the locality as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.), and the Secretary of Labor shall act on labor standards under this clause in a way that is in accordance with Reorganization Plan No. 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c);

(5) the government will use accounting, audit, and fiscal procedures conforming to guidelines prescribed by the Secretary of the Treasury (after the Secretary consults with the Comptroller General of the United States);

(6) after reasonable notice to the government, the government will make available to the Secretary of the Treasury and the Comptroller General, with the right to inspect, records the Secretary reasonably requires to review compliance with this Act or the Comptroller General of the United States reasonably requires to review compliance and operations under section 421(d) of this Act;

(7) the government will make reports the Secretary of the Treasury reasonably requires, in addition to the annual reports required under section 422(b) of this Act; and

(8) the government will comply with the requirements of sections 413 and 421.

(b) REVIEW BY GOVERNORS.—A unit of general local government shall give the chief executive officer of the State in which the government is located an opportunity for review and comment before establishing compliance with subsection (a).

(c) SANCTIONS FOR NONCOMPLIANCE.—

(1) When the Secretary of the Treasury decides that a State government or unit of general local government has not complied substantially with subsection (a) or regulations prescribed under subsection (a), the Secretary shall notify the government. The notice shall state that if the government does not take corrective action by the date that is 60 days after the date the government receives the notice, the Secretary will withhold additional payments to the government for the current entitlement period and later entitlement periods until the Secretary is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (a) and regulations prescribed under subsection (a).

(2) Before giving notice under paragraph (1), the Secretary shall give the chief executive officer of the State government or unit of general local government reasonable notice and an opportunity for a proceeding.

(3) The Secretary may make a payment to the government notified under paragraph (1) of this subsection only when the Secretary is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (a) and regulations prescribed under subsection (a).

SEC. 406. SPECIAL ENTITLEMENTS FOR INDIAN TRIBES, ALASKAN NATIVE VILLAGES, AND THE DISTRICT OF COLUMBIA.

(a) ALLOCATION BASED ON POPULATION.—For each entitlement period, the Secretary shall allocate out of the amount authorized for such entitlement period under section 404(b)(2)(B) to—

(1) each Indian tribe and Alaskan Native village having a recognized governing body carrying out substantial governmental duties and powers, and

(2) the District of Columbia,

an amount bearing the same ratio to the special allocation amount for such entitlement period as the population of such tribe or village, or of the District of Columbia, bears to the total population of all of such tribes, villages, and the District of Columbia.

(b) SPECIAL ALLOCATION AMOUNT.—For purposes of this section, the term "special allocation amount" means, for any entitlement period, the amount determined by multiplying—

(1) the total population of all Indian tribes, Alaskan Native villages, and the District of Columbia, by

(2) 150 percent of the amount determined by dividing—

(A) the amount authorized for such entitlement period under section 404(b)(2)(B), by

(B) the total population of the United States.

SEC. 407. STATE AREA ALLOCATIONS FOR UNITS OF GENERAL LOCAL GOVERNMENT.

(a) IN GENERAL.—

(1) For each entitlement period, the Secretary shall allocate to each State out of the amount authorized for the period under section 404(b)(2)(B) (after deduction of the amount allocated under section 406) an amount bearing the same ratio to such amount authorized (after such deduction) as—

(A) the amount determined by multiplying—

(i) the population of the State, by

(ii) the general tax effort factor of the State, by

(iii) the relative fiscal capacity factor of the State; bears to

(B) the sum of the amounts determined under subparagraph (A) for all the States.

(2)(A) The amount of funds allocated to a State under this subsection for any entitlement period shall equal or exceed an amount determined by multiplying—

(i) the population of such State, by

(ii) 20 percent of an amount determined by dividing—

(I) the amount of funds authorized to be appropriated for such entitlement period under section 404(b)(2)(B), by

(II) the total population of the United States.

(B) The Secretary shall increase the amount allocated to any State under paragraph (1) for any entitlement period by the amount necessary to ensure that the allocation to such State under this subsection for the entitlement period meets the requirements of subparagraph (A). The Secretary shall reduce the allocations made under this subsection to all other States by the amount of such increase in proportion to the amount of funds each of such other States was allocated under paragraph (1) for the entitlement period, but only to the extent the allocations made to each of such other States under this subsection for the entitlement period after such reduction meets the requirements of subparagraph (A).

(b) STATE AREA ALLOCATION TO BE ALLOCATED AMONG UNITS OF GENERAL LOCAL GOVERNMENT.—The Secretary shall allocate the amount allocated to a State under subsection (a) among the units of local government in that State under section 408 or 410.

(c) DEFINITIONS.—For purposes of the section—

(1)(A) The general tax effort factor of a State for an entitlement period is an amount determined by dividing—

(i) the sum of—

(I) State and local government taxes, and

(II) other charges imposed by State and local government, by

(ii) the total taxable resources of the State.

(B) The general tax effort factor for any State shall not exceed an amount determined by dividing—

(i) the total of the sums determined under subparagraph (A)(i) for all the States, by

(ii) the sum of the total taxable resources for all the States.

(2)(A) The relative fiscal capacity factor of a State for an entitlement period is the excess, if any, of—

(i) 150 percent of the adjusted total taxable resources of all the States; over

(ii) an amount determined by dividing—

(I) the total taxable resources of such State, by

(II) the population of such State.

If the amount determined under clause (i) does not exceed the amount determined under clause (ii), the relative fiscal capacity factor is zero.

(B) The adjusted total taxable resources of all the States is an amount equal to the sum of—

(i) 20 percent of the amount determined by dividing—

(I) the total taxable resources of the State for which the relative fiscal capacity factor is being determined, by

(II) the population of the State for which the relative fiscal capacity factor is being determined, plus

(ii) 80 percent of the amount determined by dividing—

(I) the sum of the total taxable resources of all the States, by

(II) the sum of the population of all the States.

(3)(A) The total taxable resources of a State is equal to the average, during the most recent 3 years, of the sum of—

(i) the gross State product of such State, plus

(ii) other resources which are potentially taxable by such State or units of general local government within such State, but which originate in the economies of other States.

(B) For purposes of subparagraph (A)—

(i) the Secretary of the Treasury shall, by regulation, define the resources that shall be taken into account for purposes of clause (ii) of subparagraph (A), and

(ii) the Secretary of Commerce shall compute gross State products and such other resources on an annual basis.

SEC. 408. ALLOCATIONS TO UNITS OF GENERAL LOCAL GOVERNMENT IN THE SAME STATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, each unit of general local government in any State (other than the District of Columbia and any Indian tribe and Alaskan Native village which is eligible to receive an entitlement under section 406) shall be allocated for each entitlement period an amount bearing the same ratio to the amount allocated to such State under section 407(a) as—

(1) the amount determined by multiplying—

(A) the population of such unit of general local government, by

(B) the general tax effort factor of such unit of general local government, by

(C) the income factor of such unit of general local government; bears to

(2) the sum of the amounts determined under paragraph (1) for all units of the general local government located in such State.

(b) DEFINITIONS.—For purposes of this section—

(1)(A) The general tax effort factor of a unit of general local government for an entitlement period is the amount determined by dividing—

(i) the revenues of the unit of general local government, by

(ii) the income of such unit.

(B) The revenues of a unit of general local government are the sum of—

(i) the adjusted taxes of the unit of general local government, and

(ii) the other charges imposed by the unit of general local government.

(C) The Secretary shall include that part of sales taxes transferred to a unit of general local government that are imposed by a county government in a geographic area of a unit of general local government as taxes of the unit of general local government under subparagraph (A) when—

(i) the county government transfers any part of the revenue from the taxes to the unit of general local government without specifying the purpose for which the unit of general local government may expend the revenue; and

(ii) the chief executive officer of the State notifies the Secretary that the taxes satisfy the requirements of this subparagraph.

(D) Notwithstanding subparagraph (C)—

(i) the revenues of a township shall not exceed 200 percent of the amount determined by multiplying—

(I) the per capita revenues of all township governments in the State, by

(II) the population of such township government;

(ii) the revenues of a municipal government shall not exceed 200 percent of an amount determined by multiplying—

(I) the per capita revenues of all municipal governments in the State, by

(II) the population of such municipal government;

(iii) the per capita revenues of a county government shall not exceed 200 percent of an amount determined by multiplying—

(I) the per capita revenues of all county governments in the State, by—

(II) the population of such county government; and

(iv) the per capita revenues of a unified city/county government (as defined by the Bureau of the Census) shall not exceed 200 percent of the amount determined by multiplying—

(I) the per capita revenues of all units of unified city/county governments in the State, by

(II) the population of such unified city/county governments.

(E) The per capita revenues of any unit of general local government is the amount determined by dividing—

(i) the revenues of such unit of general local government, by

(ii) the population of such unit of general local government.

(2)(A) The income factor of a unit of general local government for an entitlement period is equal to the excess, if any, of—

(i) 120 percent of the adjusted State per capita income, over

(ii) the per capita income of such unit of general local government.

If the amount determined under clause (i) does not exceed the amount described in clause (ii), the relative income factor of such unit of general local government is zero.

(B) The adjusted State per capita income is equal to the sum of—

(i) 20 percent of the per capita income of the State in which such unit of general local government is located, plus

(ii) 80 percent of the per capita income of the United States.

SEC. 409. ADJUSTMENTS OF LOCAL GOVERNMENT ALLOCATIONS MADE UNDER SECTION 408.

(a) LIMITATIONS ON PAYMENTS.—

(1) Subject to paragraph (2), the per capita allocation under section 408 of any unit of general local government in a State for any entitlement period shall not exceed 300 percent of the amount determined by dividing—

(A) the amount authorized for such entitlement period under section 404(b)(2)(B), by—

(B) the total population of the United States.

(2) Notwithstanding any other provision of this Act, if—

(A) the amount allocated under section 408 to any unit of general local government for an entitlement period is less than $5,000; or

(B) such allocation is waived by the governing authority of the unit of general local government,

the Secretary shall not pay such allocation to such unit of general local government.

(b) Any amounts which may not be paid to a unit of general local government by reason of subsection (a) shall be reallocated among the other units of general local government in the same State in proportion to the amounts allocated under section 408 to such other units, but no reallocation shall cause the entitlement of any such other unit to exceed the amount to which that unit is limited by subsection (a).

SEC. 410. ALTERNATIVE DISTRIBUTION OF FUNDS TO LOCAL GOVERNMENTS.

(a) ESTABLISHMENT OF COMMISSION.—

(1) Each State which receives funds under this Act shall establish a commission to investigate—

(A) the public service needs and fiscal capacities of units of general local government in such State, and

(B) alternative means of allocating among the units of general local government in such State the funds allocated to such State under section 407.

(2)(A) Subject to the provisions of subparagraph (B), the membership of the commission which is to be established under paragraph (1) shall be representative of the forms of units of general local government in the State and the populations served by such units of general local government.

(B) At least 50 percent of the membership of the commission which is to be established under paragraph (1) shall represent units of general local government which have income that is less than 90 percent of the per capita income of the United States.

(3) No funds may be paid under this Act to a State government or to a unit of general local government with the State after the date that is 3 years after the date of enactment of this Act until the State government establishes a commission under paragraph (1) that complies with the requirements of this section.

(b) RECOMMENDATIONS.—

(1) The commission established under subsection (a)(1) shall recommend to the legislature of the State, as an alternative to the allocation provided under section 408, a method of allocating among the units of general local government in the State the funds that are allocated to the State under section 407.

(2) The allocation method recommended by the commission under paragraph (1) shall provide what the commission determines to be the best means of allocating funds to reduce, among all units of general local government in the State, the excess of—

(A) the amount of funds each unit of general local government in the State needs to provide public services, over

(B) the fiscal capacity of such unit of general local government.

(c) IMPLEMENTATION OF ALTERNATIVE ALLOCATION METHOD.—If—

(1) a State government enacts a law which provides, as an alternative to the allocation under section 408, a method of allocating among units of general local government in such State the funds that are allocated to the State under section 407, and

(2) the other requirements of subsections (a) and (b) have been met,

the Secretary shall use such alternative allocation method, in lieu of the provisions of section 408, in allocating among units of general local government in such State the funds allocated to such State under section 407.

SEC. 411. ALLOCATIONS TO STATE GOVERNMENTS.

(a) IN GENERAL.—For each entitlement period, the Secretary shall allocate to each State government out of the amount authorized for the period under section 404(b)(2)(A) an amount bearing the same ratio to such amount authorized as—

(1) the amount determined by multiplying—

(A) the population of the State, by

(B) the general tax effort factor of the State, by

(C) the relative fiscal capacity factor of the State; bears to

(2) the sum of the amounts determined under paragraph (1) for all the States.

(b) LIMITATION.—

(1) Notwithstanding any other provision of this Act, the Secretary shall not make any payment under this Act to a State government for an entitlement period if the amount allocated to such State government under subsection (a) for such entitlement period is less than $1,000,000.

(2) Any amounts which may not be paid to a State government by reason of paragraph (1) shall be allocated among the other State governments in proportion to the amounts allocated to such other State governments under subsection (a).

(c) DEFINITIONS.—For purposes of the section—

(1)(A) The general tax effort factor of a State for an entitlement period is an amount determined by dividing—

(i) the sum of—

(I) State and local government taxes, and

(II) other charges imposed by State and local government, by

(ii) the total taxable resources of the State.

(B) The general tax effort factor for any State shall not exceed an amount determined by dividing—

(i) the total of the sums determined under subparagraph (A)(i) for all the States, by

(ii) the sum of the total taxable resources for all the States.

(2)(A) The relative fiscal capacity factor of a State for an entitlement period is the excess, if any, of—

(i) 90 percent of the adjusted total taxable resources of all the States; over

(ii) an amount determined by dividing—

(I) the total taxable resources of such State, by

(II) the population of such State.

If the amount determined under clause (i) does not exceed the amount determined under clause (ii), the relative fiscal capacity factor is zero.

(B) The adjusted total taxable resources of all the States is an amount equal to the sum of—

(i) 20 percent of the amount determined by dividing—

(I) the total taxable resources of the State for which the relative fiscal capacity factor is being determined, by

(II) the population of the State for which the relative fiscal capacity factor is being determined, plus

(ii) 80 percent of the amount determined by dividing—

(I) the sum of the total taxable resources of all the States, by

(II) the sum of the population of all the States.

(3)(A) The total taxable resources of a State shall be determined in accordance with section 407(c)(3).

SEC. 412. INFORMATION USED IN ALLOCATION FORMULAS.

(a) USE OF MOST RECENT INFORMATION.—Except as provided in this section, the Secretary shall use the most recent available information provided by the Secretary of Commerce and the Secretary of Labor before the beginning of the entitlement period to determine an allocation under this Act. When the Secretary of the Treasury decides that the information is not current or complete enough to provide for a fair allocation, the Secretary may use additional information (including information based on estimates) as provided under regulations of the Secretary.

(b) POPULATION DATA.—

(1) The Secretary shall determine population on the same basis that the Secretary of Commerce determines resident population for general statistical purposes, except that—

(A) the population of the United States includes the population of the District of Columbia and the population of Indian tribes and native villages; and

(B) the population of a State does not include the population of Indian tribes and native villages.

(2) The Secretary of the Treasury shall request the Secretary of Commerce to adjust the population information provided to the Secretary of the Treasury as soon as practicable to include a reasonable estimate of the number of resident individuals not counted in the 1980 census or revisions of the census. The Secretary of the Treasury shall use the estimates in determining allocations for the entitlement period beginning after the Secretary of the Treasury receives the estimates. The Secretary of the Treasury shall adjust population information to reflect adjustments made under section 118 of Public Law 96-369.

(c) ADDITIONAL DATA LIMITATIONS.—The Secretary of the Treasury may not—

(1) in determining an allocation for an entitlement period, use information on tax collections for years more recent than the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of that period;

(2) consider a change in information used to determine an allocation for a period of 60 months when the change—

(A) results from a major disaster declared by the President under section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141); and

(B) reduces the amount of an allocation; and

(3) for purposes of allocations under sections 407, 408, 409, and 410, consider any reduction in the amount of adjusted taxes of any State government or unit of general local government if such reduction—

(A) results from a specific economic dislocation which causes—

(i) the closing of places of employment,

(ii) declines in assessed values of, or receipt of taxes from, real property, or

(iii) declines in sales or income tax collections of such government, and

(B) would reduce the allocation of the State government or unit of general local government for an entitlement period by an amount equal to or greater than 20 percent of such allocation for the preceding entitlement period.

SEC. 413. ACCOUNTABILITY.

(a) HEARING ON PROPOSED USE OF FUNDS.—A State government or unit of general local government expending payments under this Act shall hold at least one public hearing on the proposed use of the payment in relation to its entire budget. At the hearing, persons shall be given an opportunity to provide written and oral views to the governmental authority responsible for enacting the budget and to ask questions about the entire budget and the relation of the payment to the entire budget. The government shall hold the hearing at a time and a place that allows and encourages public attendance and participation.

(b) DISCLOSURE OF INFORMATION.—

(1) At least 10 days before a hearing required under subsection (a)(1) is held, a State government or unit of general local government shall—

(A) make available for inspection by the public at the principal office of the government a statement of the proposed use of the payment and a summary of the proposed budget of the government; and

(B) publish in at least one newspaper of general circulation the proposed use of the payment with the summary of the proposed budget and a notice of the time and place of the hearing.

(2) By the 30th day after adoption of the budget under State or local law, the government shall—

(A) make available for inspection by the public at the principal office of the government a summary of the adopted budget, including the proposed use of the payment; and

(B) publish in at least one newspaper of general circulation a notice that the information referred to in clause (A) of this paragraph is available for inspection.

(c) WAIVERS OF REQUIREMENTS.—Under regulations of the Secretary of the Treasury, a requirement under subsection (a)(1) of this section may be waived if the budget process required under the applicable State or local law or charter provisions—

(1) ensures the opportunity for public attendance and participation contemplated by subsection (a); and

(2) includes a hearing on the proposed use of a payment received under this Act in relation to the entire budget of the government.

(d) EXCEPTION TO 10-DAY LIMITATION.—When the Secretary is satisfied that the State government or unit of general local government will provide adequate notice of the proposed use of a payment received under this Act, the 10-day period under subsection (b)(1) of this section may be changed to the greatest extent necessary to comply with applicable State or local law.

(e) APPLICATION TO GOVERNMENTS WITHOUT BUDGETS.—The Secretary shall prescribe regulations for applying this section to State governments and units of general local government that do not adopt budgets.

SEC. 414. PROHIBITED DISCRIMINATION.

(a) GENERAL PROHIBITION.—No person in the United States shall be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a program or activity of a State government or unit of general local government because of race, color, national origin, or sex if the government receives a payment under this Act.

(b) ADDITIONAL PROHIBITIONS.—The following prohibitions and exemptions also apply to a program or activity of a State government or unit of general local government if the government receives a payment under this Act:

(1) a prohibition against discrimination because of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.),

(2) a prohibition against discrimination against an otherwise qualified handicapped individual under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and

(3) a prohibition against discrimination because of religion, or an exemption from that prohibition, under the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.) or title VIII of the Act of April 11, 1968 (known as the Civil Rights Act of 1968) (42 U.S.C. 3601 et seq.).

(c) LIMITATIONS ON APPLICABILITY OF PROHIBITIONS.—Subsections (a) and (b) of this section do not apply when the State government or unit of general local government shows, by clear and convincing evidence, that a payment received under this Act is not used to pay for any part of the program or activity with respect to which the allegation of discrimination is made.

(d) INVESTIGATION AGREEMENTS.—The Secretary shall try to make agreements with heads of agencies of the United States Government and State agencies to investigate noncompliance with this section. An agreement shall—

(1) describe the cooperative efforts to be taken (including sharing civil rights enforcement personnel and resources) to obtain compliance with this section; and

(2) provide for notifying immediately the Secretary of actions brought by the United States Government or State agencies against a State government or unit of general local government alleging a violation of a civil rights law or a regulation prescribed under a civil rights law.

SEC. 415. DISCRIMINATION PROCEEDINGS.

(a) NOTICE OF NONCOMPLIANCE.—By the 10th day after the Secretary makes a finding of discrimination or receives a holding of discrimination about a State government or unit of general local government, the Secretary shall submit a notice of noncompliance to the government. The notice shall state the basis of the finding or holding.

(b) INFORMAL PRESENTATION OF EVIDENCE.—The State government or unit of general local government may present evidence in-

formally to the Secretary within 30 days after the government receives a notice of noncompliance from the Secretary. Except as provided in subsection (e) of this section, the government may present evidence on whether—

(1) a person in the United States has been excluded or denied benefits of, or discriminated against under, the program or activity of the government, in violation of section 414(a) of this Act;

(2) the program or activity of the government violated a prohibition described in section 414(b) of this Act; and

(3) any part of that program or activity has been paid for with a payment received under this Act.

(c) TEMPORARY SUSPENSION OF PAYMENTS.—By the end of the 30-day period under subsection (b) of this section, the Secretary shall decide whether the State government or unit of general local government has not complied with section 414 (a) or (b) of this Act, unless the government has made a compliance agreement under section 417 of this Act. If the Secretary decides that the government has not complied, the Secretary shall notify the government of the decision and shall suspend payments to the government under this Act unless, within 10 days after the government receives notice of the decision, the government—

(1) makes a compliance agreement under section 417 of this Act; or

(2) requests a proceeding under subsection (d)(1) of this section.

(d) ADMINISTRATIVE REVIEW OF SUSPENSIONS.—

(1) A proceeding requested under subsection (c)(2) of this section shall begin by the 30th day after the Secretary receives a request for the proceeding. The hearing shall be before an administrative law judge appointed under section 3105 of title 5. By the 30th day after the beginning of the proceeding, the judge shall issue a preliminary decision based on the record at the time on whether the State government or unit of general local government is likely to prevail in showing compliance with section 414 (a) or (b) of this Act.

(2) When the administrative law judge decides at the end of a proceeding under paragraph (1) of this subsection that the State government or unit of general local government has—

(A) not complied with section 414 (a) or (b) of this Act, the judge may order payments to the government under this Act terminated; or

(B) complied with section 414 (a) or (b) of this Act, a suspension under section 416(a)(1)(A) of this Act shall be discontinued promptly.

(3) An administrative law judge may not issue a preliminary decision that the government is not likely to prevail when the judge has issued a decision described in paragraph (2)(A) of this subsection.

(e) BASIS FOR REVIEW.—In a proceeding under subsection (b), (c), or (d) of this section on a program or activity of a State government or unit of general local government about which a holding of discrimination has been made, the Secretary or administrative law judge may consider only whether a payment under this Act was used to pay for any part of the program or activity. The holding of discrimination is conclusive. If the holding is reversed by an appellate court, the Secretary or judge shall end the proceeding.

SEC. 416. SUSPENSION AND TERMINATION OF PAYMENTS IN DISCRIMINATION PROCEEDINGS.

(a) IMPOSITION AND CONTINUATION OF SUSPENSIONS.—

(1) The Secretary shall suspend payment under this Act to a State government or unit of general local government—

(A) if an administrative law judge appointed under section 3105 of title 5 issues a preliminary decision in a proceeding under section 415(d)(1) of this Act that the government is not likely to prevail in showing compliance with section 414 (a) and (b) of this Act;

(B) except as provided in section 415(d)(2)(B) of this Act, when the administrative law judge decides at the end of the proceeding that the government has not complied with section 414 (a) or (b) of this Act, unless the government makes a compliance agreement under section 417 of this Act by the 30th day after the decision; or

(C) when required under section 415(c) of this Act.

(2) Except as provided in section 415(d)(2) of this Act, a suspension already ordered under paragraph (1)(A) of this subsection continues in effect when the administrative law judge makes a decision under paragraph (1)(B) of this subsection.

(b) LIFTING OF SUSPENSIONS AND TERMINATIONS.—When a holding of discrimination is reversed by an appellate court, a suspension or termination of payments in a proceeding based on the holding shall be discontinued.

(c) RESUMPTION OF PAYMENTS UPON ATTAINING COMPLIANCE.—The Secretary may resume payment to a State government or unit of general local government of payments suspended by the Secretary only—

(1) at the time and under the conditions stated in—

(A) the approval by the Secretary of a compliance agreement under section 417(a)(1) of this Act; or

(B) a compliance agreement under section 417(a) of this Act;

(2) when the government complies completely with an order of a United States court, a State court, or administrative law judge that covers all matters raised in a notice of noncompliance submitted by the Secretary under section 415(a) of this Act;

(3) when a United States court, a State court, or an administrative law judge decides (including a judge in a proceeding under section 415(d)(1) of this Act), that the government has complied with section 414 (a) and (b) of this Act; or

(4) when a suspension is discontinued under subsection (b) of this section.

(d) PAYMENT OF DAMAGES AS COMPLIANCE.—Compliance by the government under subsection (c) of this section may include paying restitution to the person injured because the government did not comply with section 414 (a) or (b) of this Act.

(e) RESUMPTION OF PAYMENTS UPON REVERSAL BY COURT.—The Secretary may resume payment to a State government or unit of general local government of payments terminated under section 415(d)(2) of this Act only when the decision resulting in the termination is reversed by an appellate court.

SEC. 417. COMPLIANCE AGREEMENTS.

(a) TYPES OF COMPLIANCE AGREEMENTS.—A compliance agreement is an agreement—

(1) approved by the Secretary between the governmental authority responsible for prosecuting a claim or complaint that is the basis of a holding of discrimination and the chief executive officer of the State government or unit of general local government that has not complied with section 414 (a) or (b) of this Act; or

(2) between the Secretary and such chief executive officer.

(b) CONTENTS OF AGREEMENTS.—A compliance agreement—

(1) shall state the conditions the State government or unit of general local government has agreed to comply with that would satisfy the obligations of the government under section 414 (a) and (b) of this Act;

(2) shall cover each matter that has been found not to comply, or would not comply, with section 414 (a) or (b) of this Act; and

(3) may be a series of agreements that dispose of those matters.

(c) AVAILABILITY OF AGREEMENTS TO PARTIES.—The Secretary shall submit a copy of the compliance agreement to each person who filed a complaint referred to in section 415(b) of this Act, or, if an agreement under subsection (a)(1) of this section, each person who filed a complaint with a governmental authority, about a failure to comply with section 414 (a) or (b) of this Act. The Secretary shall submit the copy by the 15th day after an agreement is made. However, when the Secretary approves an agreement under subsection (a)(1) of this section after the agreement is made, the Secretary may submit the copy by the 15th day after approval of the agreement.

SEC. 418. ENFORCEMENT BY THE ATTORNEY GENERAL OF PROHIBITIONS ON DISCRIMINATION.

The Attorney General may bring a civil action in an appropriate district court of the United States against a State government or unit of general local government that the Attorney General has reason to believe has engaged or is engaging in a pattern or practice in violation of section 414 (a) or (b) of this Act. The court may grant—

(1) a temporary restraining order;

(2) an injunction; or

(3) an appropriate order to ensure enjoyment of rights under section 414 (a) or (b) of this Act, including an order suspending, terminating, or requiring repayment of, payments under this Act or placing additional payments under this Act in escrow pending the outcome of the action.

SEC. 419. CIVIL ACTION BY A PERSON ADVERSELY AFFECTED.

(a) AUTHORITY FOR PRIVATE SUITS IN FEDERAL OR STATE COURT.—When a State government or unit of general local government, or an officer or employee of a State government or unit of general local government acting in an official capacity, engages in a practice prohibited by this Act, a person adversely affected by the practice may bring a civil action in an appropriate district court of the United States or a State court of general jurisdiction. Before bringing an action under this section, the person must exhaust administrative remedies under subsection (b) of this section.

(b) ADMINISTRATIVE REMEDIES REQUIRED TO BE EXHAUSTED.—A person adversely affected must file an administrative complaint with the Secretary of the Treasury or the head of another agency of the United States Government or the State agency with which the Secretary has an agreement under section 414(d) of this Act. Administrative remedies are deemed to be exhausted after the 90th day after the complaint was filed if the Secretary, the head of the Government agency, or the State agency—

(1) issues a decision that the government has not failed to comply with this Act; or

(2) does not issue a decision on the complaint.

(c) AUTHORITY OF COURT.—In an action under this section, the court—

(1) may grant—

(A) a temporary restraining order;

(B) an injunction; or

(C) another order, including suspension, termination, or repayment of, payments under this Act or placement of additional payments under this Act in escrow pending the outcome of the action; and

(2) to enforce compliance with section 414 (a) or (b) of this Act, may allow a prevailing party (except the United States Government) a reasonable attorney's fee.

(d) INTERVENTION BY ATTORNEY GENERAL.—In an action under this section to enforce compliance with section 414 (a) or (b) of this Act, the Attorney General may intervene in the action when the Attorney General certifies that the action is of general public importance. The United States Government is entitled to the same relief as if the Government had brought the action and is liable for the same fees and costs as a private person.

SEC. 420. JUDICIAL REVIEW.

(a) APPEALS IN FEDERAL COURT OF APPEALS.—A State government or unit of general local government receiving notice from the Secretary of the Treasury about withholding payments under section 405(c) of this Act, suspending payments under section 416(a)(1)(B) of this Act, or terminating payments under section 415(d)(2)(A) of this Act, may apply for review of the action of the Secretary by filing a petition for review with the court of appeals of the United States for the circuit in which the government is located. The petition must be filed by the 60th day after the notice is received. The clerk of the court immediately shall send a copy of the petition to the Secretary and the Attorney General.

(b) FILING OF RECORD OF ADMINISTRATIVE PROCEEDING.—The Secretary shall file with the court a record of the proceeding on which the Secretary based the action. The court may consider only objections to the action of the Secretary that were presented before the Secretary.

(c) AUTHORITY OF GRANT.—The court may affirm, change, or set aside any part of the action of the Secretary. The findings of fact by the Secretary are conclusive if supported by substantial evidence in the record. When a finding is not supported by substantial evidence in the record, the court may remand the case to the Secretary to take additional evidence. The Secretary may make new or modified findings and shall certify additional proceedings to the court.

(d) REVIEW ONLY BY SUPREME COURT.—A judgment of the court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

SEC. 421. AUDITS, INVESTIGATIONS, AND REVIEWS.

(a) AUDIT REQUIREMENTS.—Except as otherwise provided in this section, a State government or unit of general local government which receives a payment under this Act shall have an audit made in accordance with chapter 75 of title 31, United States Code.

(b) WAIVER BY SECRETARY.—Under regulations of the Secretary, the Secretary may waive the requirement of subsection (a) for a State government or unit of general local government for a fiscal year when the Secretary decides that the financial statements of the government for the year cannot be audited, and the government shows substantial progress in making the statements auditable.

(c) INVESTIGATIONS BY SECRETARY.—

(1) The Secretary shall maintain regulations providing reasonable and specific time limits for the Secretary to—

(A) carry out an investigation and make a finding after receiving a complaint referred to in section 419(b) of this Act, a determination by a State or local administrative agency, or other information about a possible violation of this Act;

(B) carry out audits and reviews (including investigations of allegations) about possible violations of this Act; and

(C) advise a complainant of the status of an audit, investigation, or review of an allegation by the complainant of a violation of section 414 (a) or (b) of this Act or other provision of this Act.

(2) The maximum time limit under paragraph (1)(A) of this subsection is 90 days.

(d) REVIEWS BY COMPTROLLER GENERAL.—The Comptroller General shall carry out reviews of the activities of the Secretary, State governments, and units of general local government necessary for Congress to evaluate compliance and operations under this Act.

SEC. 422. REPORTS.

(a) REPORTS BY SECRETARY TO CONGRESS.—Before June 2 of each year, the Secretary personally shall report to Congress on—

(1) the status and operation of the Fiscal Assistance Trust Fund during the prior fiscal year; and

(2) the administration of this Act, including a complete and detailed analysis of—

(A) actions taken to comply with sections 414, 415, 416, 417, and 418, including a description of the kind and extent of noncompliance and the status of pending complaints;

(B) the extent to which State governments and units of general local government receiving payments under this Act have complied with sections 405 and 421 (a), (b), and (d) of this Act, including a description of the kind and extent of noncompliance and actions taken to ensure the independence of audits conducted under section 421 (a), (b), and (d);

(C) the way in which payments under this Act have been distributed in the jurisdictions receiving payments; and

(D) significant problems in carrying out this Act and recommendations for legislation to remedy the problems.

(b) REPORTS BY STATE GOVERNMENTS AND UNITS OF GENERAL LOCAL GOVERNMENT TO SECRETARY.—

(1) At the end of each fiscal year, each State government or unit of general local government receiving a payment under this Act shall submit a report to the Secretary. The report shall be submitted in the form and at a time prescribed by the Secretary and shall be available to the public for inspection. The report shall state—

(A) the amounts and purposes for which the payment has been appropriated, expended, or obligated during the fiscal year;

(B) the relationship of the payment to the relevant functional items in the budget of the government; and

(C) the differences between the actual and proposed use of the payment.

(2) The Secretary shall provide a copy of a report submitted under paragraph (1) of this subsection by a State government or unit of general local government to the chief executive officer of the State in which the government is located. The Secretary shall provide the report in the way and form prescribed by the Secretary.

(c) REGULATIONS.—The Secretary shall prescribe regulations for applying this section to State governments and units of general local government that do not adopt budgets.

TITLE V—BLOCK GRANTS TO STATES FOR LONG-TERM HEALTH CARE SERVICES.

SEC. 501. ESTABLISHMENT OF BLOCK GRANT PROGRAM WITH RESPECT TO LONG-TERM HEALTH CARE.

Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by adding at the end the following new sections:

"ESTABLISHMENT OF BLOCK GRANT PROGRAM WITH RESPECT TO LONG-TERM HEALTH CARE

"SEC. 1921. (a) TERMINATION OF PROGRAM OF REIMBURSEMENT.—Notwithstanding any other provision of law—

"(1) no provision of this title may, with respect to any State plan referred to in section 1902, be construed as requiring any State to provide for medical assistance for long-term health care; and

"(2) the Secretary may not, under section 1903, pay any amount to any State with respect to any amount expended by a State in providing medical assistance for long-term health care.

"(b) ESTABLISHMENT OF BLOCK GRANT PROGRAM.—

"(1) The Secretary shall, for each fiscal year, pay to any State described in paragraph (3) an amount determined in accordance with section 1922. Such amount may be used by a State only for the provision of long-term health care. Subject to paragraph (2), each State may determine such criteria for eligibility for long-term health care as the State involved determines to be appropriate.

"(2) A State must extend eligibility for long-term care to individuals entitled to medical assistance under the State plan approved under section 1902 before it may extend eligibility for such care to other categories of individuals.

"(3) Any State referred to in paragraph (1) is any State that—

"(A) with respect to health care and services other than long-term health care, has a plan approved under this title; and

"(B) provides to the Secretary such information as the Secretary determines to be necessary to make the computation described in section 1922.

"(c) DEFINITION OF LONG-TERM HEALTH CARE.—For purposes of this section, the term 'long-term health care' means skilled nursing facility services, intermediate care facility services, inpatient psychiatric hospital services, home health care services and other services necessary to prevent or terminate the institutionalization of eligible individuals.

"(d) EFFECTIVE DATE.—This section shall take effect on the expiration of the 2-year period beginning on the 1st day of the 1st fiscal year beginning after the date of the enactment of the Federalism Act of 1986.

"COMPUTATION OF AMOUNT OF BLOCK GRANT FOR LONG-TERM HEALTH CARE

"SEC. 1922. (a) IN GENERAL.—With respect to the State involved, the amount referred to in section 1921(b) is the lesser of—

"(1) an amount described in subsection (f); and

"(2) an amount equal to the sum of—

"(A) an amount equal to the product of—

"(i) the primary adjusted Federal medical assistance percentage (as defined in subsection (b)) for the fiscal year; and

"(ii) the qualifying amount (as defined in subsection (c)); and

"(B) an amount equal to the product of—

"(i) the secondary adjusted Federal medical assistance percentage (as defined in subsection (d)) for the fiscal year; and

"(ii) the compensatory amount (as defined in subsection (e)).

"(b) DEFINITION OF PRIMARY ADJUSTED FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—For purposes of this section:

"(1) The term 'primary adjusted Federal medical assistance percentage' means a percentage equal to the sum of the Federal medical assistance percentage and the primary adjustment percentage for the fiscal year.

"(2) The term 'primary adjustment percentage' means—

"(A) for the fiscal year in which section 1921 takes effect, 5 percent; and

"(B) for each subsequent fiscal year, a percentage equal to the sum of 3 percent and the primary adjustment percentage for the immediately preceding fiscal year.

"(c) DEFINITION OF QUALIFYING AMOUNT.—For purposes of this section:

"(1) The term 'qualifying amount' means an amount equal to the larger of—

"(A) the sum of the 5 adjusted health service category amounts, or

"(B) 50 percent of the total amount expended by the State involved in the base year for all 5 adjusted health service categories.

"(2) The term 'health service category' means each of the following:—

"(A) Skilled nursing facility services.

"(B) Intermediate care facility services with respect to mentally retarded individuals or individuals with related conditions.

"(C) Intermediate care facility services other than the services described in subparagraph (B).

"(D) Inpatient psychiatric hospital services.

"(E) Home health care services.

"(3) The term 'adjusted health service category amount' means—

"(A) with respect to a health service category described in subparagraph (A), (B), (C), or (D) of paragraph (2), the product of—

"(i) an amount equal to the total amount expended in the base year by the State involved for such category, and

"(ii) the national per capita care day ratio for such category; and

"(B) with respect to the health service category described in subparagraph (E) of paragraph (2), an amount equal to the total amount expended in the base year by the State involved for such category.

"(4) The term 'base year' means the fiscal year immediately preceding the fiscal year in which section 1921 takes effect.

"(5) The term 'care day' means a day on which a service referred to in paragraph (2) has been provided.

"(6) The term 'national per capita care day ratio' means, with respect to the health service category involved, an amount equal to the lesser of 1.5 and—

"(A) the national median number of care days provided per individual in the base year; divided by

"(B) the mean number of care days per individual provided in the base year by the State involved.

"(7) The term 'national median number' means, with respect to the category of health service involved, the median of the respective means of care days per individual provided in the base year by the States.

"(d) DEFINITION OF SECONDARY ADJUSTED FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—For purposes of this section:

"(1) The term 'secondary adjusted Federal medical assistance percentage' means a percentage equal to the difference between the Federal medical assistance percentage and the secondary adjustment percentage for the fiscal year.

"(2) The term 'secondary adjustment percentage' means—

"(A) for the fiscal year in which section 1921 takes effect, 2.5 percent; and

"(B) for each subsequent fiscal year, a percentage equal to the sum of 1.5 percent and the secondary adjustment percentage for the immediately preceding fiscal year.

"(e) DEFINITION OF COMPENSATORY AMOUNT.—

"(1) For purposes of this section, the term 'compensatory amount' means the difference between—

"(A) the aggregate total of amounts expended in the base year by the State involved for the 5 health service categories ; and

"(B) the qualifying amount for such State.

"(2) The compensatory amount may be a negative number.

"(f) LIMITATION ON AMOUNT OF GRANT.—

"(1) The amount referred to in subsection (a)(1) is the sum of—

"(A) an amount equal to the product of 90 percent and the qualifying amount; and

"(B) an amount equal to the product of—

"(i) the percentage described in paragraph (2); and

"(ii) the greater of 0 and the compensatory amount.

"(2) The percentage referred to in paragraph (1)(B)(i) is a percentage equal to the difference between—

"(A) the Federal medical assistance percentage; and

"(B) the product of—

"(i) 50 percent; and

"(ii) the difference between 90 percent and the Federal medical assistance percentage.

"(g) ADJUSTMENT BY SECRETARY OF QUALIFYING AMOUNT.—

"(1) If the Secretary makes the determination described in paragraph (2), the Secretary shall increase the qualifying amount of the State involved to the extent determined by the Secretary to be appropriate.

"(2) The determination referred to in paragraph (1) is a determination that—

"(A) with respect to the State involved, the number of poor elderly individuals residing in the State has increased, or

"(B) the cost of providing long-term health care has increased, since the base year due to inflation and other factors.

"STATE ADMINISTRATION

"SEC. 1923. Prior to expenditure by a State of payments made to it under section 1921 for any fiscal year, the State shall report on the intended use of the payments the State is to receive under such section, including information on the types of activities to be supported and the categories or characteristics of individuals to be served. The report shall be transmitted to the Secretary and made public within the State in such manner as to facilitate comment by any person (including any Federal or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this title, and any revision shall be subject to the requirements of the previous sentence.".

SEC. 502. REPORT BY SECRETARY WITH RESPECT TO TECHNICAL AND CONFORMING CHANGES.

With respect to the amendments to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) made by this Act, the Secretary of Health and Human Services shall, before the expiration of the 180-day period beginning on the date of the enactment of this Act, submit to the Congress a report describing such technical and conforming changes in such title XIX as the Secretary determines to be appropriate.●

IMMIGRATION REFORM—CONFERENCE REPORT

Mr. SIMPSON. Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived with regard to the cloture vote today at 1 o'clock.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE CALENDAR

Mr. SIMPSON. Mr. President, after conferring with the acting Democratic leader, my friend Senator MATSUNAGA, we have business to do that must be performed tonight or this morning in order that the House and Senate can complete their coordinated efforts on the passage of this legislation of various types and sorts.

With that, after conferring, as I say, with the acting Democratic leader, I would like to inquire if he is in a position to pass or definitely postpone any or all of the following Calendar items: Calendar Nos. 456, 498, 862, 865, 867, 868, 1052, and 1095.

Mr. MATSUNAGA. Not 1052, no. The others we have no objection to.

Mr. SIMPSON. You do have an objection to 1052?

Mr. MATSUNAGA. Yes; we have an objection to that.

Mr. SIMPSON. Mr. President, with the deletion of Calendar item No. 1052, is the acting minority leader in a position to pass or indefinitely postpone any of those other items?

Mr. MATSUNAGA. We have no objection on this side.

Mr. SIMPSON. Then, I ask unanimous consent that we pass en bloc or indefinitely postpone en bloc these items and that all committee-reported amendments, preambles, and title amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT OF PATENT COOPERATION TREATY IMPLEMENTATION LAWS

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1230) to amend the patent laws implementing the Patent Cooperation Treaty.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MATHIAS. The Patent Cooperation Treaty is an international patent agreement aimed at harmonizing the patent application procedures in member countries around the world. The treaty was ratified by the President with the advice and consent of the Senate in 1973, and eventually went into effect for our country in 1978.

At time of the Senate's consideration of the treaty in 1973, we placed a reservation on chapter 2, due to the belief that the procedures in that chapter would place an undue burden on our Patent and Trademark Office at that time because of differences between the patent systems of the various countries that would participate in the treaty. Since that time, however, there has been tremendous progress, partly as a result of the treaty, in making those systems more compatible, and consequently we are now in a position to take advantage of the benefits of chapter 2.

Accordingly in the 98th Congress the President asked for the advice and consent of the Senate to withdraw the reservation on chapter 2. That request—Treaty Document 98-29—was favorably reported this year from the Foreign Relations Committee after a hearing, and passed the Senate by unanimous consent last Thursday. The bill before us today, S. 1230, is the implementing legislation, making the changes necessary in our domestic patent statutes for conforming to chapter 2 of the Patent Cooperation Treaty, if the Senate acts on the President's request as expected.

The substantive portions of the treaty, chapters 1 and 2, allow inventors to file preliminary international patent applications prior to committing the money and technical resources necessary to formulate a formal patent application. Under these chapters, inventors are given more lead time and informal assessments of the prospect of obtaining a patent on their inventions in other countries.

Under chapter 1, an inventor receives an international search report citing all prior art that might have a bearing on the patentability of the invention, and also is allowed 20 months before having to decide whether to submit a formal, full-scale patent application. After that, he would forfeit the priority date established when he filed the international application.

If the inventor enters chapter 2 procedures, the lead period is extended by 10 months, and the applicant is provided with an international preliminary examination report. Such reports are prepared by the patent office in one of the member countries, assessing whether the invention is novel, nonobvious, and useful—the three standard criteria around the world for patentability. The preliminary examination report is also circulated to the patent offices in all the member countries, for their possible use if the inventor decides to proceed with a patent application in those countries.

There is a solid consensus that withdrawing our reservation and submitting to chapter 2 of the Treaty is in the interest of promoting innovation in our country. As it stands, U.S. inventors have been the largest users by far of chapter 1 of the Treaty. Furthermore, it is now universally agreed that entering chapter 2 would not place undue burdens on the U.S. Patent and Trademark Office. The European Patent Office has agreed to assist the U.S. Patent and Trademark Office during the transition period after we withdraw our reservation. This assistance will be particularly valuable during the interim next year when our Patent and Trademark Office is completing its drive to reduce patent pendency time to 18 months.

The Judiciary Committee ordered S. 1230 favorably reported by unanimous consent on December 5, 1985. We are aware of no opposition to the bill, and I urge its adoption.

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

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

S. 1230

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 "Act to authorize the United States to participate in chapter II of the Patent Cooperation Treaty".

SEC. 2. (a) Section 351(a) of title 35, United States Code, is amended by striking out ", excluding chapter II thereof".

(b) Section 351(b) of title 35, United States Code, is amended by striking out "excluding part C thereof".

(c) Section 351(g) of title 35, United States Code, is amended by—

(1) striking out "term" and inserting in lieu thereof "terms";

(2) inserting "and 'International Preliminary Examining Authority' " after "Authority"; and

(3) striking out "means" and inserting in lieu thereof "mean".

(d) Section 361(d) of title 35, United States Code, is amended to read as follows:

"(d) The international fee, and the transmittal and search fees prescribed under section 376(a) of this part, shall either be paid on filing of an international application or within such later time as may be fixed by the Commissioner.".

SEC. 3. The item relating to section 362 in the analysis for chapter 36 of title 35, United States Code, is amended to read as follows:

"362. International Searching Authority and International Preliminary Examining Authority.".

SEC. 4. Section 362 of title 35, United States Code, is amended to read as follows:

"§ 362. International Searching Authority and International Preliminary Examining Authority

"(a) The Patent and Trademark Office may act as an International Searching Authority and International Preliminary Examining Authority with respect to international applications in accordance with the terms and conditions of an agreement which may be concluded with the International Bureau, and may discharge all duties required of such Authorities, including the collection of handling fees and their transmittal to the International Bureau.

"(b) The handling fee, preliminary examination fee, and any additional fees due for international preliminary examination shall be paid within such time as may be fixed by the Commissioner.".

SEC. 5. Section 364(a) of title 35, United States Code, is amended by—

(a) striking out "or", first occurrence and inserting in lieu thereof ",";

(b) inserting "International Preliminary Examining Authority" after "Authority, or"; and

(c) striking out "both".

SEC. 6. Section 368(c) of title 35, United States Code, is amended by—

(a) striking out the second occurrence of "or" and inserting in lieu thereof ","; and

(b) striking out "both" and inserting in lieu thereof "International Preliminary Examining Authority".

SEC. 7. (a) Section 371(a) of title 35, United States Code, is amended to read as follows:

"(a) Receipt from the International Bureau of copies of international applications with any amendments to the claims, international search reports, and international preliminary examination reports including any annexes thereto may be required in the case of international applications designating or electing the United States.".

(b) Section 371(b) of title 35, United States Code, is amended to read as follows:

"(b) Subject to subsection (f) of this section, the national stage shall commence with the expiration of the applicable time limit under article 22(1) or (2), or under article 39(1)(a) of the treaty.".

(c) Section 371(c)(4) of title 35, United States Code, is amended by striking the "." and inserting in lieu thereof ",".

(d) Section 371(c) of title 35, United States Code, is amended by adding at the end thereof the following new paragraph (5):

"(5) a translation into the English language of any annexes to the international preliminary examination report, if such annexes were made in another language.".

(e) Section 371(d) of title 35, United States Code, is amended by adding at the end thereof the following sentence: "The requirement of subsection (c)(5) shall be complied with at such time as may be fixed by the Commissioner and failure to do so shall be regarded as cancellation of the amendments made under article 34(2)(b) of the treaty.".

(f) Section 371(e) of title 35, United States Code, is amended by inserting "or article 41" after "28".

SEC. 8. (a) Section 376(a) of title 35, United States Code, is amended by—

(1) inserting "and the handling fee" after the first occurrence of "fee";

(2) striking "amount is" and inserting in lieu thereof "amounts are";

(3) redesignating paragraph (5) as paragraph (6); and

(4) inserting the following new paragraph (5):

"(5) A preliminary examination fee and any additional fees (see section 362(b))."

(b) Section 376(b) of title 35, United States Code, is amended by—

(1) inserting "and the handling fee" after the first occurrence of "fee" in the first sentence; and

(2) inserting "the preliminary examination fee and any additional fees," after "fee," in the third sentence.

SEC. 9. Sections 2 through 8 of this Act shall come into force on the same day as the effective date of entry into force of chapter II of the Patent Cooperation Treaty with respect to the United States, by virtue of the withdrawal of the declaration under article 64(1)(a) of the Patent Cooperation Treaty. It shall apply to all international applications pending before or after its effective date.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

WILDLIFE SANCTUARY FOR HUMPBACK WHALES IN THE WEST INDIES

The joint resolution (H.J. Res. 67) calling for a wildlife sanctuary for humpback whales in the West Indies, was considered, ordered to a third reading, read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

ORDER TO INDEFINITELY POSTPONE CERTAIN MEASURES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the following calendar items be indefinitely postponed: Calendar Order No. 498, S. 595; Calendar Order No. 862, S. 2635; Calendar Order No. 865, S. 2287; Calendar Order No. 867, S. 2466; and Calendar Order No. 868, S. 2532.

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

MEMORIAL TO HONOR WOMEN WHO HAVE SERVED IN THE ARMED FORCES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 945, House Joint Resolution 36, the memorial to honor women who have served in the Armed Forces.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 36) authorizing establishment of a memorial to honor women who have served in or with the Armed Forces of the United States.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wyoming?

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike out all after the enacting clause, and insert the following:

AUTHORIZATION OF MEMORIAL

SECTION 1. There is hereby authorized to be established on Federal land in the District of Columbia and its environs, by any organization or organizations approved by the Secretary of the Interior, a memorial to honor women who have served in the Armed Forces of the United States. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the Senate on September 10, 1986 (S. Rpt. 99-421).

FUNDING

SEC. 2. The organization or organizations approved by the Secretary shall establish the memorial with non-Federal funds.

AMENDMENT NO. 3481

Mr. SIMPSON. Mr. President, I send an amendment to the desk of the committee substitute on behalf of Senator MCCLURE and ask for its immediate consideration.

The PRESIDING OFFICER. Will the clerk report.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] on behalf of Mr. MCCLURE, proposes an amendment numbered 3481.

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

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

The amendment reads as follows:

1. On page 2, line 22, of H.J. Res. 36 as reported by the Committee on Energy and Natural Resources, strike "There is hereby authorized to be established on Federal land in the District of Columbia and its environs, by any organization or organizations approved by the Secretary of the Interior, a memorial" and insert in lieu thereof "The Women in Military Service for America Memorial Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs".

2. On page 3, line 2, of H.J. Res. 36 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986 (S. Rept. 99-421)" and insert in lieu thereof "House of Representatives on September 29, 1986".

3. On page 3, line 5 of H.J. Res. 36, as reported by the Committee on Energy and Natural Resources, strike "The organization or organizations approved by the Secretary" and insert in lieu thereof "The Women in Military Service for America Memorial Foundation".

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

The amendment (No. 3481) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the joint resolution.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution having been read a third time, the question is, shall it pass?

So the joint resolution (H.J. Res. 36) was passed.

The title was amended so as to read "A joint resolution to authorize the establishment of a memorial on Federal land in the District of Columbia and its environs to honor women who have served in the Armed Forces of the United States.".

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

ERECTION OF A MEMORIAL TO BLACK REVOLUTIONARY WAR VETERANS AND BLACK MEN, WOMEN, AND CHILDREN WHO RAN AWAY FROM SLAVERY

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar item No. 946, H.J. Res. 142, dealing with the black Revolutionary War veterans.

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

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 142) authorizing establishment of a memorial to honor the estimated five thousand courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom, which had been reported from the Committee on Energy and Natural Resources, with an

amendment to strike out all after the enacting clause, and insert the following:

AUTHORIZATION OF MEMORIAL

SECTION 1. The Black Revolutionary War Patiots Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor the estimated five thousand courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the Senate on September 10, 1986 (S. Rpt. 99-421).

FUNDING

SEC. 2. The Black Revolutionary War Patriots Foundation shall establish the memorial with non-Federal funds.

The amendments were agreed to.

The amendments were ordered to be engrossed, the bill was read the third time, and passed.

The title was amended so as to read: "A joint resolution to authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor the estimated 5,000 courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom.".

There being no objection, the Senate proceeded to consider the joint resolution.

AMENDMENT NO. 3482

Mr. SIMPSON. Mr. President, I send an amendment to the desk to the committee substitute on behalf of Senator MCCLURE, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] for Mr. MCCLURE, proposes an amendment numbered 3482.

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

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

The amendment is as follows:

On page 3, line 14, strike all after the word "the" and insert in lieu thereof "House of Representatives on September 29, 1986.".

The PRESIDING OFFICER. Is there debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 3482) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The committee amendment, as amended, was ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution, as amended, was read a third time.

The PRESIDING OFFICER. The joint resolution, as amended, having been read the third time, the question is, Shall it pass?

The joint resolution (H.J. Res. 142), as amended, was passed.

The amendment to the title was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

INTEREST PROVISIONS OF THE DECLARATION OF TAKING ACT

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar item 986, S. 2424, to amend the interest provisions of the Declaration of Taking Act.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2424) to amend the interest provisions of the Declaration of Taking Act.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3483

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator DURENBERGER and Senator BOSCHWITZ, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. DURENBERGER, Mr. BOSCHWITZ, and Mr. THURMOND, proposes an amendment numbered 3483.

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

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

The amendment is as follows:

At the end of the bill add the following:

SEC. 2. (a) Notwithstanding any other provision of chapter 11 of title 11, United States Code, the bankruptcy trustee in each case described in subsection (b) shall pay benefits until May 15, 1987, to retired former employees under a plan, fund, or program maintained or established by the debtor in such case prior to filing a petition (through the purchase of insurance or otherwise) for the purpose of providing medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, or death.

(b) This section is effective with respect to—

(1) cases commenced under chapter 11 of title 11, United States Code, in which a plan for reorganization has not been confirmed by the court and in which any such benefit is still being paid on October 2, 1986;

(2) in cases under which an order for relief is entered under chapter 11 of title 11, United States Code, after October 2, 1986, while such case is a case under chapter 11; or

(3) in cases under title 11, United States Code, involving a partnership which was in existence prior to July 17, 1986, and was the subject of a petition under chapter 11 of title 11, United States Code, upon which an order for relief was entered by a bankruptcy court on August 7, 1986, and where one of the partners received bankruptcy court authorization on August 6, 1986, approving rejection of a partnership agreement.

(c) If any provision of this section or the application thereof to any person or circumstance is held invalid, the provisions of every other part of this section and the first section shall not be affected thereby.

On page 3, line 14, of H.J. Res. 142 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986 (S. Rept. 99-421)" and insert in lieu thereof "House of Representatives on September 29, 1986".

The PRESIDING OFFICER. Is there debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (No. 3483) was agreed to.

Mr. GORTON. Mr. President, I have a concern about this bill that I would like to explore with the distinguished Senator from South Carolina responding on behalf of the Committee on the Judiciary. I expect that my concern can be alleviated through this colloquy.

Mr. THURMOND. I would be pleased to respond to the distinguished Senator from Washington.

Mr. GORTON. This bill would provide a formula for determining interest payments in cases where the Federal Government acquires land pursuant to a Declaration of Taking. Would this bill have any effect in situations where the Federal Government acquires land pursuant to a legislative taking?

Mr. THURMOND. The bill does not in any way affect legislative takings. It is an amendment to the Declaration of Taking Act. That act is concerned only with the acquisition of any land or easement or right of way in land for the public use through a procedure that involves the filing in Federal court of a document called a Declaration of Taking, which is signed by the authority empowered by law to ac-

quire the land. A Declaration of Taking is not utilized when the Government acquires land pursuant to a legislative taking.

Mr. GORTON. I understand that the Department of Justice asked for this bill. Does the Department agree that this bill has no impact whatsoever on a legislative taking?

Mr. THURMOND. The committee has talked with the Department about your point, and the Department has given its complete assurance that the bill concerns only takings under the Declaration of Taking Act, and that neither the bill nor the act have any effect on legislative takings.

Mr. GORTON. I am pleased to hear that. I was concerned because I am aware of proceedings which have been going on for some years to determine compensation in connection with the Government's legislative taking pursuant to the Redwood National Park Act, as amended, (16 U.S.C. 79a-q). That act contains provisions concerning compensation and interest, and refers to the Declaration of Taking Act only to incorporate an administrative procedure for deposits into the registry of the court. I did not think it appropriate that any of the ground rules underlying those Redwood National Park proceedings should be changed by the bill this late in the game. Am I correct, then, in understanding that the Federal court's determination of compensation and interest for the Redwood National Park legislative takings will in no way be affected by this bill?

Mr. THURMOND. Based on both the assurance that the Department of Justice has given me on this particular point and my understanding of the bill and the Redwood National Park Act, as amended, the Senator is correct; no court determination in these cases will be affected; and, the settlement agreement reached prior to this date between United States and Louisiana Pacific Corp., including the option to elect between rates, is not altered and may be exercised.

Mr. GORTON. I thank the Senator, and have no objection to the passage of the bill.

Mr. DURENBERGER. Mr. President, I send an amendment to the desk on behalf of myself, Mr. BOSCHWITZ and the distinguished chairman of the Judiciary Committee, Mr. THURMOND. This amendment is intended to protect the life, health and disability benefits of retired employees whose benefits have been unilaterally terminated when a company has filed for bankruptcy.

I believe this amendment has been cleared on both sides. I especially want to thank the distinguished chairman of the Judiciary Committee Mr. THURMOND, for working out this amendment and contributing his expertise in drafting the provision.

The amendment I am offering today prevents companies that have filed for bankruptcy from terminating the life, health and disability benefits of retired employees until May 15, 1987. This amendment is similar to a provision contained in the continuing resolution, but broadens the scope of that amendment so as to ensure that these benefits must be continued in cases where the Bankruptcy Court entered an order for relief on August 7.

Mr. THURMOND. Mr. President, this amendment creates a new provision in the Bankruptcy Code that will protect the health and life insurance benefits of retirees when their former employers file for bankruptcy. It is designed to continue this protection until May 15, 1987, in order to give Congress time to act on the broader question of how retiree benefits are to be treated under the Bankruptcy Code, and especially under section 1113.

I stress that this new provision is not to be read or interpreted as affecting the interpretation of section 1113 of the code. I have participated in drafting this amendment with that purpose in mind, and I know that is the intent of both Senator DURENBERGER and Senator BOSCHWITZ, who worked with me in the drafting of this amendment. It was only with this understanding that I have consented to allow the Senate to consider this amendment in the closing days of the session.

Mr. President, I want to make it completely clear, as Senators DURENBERGER and BOSCHWITZ understand, that this amendment does not affect the interpretation of section 1113 in any way.

Mr. BOSCHWITZ. Mr. President, we sometimes refer to certain legislation as "must" legislation. That is, legislation which must be passed as a top priority. I consider this amendment to be "must" legislation.

When LTV Corp. filed for bankruptcy under chapter 11 of the bankruptcy laws on July 17 of this year, the health, disability, and death benefits of over 78,000 retirees of that company and its subsidiaries were put in jeopardy. Recognizing the catastrophe that a discontinuance of these benefits could be for retired workers and their families, Congress acted on several pieces of legislation to prevent any interruption in the payment of these benefits. I supported those legislative efforts.

Most recently, on October 3, 1986, the Senate added an amendment to the continuing resolution which would require LTV Corp. to continue health, disability and death benefits to it's retirees until May 15, 1987. The intention was that these benefits should be protected until Congress has an opportunity to study the bankruptcy laws and determine what further action it wants to take to protect these retirees.

Subsequently, we have been informed that, under the language used in the amendment to the continuing resolution, the health, disability, and death benefits of over 1,000 retirees on the severely depressed Minnesota Iron Range would not be protected. The amendment we are offering today would amend the language of the earlier amendment to the continuing resolution to make clear that the benefits of these retirees would be protected in the same fashion as those of other retirees affected by the LTV Corp. bankruptcy.

Again, I consider this to be "must" legislation. I want to thank the distinguished chairman of the Judiciary Committee, President Pro Tempore THURMOND, for his efforts in helping us to pass this legislation to protect these retirees.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

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

The bill (S. 2424), as amended, was ordered to be engrossed for a third reading, and was read the third time.

□ 0231

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar 1014, H.R. 5363, the House companion bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5363) to amend the interest provision of the Declaration of Taking Act.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

Mr. SIMPSON. Mr. President, I move to strike all after the enacting clause and insert the text of S. 2424, as amended.

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

The motion was agreed to.

The PRESIDING OFFICER. If there be no further amendment, the question is on third reading and passage.

The bill (HR. 5363), as amended, was ordered to a third reading, read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I ask unanimous consent that S. 2424 be indefinitely postponed.

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

PINE RIDGE INDIAN RESERVATION CLAIMS SETTLEMENT ACT

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar 1087, dealing with the Pine Ridge Indian Reservation.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2260) to settle claims arising out of activities on the Pine Ridge Indian Reservation.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs with amendments, as follows:

(The parts of the bill intended to be stricken are shown in bold face brackets, and the parts of the bill intended to be inserted are shown in italics:)

S. 2260

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in full settlement of all claims, legal and equitable, against the United States arising out of activities on the Pine Ridge Indian Reservation that were the subject of the findings of fact and recommendations submitted to the Senate by the Chief Commissioner of the United States Court of Claims (Congressional Reference 4-76) in response to a request of the Senate made in Senate Resolution 378 (94th Congress, agreed to on August 9, 1976), the Secretary of the Treasury is authorized and directed to pay, out of funds in the Treasury of the United States not otherwise appropriated, the following amounts:

(1) $731.05 to Joe Leavitt (claimant No. 1),

(2) $118,771.10 to William Leavitt (claimant No. 3),

(3) $10,954.48 to Dwight W. and Francis Afraid of Hawk (claimant No. 3),

(4) $15,073.31 to Stella Bear Shield (claimant No. 4),

(5) $3,582.00 to Samuel Crocked Eyes (claimant No. 5),

(6) $2,955.00 to Seth Eagle Bear (claimant No. 6),

(7) $4,095.00 to Frank and Gonne A. Grooms (claimant No. 7),

(8) $2,537.00 to Vera High Hawk (claimant No. 8),

(9) $21,092.00 to John and Nancy Hussman (claimant No. 9),

(10) $2,245.00 to Jackson and Carolyn Iron Horse (claimant No. 10),

(11) $4,467.00 to Frances Ice Chase (claimant No. 11),

(12) $1,838.60 to Eugene Kills in Water (claimant No. 12),

(13) $3,161.00 to Victoria Little Moon (claimant No. 13),

(14) $4.929.00 to Clement and Verla Locke (claimant No. 14),

[(15) $12,021.56 to Frank and Gladys Locke (claimant No. 15),**]**

[(16)**]** *(15)* **[**$11,672.50**]** *$11,672.50* to Charles and Martha Moose (claimant No. 16),

[(17)**]** *(16)* $12,812.00 to Warfield Moose (claimant No. 17),

[(18)**]** *(17)* $8,025.00 to Patrick and Sophie Pumpkin Seed (claimant No. 18),

[(19)**]** *(18)* $6,161.25 to Oliver and Margaret Red Eagle (claimant No. 19),

[(20)**]** *(19)* $24,562.00 to Paul and Eva Red Star (claimant No. 20),

[(21)**]** *(20)* $7,768.00 to Lillian and Steve Sitting Eagle (claimant No. 21),

[(22)**]** *(21)* $1,685.10 to Joseph Spotted Bear (claimant No. 22),

[(23)**]** *(22)* $5,897.25 to Elizabeth Breast (claimant No. 23),

[(24)**]** *(23)* $3,340.33 to Elmer and Nettie Two Two (claimant No. 24),

[(25)**]** *(24)* $7,653.00 to Francis and Marie Randall (claimant No. 25),

[(26)**]** *(25)* $5,603.00 to Fannie Bear Eagle (claimant No. 26),

[(27)**]** *(26)* $3,597.00 to Eugene Black Bear, Jr. (claimant No. 27),

[(28)**]** *(27)* $2,571.00 to Anthony and Linda Black Elk (claimant No. 28),

[(29)**]** *(28)* $15,833.90 to Homer and Irene Black Elk (claimant No. 29),

[(30)**]** *(29)* $8,762.75 to Rachel Eagle Bull (claimant No. 30),

[(31)**]** *(30)* $4,723.00 to Florine (Ice) Hollow Horn (claimant No. 32),

[(32)**]** *(31)* $6,050.40 to Oscar and Rachel Hollow Horn (claimant No. 33),

[(33)**]** *(32)* $4,134.40 to Verlean Ice (claimant No. 34),

[(34)**]** *(33)* $6,880.00 to Claudia Iron Hawk Sully (claimant No. 36),

[(35)**]** *(34)* $7,735.55 to Paul R. Littlebear-Taylor (claimant No. 37),

[(36)**]** *(35)* $3,248.10 to Hobart Keith (claimant No. 38),

[(37)**]** *(36)* $1,350.00 to Mathew H. King (claimant No. 39),

[(38)**]** *(37)* $4,285.00 to Dallas and Roselyn Little Bear (claimant No. 41),

[(39)**]** *(38)* $3,053.60 to Julia Little Bear (claimant No. 42),

[(40)**]** *(39)* $2,083.09 to Mrs. Theresa R. Means (claimant No. 43),

[(41)**]** *(40)* $3,842.00 to Carol E. Red Star (claimant No. 44),

[(42)**]** *(41)* $1,194.00 to John Mark Red Star (claimant No. 45),

[(43)**]** *(42)* $3,793.50 to Neville C. Red Star, Sr. (claimant No. 46),

[(44)**]** *(43)* $3,525.00 to Darlene Rosane (claimant No. 47),

[(45)**]** *(44)* $14,882.00 to Garry Rowland (claimant No. 48),

[(46)**]** *(45)* $2,485.00 to Beverly Running Bear (claimant No. 49),

[(47)**]** *(46)* $4,025.00 to Rose Shott (claimant No. 50),

[(48)**]** *(47)* $24,276.00 to Sub-Community of Wounded Knee (claimant No. 51),

[(49)**]** *(48)* $3,750.00 to Paul Thunder Horse (claimant No. 52),

[(50)**]***(49)* $3,593.00 to Robert E. & Lorene E. Thunder Horse (claimant No. 53),

[(51)**]***(50)* $5,949.22 to Timothy H. and Audrey K. Thunder Horse (claimant No. 54),

[(52)**]***(51)* $1,900.00 to Lester White Butterfly (claimant No. 55),

[(53)**]***(52)* $1,455.00 to Daniel Dodge (claimant No. 56),

[(54)**]***(53)* $1,100.00 to Mr. & Mrs. Manfred Fast Horse (claimant No. 57),

[(55)**]***(54)* $2,207.00 to Helen S. Grant (claimant No. 58),

[(56)**]***(55)* $4,715.00 to Florine Hollow Horn *ex rel.* Bernard Ice, Sr. (claimant No. 59),

[(57)**]***(56)* $1,245.00 to Frank Jealous of Him (claimant No. 60),

[(58)**]***(57)* $5,756.10 to Matthew and Bessie J. High Pine (claimant No. 61),

[(59)**]***(58)* $5,305.00 to Cecilia (Little Moon) Fast Horse (claimant No. 62),

[(60)**]***(59)* $4,901.50 to Mabel I. Whiteface (claimant No. 63),

[(61)**]***(60)* $3,288.00 to Rachel White Dress (claimant No. 64),

[(62)**]***(61)* $2,422.30 to Dorothy Fast Wolf (claimant No. 65),

[(63)**]***(62)* $13,018.40 to Frank H. and Wilma Grooms (claimant No. 66),

[(64)**]***(63)* $4,334.67 to Jessie and Raymond Red Shirt (claimant No. 68),

[(65)**]***(64)* $28,467.95 to Carol J. Deckert Sager (claimant No. 69),

[(66)**]***(65)* $2,484.45 to LeRoy "Sunshine" Janis (claimant No. 70),

[(67)**]***(66)* $16,754.70 to Rudolph Fire Thunder (claimant No. 71),

[(68)**]***(67)* $1,535.50 to Messiah Episcopal Church (claimant No. 72),

(68) $600 to Faye Yellow Bird Steele (claimant No. 73),

(69) $1,984.26 to Ivy Goings (claimant No. 74),

(70) $2,679.60 to Dorothy Mae Richards (claimant No. 75),

(71) $1,640.00 to Elizabeth Bradshaw (claimant No. 77),

(72) $6,184.00 to Charles Dixon Sasse (claimant No. 78),

(73) $5,740.70 to Orville and Emma Lansberry (claimant No. 79),

(74) $2,129.00 to Oscar Jealous of Him (claimant No. 80),

(75) $1,984.26 to Delores Apple (claimant No. 82),

(76) $2,502.80 to Chris Patchett (claimant No. 83),

(77) $1,920.00 to Gilbert L. and Mary A. Matthews (claimant No. 85),

(78) $5,623.00 to Irene Jumping Eagle (claimant No. 86),

(79) $69,461.83 to St. Paul Insurance Companies (claimant No. 87),

(80) $1,850.00 to John Seirs (claimant No. 88),

(81) $5,505.00 to Ameilia M. Clark (claimant No. 89),

(82) $50,975.94 to George and Violet Coats (claimant No. 90),

(83) $51,290.45 to James A. Czywczynski & Jeanette, J. Czywczynski (claimant No. 91),

(84) $18,436.58 to Federal Insurance Co. (claimant No. 92),

(85) $1,650.00 to Stephen E. and JoAnne Ferace (claimant No. 93),

(86) $12,331.14 to Guv and Jean Fritze (claimant No. 94),

(87) $7,000.00 to C and F Trucking (claimant No. 95),

(88) $16,615.00 to Olive A. and Agnes Gildersleeve (claimant No. 96),

(89) $12,763.08 to Gordon G. and Lorraine F. Greenamyre (claimant No. 97),

(90) $21,917.51 to H and R Plumbing and Heating, Inc. (claimant No. 98),

(91) $39,298.25 to Home Insurance Co. (claimant No. 99),

(92) $21,457.92 to Janis Roofing (claimant No. 100),

(93) $6,431.95 to Milbank Mutual Insurance Company (claimant No. 101),

(94) $4,468.00 to Marv F. Pike (claimant No. 102),

(95) $67,511.54 to R and S Construction Company (claimant No. 103),

(96) $12,405.00 to Estate of Wilbur A. Riegert (claimant No. 104),
(97) $19,620.00 to Orville G. Schwarting (claimant No. 105),
(98) $490,934.44 to Sioux, Inc. (claimant No. 106),
(99) $8,275.02 to Stuyvesant Insurance Co. (claimant No. 107),
(100) $8,028.65 to Oglala Sioux Tribe (claimant No. 108),
(101) $28,374.00 to Oglala Sioux Housing Authority (claimant No. 109),
(102) $37,697.50 to Aaron DeSersa-Sron (claimant No. 110),
(103) $5,181.45 to Ivdia Black Bear (claimant No. 111),
(104) $887.50 to Thomas Casey (claimant No. 112),
(105) $3,984.00 to Roy and Pauline White Butterfly (claimant No. 113),
(106) $3,495.00 to Eleanor Pig Owl for George Iron Teeth (claimant No. 114),
(107) $3,168.09 to Standard Oil (Indiana) (claimant No. 115),
(108) $7,335.00 to Shirley Blunt Horn (claimant No. 116),
(109) $1,866.00 to Eugene and Vera Hunts Horse (claimant No. 118),
(110) $2,650.40 to Claytor and Vernice Jealous of Him (claimant No. 119),
(111) $1,021.00 to Keva A. and Reuben R. Mesteth (claimant No. 120),
(112) $4,234.70 to Hobart Spotted Bear (claimant No. 121), and
(113) $1,425.00 to Employers Mutual Companies (claimant No. 122).

(b)(1) No part of any amount paid to any person under subsection (a) in excess of 10 percent of such amount shall be paid or delivered to, or received by, any agent or attorney on account of services rendered in connection with the claim for which such payment is made, and the same shall be unlawful, notwithstanding any contract to the contrary. Violation of the provisions of this paragraph is a misdeameanor punishable by a fine not to exceed $1,000.

(2) Notwithstanding any other provision of law, no amount of any payment made to a person under this Act shall be included in the income of such person for purposes of any Federal, State, or local income tax. Notwithstanding any other provision of law, payments made to a person under this Act may not be considered as income or resources or otherwise used as the basis for denying or reducing—

(A) any financial assistance or other benefit under the Social Security Act—

(i) to which such person, or the household of such person, is otherwise entitled, or

(ii) for which such person, or the household of such person, is otherwise eligible, or

(B) any other financial assistance or benefit—

(i) to which such person, or the household of such person, is otherwise entitled, or

(ii) for which such person, or the household of such person, is otherwise eligible, under any program part or all of the funding for which is provided by the Federal Government.

(2)(c) Pursuant to the recommendations of the Chief Commissioner of the United States Court of Claims, the Secretary of the Treasury is authorized and directed to pay out of funds in the Treasury of the United States not otherwise appropriated, $26,486.44 to the Dakota Plains Legal Services, formerly South Dakota Legal Services Corporation for services rendered in connection with the proceeding conducted pursuant to section 2509 of title 28, United States Code, which was initiated by reason of Senate Rescolution 378 (94th Congress, agreed to on August 9, 1976).

The PRESIDING OFFICER. Without objection, the amendments are considered en bloc and agreed to en bloc.

The committee amendments were agreed to en bloc.

The PRESIDING OFFICER. Are there further amendments?

If not, the question is on the engrossment and third reading of the bill.

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

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

RELIEF OF RAMZI AND MARIE SALLOMY

Mr. SIMPSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 332.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 332) entitled "An Act for the relief of Ramzi Sallomy and Marie Sallomy", do pass with the following amendment:

Page 2, line 6, strike out [Act.], and insert: *Act: Provided further, That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited on behalf of Ramzi Sallomy as prescribed by section 213 of the said Act.*

Mr. SIMPSON. Mr. President, I move that the Senate concur in the House amendment.

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

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

EXEMPTIVE AUTHORITY OF THE SECURITIES AND EXCHANGE COMMISSION

Mr. SIMPSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2000.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2000) entitled "An Act to clarify the exemptive authority of the Securities and Exchange Commission", do pass with the following amendment:

Strike out all after the enacting clause, and insert: Notwithstanding section 3(a) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79c(a)), a holding company which has only one subsidiary company that is solely a gas utility company, as defined in said Act, shall be exempt from all provisions, except section 9(a)(2), of said Act if neither the holding company nor any other subsidiary company is a public utility company, the operations of such subsidiary gas utility company do not exceed beyond the State in which it is organized, the subsidiary company was incorporated on June 16, 1986, for the express purpose of operating as a gas utility company, and all of whose voting securities are owned by the holding company, and neither the holding company, nor any of its subsidiary companies are engaged in residential or commercial plumbing, heating, refrigeration, airconditioning, or in the sale, installation or servicing of such or related equipment.

Mr. BYRD. Mr. President, S. 2000 passed the Senate on August 14. The purpose of this measure is to ensure that the Securities and Exchange Commission be given very narrow authority to except a single company, Cabot Corp., from the strictures of the Public Utility Holding Company Act. The exception is needed so that Cabot Corp. can comply with an order of the West Virginia Public Service Commission to reorganize part of its operations. On reflection of the Senate's original action, it became apparent that the effective date of the measure would unintentionally except others. The House of Representatives amended S. 2000 to set the effective date as a date applicable only to Cabot. The House further refined our intentions by additional language which legislative counsel informs me better states the exception; substituting the word "if" for the words "provided that."

I urge my colleagues to join with Senator ROCKEFELLER and me in supporting S. 2000. The legislation is necessary and beneficial to the citizens of West Virginia. It does not compromise the protections Congress intends to preserve under the Public Utility Holding Company Act.

Mr. SIMPSON. Mr. President, I move that the Senate concur in the House amendments.

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

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

CRIMINAL JUSTICE ACT REVISION

Mr. SIMPSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3004.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3004) entitled "An Act to amend section 3006A of title 18, United States Code, to improve the delivery of legal services in the criminal justice system to those persons financially unable to obtain adequate representation, and for other purposes", with the following amendment:

In lieu of the matter proposed to be inserted by said amendment, insert:

TITLE I—CRIMINAL JUSTICE ACT REVISION

SEC. 101. SHORT TITLE.

This title may be referred to as the "Criminal Justice Act Revision of 1986".

SEC. 102. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) IN GENERAL.—Section 3006A of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended by striking out "(1) who is" and all that follows through "subsection (h)," and inserting in lieu thereof the following: "in accordance with this section. Representation under each plan shall include counsel and investigative, expert, and other services necessary for adequate representation. Each plan shall provide the following:

"(1) Representation shall be provided for any financially eligible person who—

"(A) is charged with a felony or a misdemeanor (other than a petty offense as defined in section 1 of this title);

"(B) is a juvenile alleged to have committed an act of juvenile delinquency as defined in section 5031 of this title;

"(C) is charged with a violation of probation;

"(D) is under arrest, when such representation is required by law;

"(E) is entitled to appointment of counsel in parole proceedings under chapter 311 of this title;

"(F) is subject to a mental condition hearing under chapter 313 of this title;

"(G) is in custody as a material witness;

"(H) is entitled to appointment of counsel under the sixth amendment to the Constitution; or

"(I) faces loss of liberty in a case, and Federal law requires the appointment of counsel.

"(2) Whenever the United States magistrate or the court determines that the interests of justice so require, representation may be provided for any financially eligible person who—

"(A) is charged with a petty offense for which a sentence to confinement is authorized; or

"(B) is seeking relief under section 2241, 2254, or 2255 of title 28.

"(3) Private attorneys shall be appointed in a substantial proportion of the cases. Each plan may include, in addition to the provisions for private attorneys, either of the following or both:

"(A) Attorneys furnished by a bar association or a legal aid agency.

"(B) Attorney furnished by a defender organization established in accordance with the provisions of subsection (g).".

(2) Subsection (b) is amended—

(A) in the second sentence—

(i) by striking out "In every criminal case" and all that follows through "violation of probation and" and inserting in lieu thereof "In every case in which a person entitled to representation under a plan approved under subsection (a)"; and

(ii) by striking out "defendant" and inserting in lieu thereof "person";

(B) in the third sentence by striking out "defendant" each place it appears and inserting in lieu thereof "person"; and

(C) in the fifth sentence by striking out "defendants" and inserting in lieu thereof "persons".

(3)(A) Subsection (d)(1) is amended by striking out "court. Such attorney" and inserting in lieu thereof "court, unless the Judicial Conference determines that a higher rate of not in excess of $75 per hour is justified for a circuit or for particular districts within a circuit, for time expended in court or before a United States magistrate and for time expended out of court. The Judicial Conference shall develop guidelines for determining the maximum hourly rates for each circuit in accordance with the preceding sentence, with variations by district, where appropriate, taking into account such factors as the minimum range of the prevailing hourly rates for qualified attorneys in the district in which the representation is provided and the recommendations of the judicial councils of the circuits. Not less than 3 years after the effective date of the Criminal Justice Act Revision of 1986, the Judicial Conference is authorized to raise the maximum hourly rates specified in this paragraph up to the aggregate of the overall average percentages of the adjustments in the rates of pay under the General Schedule made pursuant to section 5305 of title 5 on or after such effective date. After the rates are raised under the preceding sentence, such maximum hourly rates may be raised at intervals of not less than 1 year each, up to the aggregate of the overall average percentages of such adjustments made since the last raise was made under this paragraph. Attorneys".

(B) Subsection (d)(2) is amended—

(i) in the first sentence—

(I) by striking out "$2,000" and inserting in lieu thereof "$3,500"; and

(II) by striking out "$800" and inserting in lieu thereof "$1,000";

(ii) in the second sentence by striking out "$2,000" and inserting in lieu thereof "$2,500", and

(iii) by striking out the third sentence and inserting in lieu thereof the following: "For any other representation required or authorized by this section, the compensation shall not exceed $750 for each attorney in each proceeding.".

(C) Subsection (d)(3) is amended by adding at the end thereof the following: "The chief judge of the circuit may delegate such approval authority to an active circuit judge.".

(D) Subsection (d)(4) is amended in the first sentence by striking out "represented the defendant" and inserting in lieu thereof "provided representation to the person involved".

(4)(A) Subsection (e)(1) is amended in the first sentence by striking out "an adequate defense" and inserting in lieu thereof "adequate representation".

(B) Subsection (e)(2) is amended to read as follows:

"(2) WITHOUT PRIOR REQUEST.—(A) Counsel appointed under this section may obtain, subject to later review, investigative, expert, and other services without prior authorization if necessary for adequate representation. Except as provided in subparagraph (B) of this paragraph, the total cost of services obtained without prior authorization may not exceed $300 and expenses reasonably incurred.

"(B) The court, or the United States magistrate (if the services were rendered in a case disposed of entirely before the United States magistrate), may, in the interest of justice, and upon the finding that timely procurement of necessary services could not await prior authorization, approve payment for such services after they have been obtained, even if the cost of such services exceeds $300.".

(C)(i) Subsection (e)(3) is amended by striking out "$300" and inserting in lieu thereof "$1,000".

(ii) Subsection (e)(3) is amended by adding at the end thereof the following: "The chief judge of the circuit may delegate such approval authority to an active circuit judge.".

(5)(A)(i) Subsection (h)(2)(A) is amended by striking out "similarly as under title 28, United States Code, section 605, and subject to the conditions of that section" and inserting in lieu thereof "in accordance with section 605 of title 28".

(ii) Subsection (h)(2)(A) is amended by inserting after the fourth sentence the following: "Upon the expiration of his term, a Federal Public Defender may, by a majority vote of the judges of the court of appeals, continue to perform the duties of his office until his successor is appointed, or until one year after the expiration of such Defender's term, whichever is earlier.".

(B) Subsection (h)(2)(B) is amended in the third sentence by striking out "coming" and inserting in lieu thereof "next fiscal".

(C) Subsection (h) is further amended by adding at the end thereof the following:

"(3) MALPRACTICE AND NEGLIGENCE SUITS.—The Director of the Administrative Office of the United States Courts shall, to the extent the Director considers appropriate, provide representation for and hold harmless, or provide liability insurance for, any person who is an officer or employee of a Federal Public Defender Organization established under this subsection, or a Community Defender Organization established under this subsection which is receiving periodic sustaining grants, for money damages for injury, loss of liberty, loss of property, or personal injury or death arising from malpractice or negligence of any such officer or employee in furnishing representational services under this section while acting within the scope of that person's office or employment.".

(6) Subsection (i) is amended by inserting immediately before the period at the end of the first sentence the following: ", including funds for the continuing education and training of persons providing representational services under this section".

(7) Subsection (l) is amended—

(A) by striking out ", other than subsection (h) of section 1,"; and

(B) by striking out "Act" each place it appears and inserting in lieu thereof "section".

(b) ADDITIONAL AMENDMENTS.—(1) Section 3006A of title 18, United States Code, is further amended by striking out subsection (g) and redesignating subsections (h) through (l) as subsections (g) through (k), respectively.

(2) Subsection (j), as redesignated by paragraph (1), is amended to read as follows:

"(j) DISTRICTS INCLUDED.—As used in this section, the term 'district court' means each district court of the United States created by chapter 5 of title 28, the District Court of the Virgin Islands, the District Court for the Northern Mariana Islands, and the District Court of Guam.".

SEC. 103. TECHNICAL AMENDMENTS.

Section 223(e) of the Comprehensive Crime Control Act of 1984 (Public Law 98-473; 98 Stat. 2028) is amended to read as follows:

"(e) Section 3006A(a) is amended—

"(1) in paragraph (1)(A) by striking out 'misdemeanor (other than a petty offense as defined in section 1 of this title)' and inserting in lieu thereof 'Class A misdemeanor';

"(2) in paragraph (1) by striking out subparagraph (E) and redesignating subparagraphs (F) through (D as subparagraphs (E) through (H), respectively; and

"(3) in paragraph (2)(A) by striking out 'petty offense' and inserting in lieu thereof 'Class B or C misdemeanor, or an infraction'.".

SEC. 104. WITNESS FEES.

Section 1825 of title 28, United States Code, is amended to read as follows:

"§ 1825. Payment of fees

"(a) In any case in which the United States or an officer or agency of the United States is a party, the United States marshal for the district shall pay all fees of witnesses on the certificate of the United States attorney or assistant United States attorney, and in the proceedings before a United States magistrate, on the certificate of such magistrate, except: that any fees of defense witnesses, other than experts, appearing pursuant to subpoenas issued upon approval of the court, shall be paid by the United States marshal for the district—

"(1) on the certificate of a Federal public defender or assistant Federal public defender, in a criminal case in which the defendant is represented by such Federal public defender or assistant Federal public defender, and

"(2) on the certificate of the clerk of the court upon the affidavit of such witnesses' attendance given by other counsel appointed pursuant to section 3006A of title 18, in a criminal case in which a defendant is represented by such other counsel.

"(b) In proceedings in forma pauperis for a writ of habeas corpus, and in proceedings in forma pauperis under section 2255 of this title, the United States marshal for the district shall pay, on the certificate of the district judge, all fees of witnesses for the party authorized to proceed in forma pauperis, except that any fees of witnesses for such party, other than experts, appearing pursuant to subpoenas issued upon approval of the court, shall be paid by the United States marshal for the district—

"(1) on the certificate of a Federal public defender or assistant Federal public defender, in any such proceedings in which a party is represented by such Federal public defender or assistant Federal public defender, and

"(2) on the certificate of the clerk of the court upon the affidavit of such witnesses' attendance given by other counsel appointed pursuant to section 3006A of title 18, in any such proceedings in which a party is represented by such other counsel.

"(c) Fees and mileage need not be tendered to a witness upon service of a subpoena issued on behalf of the United States or an officer or agency of the United States, upon service of a subpoena issued on behalf of a defendant represented by a Fedeal public defender, assistant Federal public defender, or other attorney appointed pursuant to section 3006A of title 18, or upon service of a subpoena issued on behalf of a party authorized to proceed in forma pauperis, if the payment of such fees and mileage is to be made by the United States marshal under this section.".

SEC. 105. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 120 days after the date of enactment of this Act. The maximum hourly rates provided in section 3006A(d)(1) of title 18, United States Code, as amended by section 102(a)(3)(A) of this Act, shall apply only to services performed on or after the effective date of this title. The maximum allowed for compensation for a case, as provided in section 3006A(d)(2) of title 18, United States Code, as amended by section 101(a)(3)(B) of this Act, shall apply only to compensation claims in which some portion of the claim is for the services performed on or after the effective date of this title. The maximum compensation allowed pursuant to section 3006A(e) of title 18, United States Code, as amended by subparagraphs (B) and (C) of section 102(a)(4) of this Act, shall apply only to services obtained on or after the effective date of this title.

TITLE II—RECALL OF CERTAIN JUDICIAL OFFICERS

SEC. 201. RECALL OF CERTAIN RETIRED JUDICIAL OFFICERS.

(a) MAGISTRATES.—(1) Section 631(d) of title 28, United States Code, is amended—

(A) by striking out "No" and inserting in lieu thereof "Except as otherwise provided in sections 375 and 636(h) of this title, no";

(B) by striking out "the unanimous" and inserting in lieu thereof "a majority"; and

(C) by inserting after "courts," the following: "which is taken upon the magistrate's attaining age seventy and upon each subsequent anniversary thereof,".

(2) Section 636 of title 28, United States Code, is amended by adding at the end the following:

"(h) A United States magistrate who has retired may, upon the consent of the chief judge of the district involved, be recalled to serve as a magistrate in any judicial district by the judicial council of the circuit within which such district is located. Upon recall, a magistrate may receive a salary for such service in accordance with regulations promulgated by the Judicial Conference, subject to the restrictions on the payment of an annuity set forth in subchapter III of chapter 83, and chapter 84, of title 5. The requirements set forth in subsections (a), (b)(3), and (d) of section 631, and paragraph (1) of subsection (b) of such section to the extent such paragraph requires membership of the bar of the location in which an individual is to serve as a magistrate, shall not apply to the recall of a retired magistrate under this subsection or section 375 of this title. Any other requirement set forth in section 631(b) shall apply to the recall of a retired magistrate under this subsection or section 375 of this title unless such retired magistrate met such requirement upon appointment or reappointment as a magistrate under section 631.".

(b) ALTERNATIVE RECALL OF CERTAIN JUDGES AND MAGISTRATES.—(1) Chapter 17 of title 28, United States Code, is amended by inserting after section 374 the following new section:

"§ 375. Recall of certain judges and magistrates

"(a)(1) A bankruptcy judge, a judge of the Claims Court, or a United States magistrate appointed under chapter 43 of this title, who has retired under the applicable provisions of title 5 upon attaining the age and years of service requirements established in section 371(c) of this title, may agree to be recalled to serve under this section for a period of five years as a bankruptcy judge, judge of the Claims Court, or magistrate, as the case may be, upon certification that substantial service is expected to be performed by such retired judge or magistrate during such 5-year period. With the agreement of the judge or magistrate involved, a certification under this subsection may be renewed for successive 5-year periods.

"(2) For purposes of paragraph (1) of this subsection, a certification may be made—

"(A) in the case of a bankruptcy judge or a United States magistrate, by the judicial council of the circuit in which the official duty station of the judge or magistrate at the time of retirement was located; and

"(B) in the case of a judge of the Claims Court, by the chief judge of the United States Claims Court.

"(3) For purposes of this section—

"(A) the term 'bankruptcy judge' means a bankruptcy judge appointed under chapter 6 of this title or serving as a bankruptcy judge on March 31, 1984; and

"(B) the term 'judge of the Claims Court' means a judge of the United States Claims Court who is appointed under chapter 7 of this title or who has served under section 167 of the Federal Courts Improvement Act of 1982.

"(b) A judge or magistrate recalled under this section may exercise all of the powers and duties of the office of judge or magistrate held at the time of retirement, including the ability to serve in any other judicial district to the extent applicable, but may not engage in the practice of law or engage in any other business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of duties as a judicial officer.

"(c) During the 5-year period in which a certification under subsection (a) is in effect, the judge or magistrate involved shall receive, in addition to the annuity provided under the applicable provisions of title 5, an amount equal to the difference between that annuity and the current salary of the office to which the judge or magistrate is recalled.

"(d) A certification under subsection (a) may be terminated in accordance with section 372(c) of this title, and such a certification shall be terminated upon the death of the recalled judge or magistrate involved.

"(e) Except as provided in subsection (b), nothing in this section shall affect the right of judges and magistrates who retire under the provisions of chapter 83 or chapter 84 of title 5 to serve as reemployed annuitants in accordance with the provisions of title 5. A judge or magistrate to whom this section applies may be recalled under section 155, 636(h), or 797 of this title, as the case may be, other than during a 5-year period in which a certification under subsection (a) is in effect with respect to that judge or magistrate.

"(f) For purposes of determining the years of service requirements in order to be eligible of recall under this section, any service as a bankruptcy judge, a judge of the Claims Court, or a United States magistrate, and any prior service as a referee in bankruptcy, a commission of the Court of Claims, or a United States commissioner, may be credited.

"(g) Except as provided in subsection (c), a judge or magistrate recalled under this section shall be considered to be a reemployed annuitant under chapter 83 or chapter 84, as the case may be, of title 5.

"(h) The Judicial Conference of the United States may promulgate regulations to implement this section.".

(2) The item relating to section 375 in the table of sections for chapter 17 of title 28, United States Code, is amended to read as follows:

"375. Recall of certain judges and magistrates.".

SEC. 202. TECHNICAL AMENDMENTS.

(a) RECALL OF BANKRUPTCY JUDGES.—Section 155(b) of title 28, United States Code, is amended by inserting ", and chapter 84," after "chapter 83".

(b) OFFICIAL DUTY STATION.—Section 374 of title 28, United States Code, is amended by adding at the end the following: "The place where a judge or magistrate recalled under section 155, 375, 636, or 797 of this title maintains the actual abode in which the judge or magistrate customarily lives shall be deemed to be the official station of such judge or magistrate for purposes of section 604(a)(7) of this title.".

(c) RECALL OF CLAIMS COURT JUDGES.—Section 797(a) of title 28, United States Code, is amended by inserting ", or chapter 84," after "chapter 83".

(d) CLERICAL AMENDMENT.—Section 633(b) of title 28, United State Code, is amended by striking out "643" and inserting in lieu thereof "634".

SEC. 203. EFFECTIVE DATE.

This title and the amendments made by this title take effect on January 1, 1987.

Mr. SIMPSON. Mr. President, I move that the Senate concur in the House amendments.

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

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

CORRECTION OF TECHNICAL ERROR IN ENROLLMENT OF S. 475

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to consideration of House Concurrent Resolution 411, making technical corrections in S. 475, to amend the Motor Vehicle Information and Cost Savings Act.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 411) to correct a technical error in the enrollment of the bill S. 475.

There being no objection, the concurrent resolution (H. Con. Res. 411) was considered and agreed to.

Mr. SIMPSON. I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table was agreed to.

TESTIMONY OF SENATE EMPLOYEES

Mr. SIMPSON. Mr. President, I send a resolution to the desk on behalf of Senators DOLE and BYRD and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A Senate resolution (S. Res. 512) to direct the Senate Legal Counsel to represent the staff of Senator Dole and to authorize the testimony of such staff in the case of *United States* v. *Michael Evan Bardoff, et al.*

Mr. SIMPSON. Mr. President, on August 4, 1986, a number of Senate offices were the targets of political demonstrations by groups wanting to express their views on United States aid to anti-Sandinista forces in Nicaragua. One of those was the personal office in the Hart Building of the majority leader, whose staff called the Capitol Police resulting in the arrests of 18 protestors who were ultimately charged under the D.C. Code with unlawful entry and unlawful conduct.

Fifteen of those individuals subsequently pled guilty, but the remaining three demanded a jury trial which is scheduled to begin in the D.C. Superior Court tomorrow afternoon. The assistant U.S. attorney who is prosecuting the case has subpoenaed five Capitol Police officers to appear as witnesses at the trial and has in addition requested the testimony of four of Senator DOLE's staff assistants who were present during the sit-in.

Since Senate employees cannot appear in their official capacity at a judicial proceeding without permisson of the Senate, this resolution would authorize those staff members to comply with the U.S. attorney's request. It would also direct the Senate legal counsel to represent them during all phases of the action in question in order to assure that the privileges and rights of the Senate are protected.

Mr. President, I move adoption of the resolution.

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

The resolution (S. Res. 512) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 512

Whereas, in the case of *United States* v. *Michael Evan Bardoff, et al.*, Crim. No. M-9508-86, et al., pending in the Superior Court of the District of Columbia, the United States Attorney has requested the testimony of Elizabeth Meyer, Mariam Bechtel, Janeal Cabbage and Jennifer Schumacher of the personal office staff of Senator Dole;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2) (1982), the Senate may direct its counsel to represent employees of the Senate with respect to testimony requests made of them in their official capacity;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that the testimony of employees of the Senate is or may be needful for use in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate; Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to represent Elizabeth Meyer, Mariam Bechtel, Janeal Cabbage, Jennifer Schumacher and any other staff assistant of Senator Dole who may be asked to testify in the case of *United States* v. *Michael Evan Bardoff, et al.* or subsequent related proceedings.

SEC. 2. That Elizabeth Meyer, Mariam Bechtel, Janeal Cabbage, Jennifer Schumacher, and any other staff assistant of Senator Dole who may be asked is authorized to testify in the case of *United States* v. *Michael Evan Bardoff, et al.*, except concerning matters which may be privileged.

Mr. SIMPSON. I move to reconsider the vote by which the resolution was agreed to.

Mr. MATSUNAGA. I move to lay that motion on the table. The motion to lay on the table was agreed to.

QUIET TITLE ACTIONS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of H.R. 2484, dealing with Quiet Title, just received from the House.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2484) to amend title 28, United States Code, relating to quiet title actions against the United States, with respect to actions brought by States.

The Senate proceeded to consider the bill.

Mr. INOUYE. I ask Senator MCCLURE, is it his and the committee's understanding that the notice provision in H.R. 2484 would neither apply to nor begin to run against a State or a party which has given the United States express permission or express consent to go upon a parcel of land by virtue of license, lease, Executive order, grant or any other form of authority?

Mr. MCCLURE. Yes, that is correct.

Mr. INOUYE. Is it also the intent and purpose of the committee that where a State has given the United States express permission to go upon the land, improvements or investments made by the United States even in a defense facility do not give a State notice that the United States claims the right or title to the land and that a State should not be barred at the courthouse door by the statute of limi-

tations from the opportunity to prove its title in court * * * whatever the merits of its claim?

Mr. McCLURE. That is right. It is not the purpose or intent of this bill to prohibit a quiet title action or to challenge the title of lands where the United States has entered by the express consent or permission of a State or private party. Were that the case, no State would ever give the United States a lease, license, Executive order, or any kind of permission to use property for fear that the United States, by improving the land, would bar a fair determination of ownership.

Mr. INOUYE. Am I correct in assuming that while this bill would not allow the relitigation of any case on the merits, it would also not preclude a State from bringing a quiet title action unless the United States had made it clear to a State or a private party for more than 12 years that the United States was claiming right, title, and ownership of the land and not merely that it used or was in possession of the land?

Mr. WALLOP. This is our intention.

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

The bill (H.R. 2484) was ordered to a third reading, was read a third time, and passed.

Mr. SIMPSON. I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

AMENDMENT OF AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate turn to consideration of H.R. 4154, dealing with mandatory retirement.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4154) to amend the Age Discrimination in Employment Act of 1967 to remove the maximum age limitation applicable to employees who are protected under such Act, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3484

(Purpose: To amend the Age Discrimination in Employment Act of 1967 to remove the maximum age limitation applicable to employees who are protected under such Act, and for other purposes)

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator HEINZ and others in the nature of a substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. HEINZ, Mr. METZENBAUM, Mr. FORD, Mr. BRADLEY, Mr. KENNEDY, Mr. GRASSLEY, Mrs. HAWKINS, Mr. COHEN, and Mr. CHILES, proposes an amendment in the nature of a substitute numbered 3484.

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Age Discrimination in Employment Amendments of 1986".

SEC. 2. AMENDMENTS RELATING TO MAXIMUM AGE.

(a) COVERAGE UNDER GROUP HEALTH PLANS.—Subsection (g)(1) of section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(g)(1)), as added by section 116(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "through 69" each place it appears and inserting in lieu thereof "or older".

(b) TECHNICAL AMENDMENT.—Subsection (g) of section 4 of the Age Discrimination in Employment Act of 1967, as added by section 802(b)(2) of the Older Americans Act Amendments of 1984, is amended by striking out "(g)(1)" in inserting in lieu thereof "(h)(1)".

(c) REMOVAL OF MAXIMUM AGE LIMITATION.—Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended—

(1) in subsection (a) by striking out "but less than seventy years of age", and

(2) in subsection (c)(1) by striking out "but not seventy years of age,".

SEC. 3. EMPLOYMENT AS FIREFIGHTER OR LAW ENFORCEMENT OFFICER.

(a) GENERAL RULE.—Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended by adding at the end thereof the following new subsection:

"(i) It shall not be unlawful for an employer which is a State, a political subdivision of a State, an agency or instrumentality of a State or a political subdivision of a State, or an interstate agency to fail or refuse to hire or to discharge any individual because of such individual's age if such action is taken—

"(1) with respect to the employment of an individual as a firefighter or as a law enforcement officer and the individual has attained the age of hiring or retirement in effect under applicable State or local law on March 3, 1983, and

"(2) pursuant to a bona fide hiring or retirement plan that is not a subterfuge to evade the purposes of this Act.".

(b) TERMINATION PROVISION.—The amendment made by subsection (a) of this section is repealed December 31, 1993.

SEC. 4. DEFINITIONS.

Section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630) is amended by adding at the end thereof the following new subsections:

"(j) The term 'firefighter' means an employee, the duties of whose position are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, including an employee engaged in this activity who is transferred to a supervisory or administrative position.

"(k) The term 'law enforcement officer' means an employee, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of a State, including an employee engaged in this activity who is transferred to a supervisory or administrative position. For the purpose of this subsection, 'detention' includes the duties of employees assigned to guard individuals incarcerated in any penal institution.".

SEC. 5. STUDY AND PROPOSED GUIDELINES RELATING TO POLICE OFFICERS AND FIREFIGHTERS.

(a) STUDY.—Not later than 4 years after the date of enactment of this Act, the Secretary of Labor and the Equal Employment Opportunity Commission, jointly, shall—

(1) conduct a study—

(A) to determine whether physical and mental fitness tests are valid measurements of the ability and competency of police officers and firefighters to perform the requirements of their jobs,

(B) if such tests are found to be valid measurements of such ability and competency, to determine which particular types of tests most effectively measure such ability and competency, and

(C) to develop recommendations with respect to specific standards that such tests, and the administration of such tests should satisfy, and

(2) submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate that includes—

(A) a description of the results of such study, and

(B) a statement of the recommendations developed under paragraph (1)(C).

(b) CONSULTATION REQUIREMENT.—The Secretary of Labor and the Equal Employment Opportunity Commission shall, during the conduct of the study required under subsection (a) and prior to the development of recommendations under paragraph (1)(C), consult with the United States Fire Administration, the Federal Emergency Management Agency, organizations representing law enforcement officers, firefighters, and their employers, and organizations representing older Americans.

(c) PROPOSED GUIDELINES.—Not later than 5 years after the date of the enactment of this Act, the Equal Employment Opportunity Commission shall propose, in accordance with subchapter II of chapter 5 of title 5 of the United States Code, guidelines for the administration and use of physical and mental fitness tests to measure the ability and competency of police officers and firefighters to perform the requirements of their jobs.

SEC. 6. SPECIAL RULE FOR TENURED FACULTY.

(a) SPECIAL RULE.—Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended by adding at the end thereof the following new subsection:

"(d) Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 70 years of age, and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education (as defined by section 1201(a) of the Higher Education Act of 1965).".

(b) TERMINATION PROVISION.—The amendment made by subsection (a) of this section is repealed December 31, 1993.

(c) STUDY REQUIRED.—The Equal Employment Opportunity Commission shall, not

later than 12 months after the date of enactment of this Act, enter into an agreement with the National Academy of Sciences for the conduct of a study to analyze the potential consequences of the elimination of mandatory retirement on institutions of higher education.

(2) The study required by paragraph (1) of this subsection shall be conducted under the general supervision of the National Academy of Sciences by a study panel composed of 9 members. The study panel shall consist of—

(A) 4 members who shall be administrators at institutions of higher education selected by the National Academy of Sciences after consultation with the American Council of Education, the Association of American Universities, and the National Association of State Universities and Land Grant Colleges;

(B) 4 members who shall be teachers or retired teachers at institutions of higher education (who do not serve in an administrative capacity at such institutions), selected by the National Academy of Sciences after consultation with the American Federation of Teachers, the National Education Association, the American Association of University Professors, and the American Association of Retired Persons; and

(C) one member selected by the National Academy of Sciences.

(3) The results of the study shall be reported, with recommendations, to the President and to the Congress not later than 5 years after the date of enactment of this Act.

(4) The expenses of the study required by this subsection shall be paid from funds available to the Equal Employment Opportunity Commission.

SEC. 7. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on January 1, 1987, except that with respect to any employee who is subject to a collective-bargaining agreement—

(1) which is in effect on June 30, 1986,

(2) which terminates after January 1, 1987,

(3) any provision of which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)), and

(4) which contains any provision that would be superseded by such amendments, but for the operation of this section,

such amendments shall not apply until the termination of such collective bargaining agreement or January 1, 1990, whichever occurs first.

(b) Effect on Existing Causes of Action.—The amendments made by sections 3 and 4 of this Act shall not apply with respect to any cause of action arising under the Age Discrimination in Employment Act of 1967 as in effect before January 1, 1987.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment in the nature of a substitute (No. 3484) was agreed to.

Mr. HEINZ. Mr. President, I rise in support of H.R. 4154, the Age Discrimination in Employment Amendments of 1986. This amendment would prohibit mandatory retirement by removing the age 70 cap in the Age Discrimination in Employment Act [ADEA]. This amendment is similar to legislation which I introduced in 1985 and to H.R. 4154, introduced by Congressman CLAUDE PEPPER and unanimously passed by the House of Representatives on September 23, 1986. The importance of removing the age 70 cap is its messsage to present and future older workers: you are to be employed on the basis of your ability, not on the basis of your birth date.

The problems associated with age discrimination are not new to the Congress. The first ADEA bill, enacted in 1967, stemmed from the Congress' determination that age discrimination, like discrimination based upon race, religion, or sex, is inherently contrary to the principle of individual merit. The original act was designed to protect workers between the ages of 40 to 65. In 1978, the Age Discrimination in Employment Act was amended to eliminate mandatory retirement for nearly all Federal workers and to increase to 70 the age at which non-Federal workers could be forcibly retired. This bill will abolish that age 70 cap and will reverse a policy that implicitly sanctions arbitrary discrimination against working men and women over the age of 70. While it is a simple change in the law, it will make an enormous difference in the lives of those who will soon face the devastating effects of age discrimination.

There are 1.1 million Americans age 70 and over in our work force. Many of these people want to continue working—sometimes for reasons of self-fulfillment, but more often for reasons of economic necessity. Federal law now deprives these people of the same guarantees of equal opportunity in employment that other citizens enjoy. They are deprived of this protection not on the basis of who they are and what they can do, but solely on the basis of their age.

At a hearing I chaired before the special Committee on Aging in June, I learned of the severe psychological and financial impact of forced retirement on older workers. I heard first hand how this policy, if left to stand, would silence the strings of a concert violinist from Philadelphia, would close the schoolbooks of a dedicated teacher from Connecticut, and were it not for the Older Americans Act, would sentence a productive, willing worker from my hometown of Pittsburgh to years of financial hardship and social isolation.

Age discrimination is unfair and we should rid our society of it without further delay. More than 4 years ago, on April 2, 1982, President Reagan endorsed the abolition of mandatory retirement saying, "when it comes to retirement, the criterion should be fitness for work, not year of birth." And public opinion in this country clearly supports the elimination of mandatory retirement. A recent Harris poll found that by a 9 to 1 margin, the majority of all ages feel that, "nobody should be forced to retire because of age."

In addition to the compelling civil rights arguments for the elimination of forced retirement, there are sound economic arguments for increasing the labor force participation rates among older workers. Age discrimination is not only a threat to the well-being of older individuals, but it also undermines the economic stability of the Nation's retirement income systems and, to a lesser extent, the larger economy as well.

Passage of this legislation will encourage more older workers to remain employed longer and will help to prepare us for the inevitable work force changes that will occur in the future. Our Nation will need these productive older workers. As you are aware, Mr. President, the age distribution of the population will be shifting dramatically over the coming decades. The younger working-age population has ceased its rapid growth and, between now and 1995, will actually show marked declines. What this means is that our standard of living is threatened due to possible future labor shortages unless we continue to increase the size of our work force. And since everyone who will be a younger worker during the next 20 years has already been born, we know that the only way that we will be able to grow and prosper is if able bodied, productive older workers, who are today in their late forties or fifties or even early sixties, have the opportunity and incentive to continue working. The behavior of this group of older workers will be vital to our continued economic growth.

Allowing older people to remain productive will also lessen the strains on our retirement income programs. If those now forced to retire were working, the overall obligation of the Social Security Trust Fund would be decreased, and the number contributing would increase. Official cost estimates show that by 2020, the increase in the total tax revenues to Social Security and Medicare, will reach about $100 million.

According to the Department of Labor, if mandatory retirement were abolished, 195,000 more workers would be in the labor force in the year 2000. The Employee Benefit Research Institute estimates that the impact of legislation to abolish mandatory retirement would have only affected between 41,000 and 77,000 people in 1985. The study by the Department of Labor on the impact of totally eliminating mandatory retirement also indicates that it would not produce any work force dislocations. Thus, lifting the age cap will have a negligible impact on worker behavior and on new

entrants into the labor force, such as younger minorities and women.

Arbitrary age limits are repugnant to the letter and spirit of the ADEA, which was enacted to promote employment of older persons based on their ability rather than age and to prohibit arbitrary age discrimination in employment. Simply stated, it was Congress' intention that age should not be used as the principal determinant of an individual's ability to perform a job, but that this determination, to the greatest extent feasible, should be made on an individual basis. Age limitations conflict with this intent because they are based on notions of age-based incapacity and do not consider an individual's potential or job performance.

Mr. President, the ADEA does not require employers to keep unfit or unproductive employees. All that the ADEA requires is that the employer make individualized assessments where it is possible and practical to do so. I believe that such determinations are possible and that it is reasonable to require them rather than imposing age limits based solely on age.

Special concerns about the public safety and the tenure system at colleges and universities have been raised. To address those concerns, this bill includes temporary exemptions for State and local public safety officers and for tenured faculty to allow them to adjust to uncapping. These temporary exemtions should not be regarded as an encroachment on the fundamental principles of the ADEA. During the 7-year exemption period, studies will be undertaken to evaluate and propose criteria for physical and mental fitness tests for police officers and firefighters and to evaluate the consequences of the elimination of mandatory retirement on institutions of higher education. The compromise reached on the exemption for police and firefighters is the result of the diligent efforts of Senators NICKLES, FORD, METZENBAUM, and BRADLEY along with police and firefighters unions and representatives. Likewise, the temporary exemption for academies was facilitated by the diligent efforts of Senator HATCH, chairman of the Labor and Human Resources Committee. The Agreements they have reached have made possible the passage of this bill.

Mr. President, passage of this mandatory retirement bill will not end age discrimination. This form of discrimination has persisted in this country on the basis of misconceptions concerning the aging process and unfounded stereotypes about older people. But with this new legislation we can begin to reeducate the American public, and especially employers, about the vast reservoir of talent and expertise that older Americans have to offer to the social and economic development of our society.

The continued use of mandatory retirement policies is both morally unsupportable and contrary to the economic interests of employees, employers, and the American public. Eliminating this type of discrimination will signal our recognition of the value of older workers in the work place and will signal our intention to reject all barriers to their full participation.

We have fought long and hard to combat discriminatory employment practices in the areas of race, sex, religion, national origin, and age. Forcing older workers out of their jobs at age 70 robs society of the contribution and productivity of an increasingly important segment of our work force, and it robs these individuals of the dignity and self-sufficiency which comes from working. Every worker ought to have the right to be judged on the basis of his or her abilities. The issue is one of basic civil rights and fairness.

Mr. President, I wish to thank the cosponsors of this amendment, and their staffs, especially Jim Brudney and Kennie Gill, for their tireless efforts with regard to this legislation. Without their willingness to reach compromise, this bill would not have come to the floor. I commend Senator NICKLES, the chairman of the Subcommittee on Labor, the subcommittee which has jurisdiction of the provisions of this bill, for his cooperation. Senator METZENBAUM played a special role in ironing out the differences over the bill.

Many older worker advocates and organizations, including the American Association of Retired Persons, the National Senior Citizens Law Center, the Gray Panthers, the National Council of Senior Citizens, the American Bar Association, and the AFL–CIO, support the elimination of forced retirement, and have contributed much to this effort.

I thank my colleagues for their support.

Mr. METZENBAUM. Mr. President, I rise in support of the Heinz-Metzenbaum substitute, amending the Age Discrimination in Employment Act.

In 1978, Congress amended the ADEA by raising the cap from age 65 to age 70. This amendment would take the important further step of eliminating the age cap altogether.

Age alone has nothing to do with an employee's ability to work. Justice Oliver Wendall Holmes served with distinction on the Supreme Court into his 90's. Congressman CLAUDE PEPPER, the father of age discrimination law in this country, is still going strong at age 86. Millions of Americans over 70 are ready, willing, and able to earn their keep if given a chance.

Today, 11 percent of our population is over age 65. We cannot afford to ignore this valuable human resource. Premature retirement results in additional years of reduced income, which can drag older Americans into poverty. At the same time, premature retirement increases the burden on an already strained Social Security System.

In our society, work defines not only access to income but also self-esteem and social status. By establishing a national retirement policy based on ability and performance rather than the arbitrary factor of age, this bill recognizes and protects the dignity of older Americans.

Although the Heinz-Metzenbaum substitute lifts the age cap for all workers in the private sector, it also creates a 7-year phasein period—through December 31, 1993—for two groups of employees.

First, public safety employees—police and firefighters—are subject to applicable State laws that set uniform policies governing maximum ages of hire or retirement. Second, tenured faculty at colleges and universities may still be covered by the age 70 limit of current Federal law.

The substitute also provides for a thorough study of the issues underlying each set of claims. At present, the case for a permanent exemption has not been made. I, for one, am not certain that such a case can be made. But when the two studies are complete, Congress will at least have better information before it from which to decide.

The substitute is supported by organizations representing older Americans, including the American Association of Retired Persons and the National Council of Senior Citizens. It also has the the support of organizations representing police and firefighters, including the international Union of Police Associations, the Fraternal Order of Police, the International Association of Chiefs of Police, and the International Association of Firefighters, and by the major public employer groups, including the National League of Cities, the U.S. Conference of Mayors, and the National Association of Counties. And the 7-year phase-in period for tenured faculty has the support of a majority of the university community as well as the American Federation of Teachers and the National Education Association.

The House bill removing the age cap, H.R. 4154, was approved by the House late last month, on a vote of 394 to 0. H.R. 4154 made no provision for institutions of higher education, but included a permanent exemption for police and firefighters that was vigorously opposed by groups representing older Americans.

The Heinz-Metzenbaum substitute for H.R. 4154 adopts a narrower, temporary exemption for police and firefighters while providing a similar temporary exemption for institutions of higher education. After discussions involving the Democratic managers of

H.R. 4154, notably Congressmen PEPPER and HAWKINS, I can say that those two leaders will support and recommend acceptance of the Senate version of the legislation should this amendment reach the other body.

As many of my colleagues know, this bill is dramatic proof that legislation is indeed the art of compromise. Every group affected by the bill has had to make some concessions, and I think the bill is stronger because of that.

I also want to pay homage to several of my colleagues for their efforts on this bill. Senator FORD was instrumental in pressing for a bill that would protect the interests of public safety employees. Senators BRADLEY and NICKLES also played key roles in working out a compromise on the public safety issue. Senators HATCH and QUAYLE helped develop a compromise that would address tenured faculty. Senators SIMON, PELL, and DODD also were active on that issue. And Senator HEINZ, who participated on all fronts, helped pull together the entire package.

Finally, the staffs of all these Senators, as well as my own staff, are to be congratulated for their negotiating skills, their patience, and their perseverance. Special thanks are due to James Brudney of my office; to Stephen McConnell and Terri Parker with Senator HEINZ; to Kennie Gill with Senator FORD; to Ken Apfel with Senator BRADLEY; and to Richard Lawson with Senator NICKLES.

Mr. FORD. Mr. President, I am most pleased that the Senate is taking action today to pass these important changes in the Age Discrimination In Employment Act. This compromise provides for the lifting of the age cap, while providing an important exemption for State and local police and firefighters and tenured faculty. I am pleased to have been a part of the negotiations on this bill which have allowed it to finally move forward.

I commend my colleagues who have been a part of this process for their work. I would like to particularly thank Senator BRADLEY, who shared my concerns about the need for relief for State and local safety and health personnel, and Senator NICKLES, chairman of the Labor Subcommittee with jurisdiction over this issue, who held hearings on this issue at my request earlier this year and who has worked very closely with the Fraternal Order of Police to bring this compromise about. Additionally, I would like to thank my colleagues who have been involved in reaching this compromise, including Senators HEINZ, METZENBAUM, KENNEDY, HATCH, HELMS, and QUAYLE, and their staff, for their willingness to keep this issue alive so we could take action this Congress.

I have always been a strong supporter of the ADEA. I supported raising the cap from 65 to 70, and I support this move to eliminate the cap entirely. It is past time that Congress recognize the important contribution older workers can make to the economic base of this Nation. We cannot afford to prematurely shelve the talents of many of our older workers by subjecting them to mandatory retirement. The legislation we are adopting today ensures that we do not lose one of the most valuable human resources our Nation has—our older workers.

While I completely support lifting the cap, I also recognize that if Congress is to eliminate mandatory retirement, we must also bring some certainty to State and local governments who, because of recent Supreme Court decisions, are unable to structure hiring and retirement requirements for safety personnel and firefighters. This compromise provides for such certainty.

The House passed similar legislation on September 23 by a unanimous vote. The House-passed bill lifts the age cap and provides a permanent exemption for State and local police, firefighters and penal institution employees, the so-called Murphy amendment, and a study by the EEOC to be followed by proposals on the availability of fitness tests to adequately measure ability and competency of these safety exployees. This exemption was adopted by the House by almost a 3-to-1 vote.

When the bill came over to the Senate, concerns were raised about the potential scope of the Murphy amendment. It became apparent that those of us who felt strongly that we should end discrimination against our older workers once and for all, but should also address the concerns of our State and local governments had a great deal of work to do in the few remaining days of the session. We began negotiations with the clock running, but with a firm resolve to achieve a compromise which would allow the cap to be lifted and provide a realistic exemption for State and local government safety and health personnel. The compromise we have before us today achieves these goals. It is supported by the American Association of Retired Persons, the International Association of Chiefs of Police, the Fraternal Order of Police, the International Association of Fire Fighters, the International Union of Police Associations, the National Governors Association, the National League of Cities, and the National Association of Counties.

The compromise reached on the State and local police and firefighter issue is a fair one. This exemption will allow State and local governments to set hiring and retirement requirements for these safety and health personnel according to their specific needs. The compromise provides a 7-year exemption, which expires at the end of 1993, for State and local police, firefighters, and prison guards. This compromise allows State and local governments to set hiring and retirement ages for these workers, provided such a plan is not a subterfuge to evade the purposes of the ADEA. It is important to note that it was not the intention of those negotiating this provision that such a plan be either a specific legislative enactment or a detailed written plan, but that it be a bona fide hiring or retirement plan which was established for legitimate governmental reasons and not merely as a way to evade the purposes of the ADEA.

A further component of this compromise establishes a floor for the hiring and retirement requirements which a State or local government can set. The hiring and retirement age requirements of a plan in effect as of March 3, 1983 become the floor for allowable plans. This is the date that the EEOC versus Wyoming case was decided. If jurisdictions have raised or eliminated mandatory retirement ages after this date, they have the choice of either moving back to the plan requirements in effect on March 3, 1983, or remaining where they are. However, State and local governments would not be able to lower retirement age requirements below what was in effect as of March 3, 1983. The purpose of this provision is to provide relief to those jurisdictions which were forced to respond to the Wyoming case, while at the same time ensuring that no lesser discrimination protection will be provided for these workers than what was in effect at the time the Wyoming case was decided.

I have long maintained that elected State and local officials are in the best position to determine the public safety needs of their constituencies. I do not believe that these elected officials fashion hiring and retirement policies to purposely evade the requirements of the ADEA. Our elected counterparts in State and local governments are no less committed to eliminating age discrimination than are Members of this Congress, and I do not believe that they will use this exemption to arbitrarily discriminate against older workers. The requirement that hiring and retirement ages be based on a bona fide plan also ensures that such discrimination will not occur.

The compromise on State and local safety and health personnel also modifies language in the House-passed bill which requires a study of this issue and proposed guidelines by the EEOC on the administration and use of fitness tests for these workers. The compromise provides for a 4-year study by the EEOC and the Secretary of Labor to determine whether physical and mental fitness tests can measure the ability of police officers and firefighters to do their job, and to make recommendations with respect to standards

which should be applied to such tests. The purpose of this provision is to try to establish a workable alternative to the current maze of litigation and conflicting court decisions on the issue of testing that have plagued our State and local governments since the Supreme Court reached its decision in 1983 in the case of EEOC versus Wyoming. Following this study, not later than 5 years after the enactment of this act, the EEOC is required to propose these guidelines.

An important modification which we included in the compromise is a requirement that the EEOC and the Secretary of Labor consult with various affected groups during the course of the study and prior to the development of recommendations. Those of us who support an exemption for these State and local safety and health personnel were concerned that the EEOC study would end up being either a restatement of current law or would totally ignore the practical aspects and needs of law enforcement management in general. I am therefore pleased that we were able to include in this compromise a requirement that the EEOC and the Secretary of Labor consult with groups and independent agencies which are affected by this exemption. In particular, the U.S. Fire Administration and the Federal Emergency Management Agency must be consulted. Additionally, organizations representing law enforcement officers and firefighters, and their employers, must also be a part of the study. To ensure a balanced study, groups representing older Americans will also be consulted.

While it is left to EEOC and the Secretary to determine which such groups will be contacted, there were several organizations which were intimately involved in reaching this compromise and would be appropriately consulted with, including the National Association of Fire Fighters, the International Association of Chiefs of Police and the State and Provisional Division of IACP, the Fraternal Order of Police and the International Union of Police Associations. Employers of these groups which would be appropriately consulted with should include representatives of State and local governments, including the National Association of Counties, the National League of Cities, and the National Governors Association. This list does not represent all such groups that are affected by this exemption, but provides a guideline of those organizations that were involved in these negotiations on the safety and health personnel exemption. Those of us who have been involved in these negotiations will be closely watching the progress of this study to ensure that all concerns are adequately represented.

The need for an exemption for State and local safety health personnel first came to my attention in 1983 following the Wyoming decision when former Kentucky Governor John Y. Brown, Jr., requested my assistance in obtaining relief for the State Police. Governor Martha Layne Collins reiterated that request in 1984 and I introduced legislation in the 98th Congress designed to bring relief to this group. No action was taken on that bill and at the beginning of the 99th Congress I reintroduced the legislation. Chairman NICKLES agreed to hold hearings on my proposal, and those of Senator BRADLEY and Senator QUAYLE, in March of this year. The testimony at that hearing showed a clear need for some type of exemption for State and local safety and health personnel.

I was pleased when the House then voted to include the Murphy amendment in H.R. 4154, legislation which lifts the age cap under the ADEA. While I strongly support lifting the age cap, I would not be able to support such a move without some type of exemption for State and local police and firefighters. The compromise we are adopting today satisfies my concerns and provides a realistic approach to such relief.

I commend my colleagues for allowing this measure to pass. It is my understanding that the House is prepared to accept our compromise and I encourage the House to move promptly to pass this measure and send it to the President for his signature.

Mr. BRADLEY. Mr. President, I rise as a cosponsor of this compromise package to eliminate the mandatory retirement cap and to exempt public safety officers from the Age Discrimination in Employment Act.

Mr. President, last year I introduced S. 698, which amends the Age Discrimination in Employment Act to allow States and municipalities the flexibility to determine entry and retirement ages for their public safety officers and firefighters. The amendment before us provides this exemption for the next 7 years and establishes a comprehensive study to help us determine what permanent Federal policy should be in this area.

Mr. President, Congress has already exempted from ADEA certain classes of Federal Government workers who regularly face unique mental and physical demands. Since 1974, Federal firefighters and law enforcement officers, including members of the FBI, secret service and Federal prisons, must retire at age 55. This amendment extends the exemption for the next 7 years to States and municipalities to allow them to determine retirement and entry ages for their own public safety officers and firefighters, just as Congress has done for similarly situated Federal employees.

The Supreme Court had held in EEOC against Wyoming that the Age Discrimination in Employment Act covers States and political subdivisions. Based on this decision, the laws of States and local governments which set retirement ages of less than 70 for public safety officers and firefighters have been invalidated. Needless to say, the Supreme Court decision has caused disarray in many State and local jurisdictions.

This issue was brought to my attention 2 years ago by the Governor of New Jersey and the head of the New Jersey State Police, Colonel Clinton L. Pagano. In addition to their support, the National Governors Association, National Association of Attorneys General, the Fraternal Order of Police, the International Association of Chiefs of Police, the National Troopers Coalition, the Firefighters and numerous other public safety organizations have passed resolutions calling on Congress to exempt certain public safety officers from the ADEA.

Mr. President, I am a strong proponent of the Age Discrimination in Employment Act. This exemption should not be construed as an invitation to start eroding those protections. But older Americans have as much reason as anyone to insure that those who perform emergency services are physically able to do so. Congress has already determined that age is a significant factor in job performance for a very select group of occupations to be exempted. This compromise package merely offers State and local governments the option to exempt these same occupations regardless of whether the person works for the Federal Government or a State or local government. I urge my colleagues to support this compromise package.

Mr. KENNEDY. Mr. President, it is with great pride that I join my colleagues in support of the Age Discrimination in Employment Amendments of 1986. This legislation passed the House last month by a vote of 394–0. That margin of victory is a much deserved tribute to the bill's author, the distinguished chairman of the House Rules Committee, Mr. CLAUDE PEPPER.

This legislation also serves as a tribute to our Nation's senior citizens. Today we recognize the outstanding accomplishments, in every field of endeavor, of this vital segment of our work force. Today we say as a nation that age alone is not the measure of a worker's worth, and that discrimination based on age is as invidious as that based on race, or sex, or national origin. Today we make these truths the law of our land.

We know too well from our experience as a nation that biases are often difficult to overcome. Age bias is no different from other biases, but now the time has come for mandatory retirement of mandatory retirement. Nineteen years ago Congress first passed the Age Discrimination in Em-

ployment Act, prohibiting age discrimination against employees between the ages of 40 and 65. Eight years ago we raised the age cap from 65 to 70. Today we take the next logical step, and remove that cap entirely.

George Bernard Shaw once said: "Some people are old at 17; others are young at 70." We only have to look around us to see just how true that is. We have a President, distinguished colleagues in the House of Representatives and distinguished colleagues here in the Senate who are making enormous contributions on a daily basis running this country, well past the age of 70. Yet under current law in other occupations, these same active and energetic men and women might be forcibly retired. The Nation would be worse off without their contributions, just as it is worse off without the contributions of the hundreds of thousands of workers who are forced into premature retirement under current law.

At the turn of this century, only 5 percent of our population was over 65 years of age. Today, 11 percent are over 65, and in 50 years it is projected that over 20 percent of our population will be over 65. As a nation we cannot afford to squander the talent, energy, and contribution of our fastest growing age group. We must not permit mandatory retirement to rob those seniors of their dignity, their self-esteem, and their opportunity to work.

I commend the managers of this bill and all the Senators whose cooperation was necessary so that the Senate could join the House and pass this important legislation in the last days of this Congress.

Mr. GRASSLEY. Mr. President, I rise in support of H.R. 4154, a bill to abolish mandatory retirement and other forms of age discrimination in employment. I have supported the elimination of mandatory retirement since my days as a Member of the House of Representatives. I have been privileged to support the efforts of the distinguished Senator from Pennsylvania [Senator HEINZ] and Representative PEPPER to remove the age 70 cap on the Age Discrimination in Employment Act. Both of these gentlemen, and others, deserve a great deal of credit for clearing the way for the consideration of the measure before the Senate today.

The Age Discrimination in Employment Act [ADEA] protects individuals between the ages of 40 and 70 from age discrimination in the workplace. The ADEA prohibits employers from discriminating because of age in such matters as hiring, job retention, compensation, and other terms, conditions, and privileges of employment. I was a Member of the House of Representatives in 1977, when Congress raised the age cap on the ADEA from 65 to 70. I supported that effort, although I did not think it went far enough. I am pleased that we are here today to completely remove the age cap on the ADEA.

There are compelling public policy reasons for eliminating mandatory retirement and encouraging persons to remain in the work force longer. Demographers tell us that the population of the United States is growing older. This is also true in the workplace, where the "baby boom" cohort is growing older while the number of younger people entering the work force is declining. We therefore need to change public policies that discourage people from working beyond what we have considered in the past to be the normal retirement age. Of course, it goes without saying that the longer a person works, the less the drain on Social Security and private pension funds. In some cases, individuals may need to work because their economic situations dictate that they need the income from a job.

There is more than enough empirical evidence to demonstrate that old age does not necessarily mean a decline in a person's ability to work. That myth has been exploded, and it is time for the law of the land to conform to reality. In the vast majority of jobs, older workers can compete on an equal footing with younger workers. Rather than choosing some arbitrary age where we say the law against age discrimination in the workplace no longer applies, with the passage of this bill we are saying that if a person can do a job, he has a right to continue to work for as long as he wants to.

As far as I am concerned, the real issue with regard to mandatory retirement is whether we should consider older persons as individuals or as part of a group. I believe strongly that we ought to consider people as individuals. We ought not to judge people, in the workplace or anywhere else, on the basis of whether they are black or white, male or female, old or young. That is why I reject the idea that just because someone has arrived at a certain age he or she ought to be "turned out to pasture." And that is why I support the measure before the Senate.

Mrs. HAWKINS. Mr. President, I applaud the Senate's efforts to focus national attention on the shortcomings of our present national policies with respect to mandatory retirement and I rise in support of legislation which will ensure that our senior citizens are allowed to work as long as they please.

My home State of Florida boasts the largest number of elderly citizens per capita. And I am well aware that those who are productively busy—whether in the work force or in volunteer service—make a tremendous contribution not only to themselves but also to their community.

It has been said that a mind is a terrible thing to waste. And truly this axiom can be applied to our Nation's senior citizens. We so often forget that with the graying hair and the aging joints come decades of experience—learning—and wisdom. Many of these citizens have lived through the Depression. Many have seen the world wars. And are now holding great-grand-children—after raising families of their own. All of us would benefit to sit at their feet and listen.

I was pleased to see that the Department of Labor released statistics verifying that the retention of qualified senior citizens in our work force would not have an adverse effect upon other segments seeking employment. Within the beltway, it is always gratifying to see common sense supported by statistics.

Mr. President, too often we have heard with respect to our Nation's elderly that you can't teach an old dog new tricks. Well, this Senator doesn't think that it is plausible to compare aging dogs and our grandparents. With current job training programs and a variety of social services already in place, there is no reason why our senior citizens cannot receive up-to-date skills.

I wholeheartedly support this legislation which will ensure equal employment opportunities for our Nation's elderly and I urge my colleagues to join me to this end.

Mr. HATCH. Mr. President, I am pleased that an agreement has been reached which will allow the Senate to act favorably on legislation to upcap the Age Discrimination in Employment Act. I have supported this goal for many years, because I believe that individuals should be judged based on their abilities and not on arbitrary factors such as age.

Our Nation counts among its work force many valuable, experienced workers who are approaching age 70 and who may choose to continue working. We can ill afford to sacrifice arbitrarily the skill and dedication of these workers simply because they have reached an age threshold, especially at a time when many industries are facing skilled labor shortages.

This bill contains an effective compromise involving public safety officers and tenured university faculty. The measure exempts police and firefighters as well as tenured faculty for a 7-year period and mandates a comprehensive study on the consequences of eliminating an age cap for these occupational classifications. I, for one, will review this report with great interest. It will help determine whether further amendments will be necessary in order to maintain the delicate balance between the right of every individual to be judged on the basis of his or her skill and experience and the interests of the general public.

I believe the bill before the Senate today adequately addresses the legitimate concerns of all the groups and organizations which participated in the hearings and deliberations on this issue, particularly public employers and the academic community. I hope that my colleagues will join me in supporting this compromise and vote in favor of this long-overdue reform of the Age Discrimination in Employment Act.

Mr. MOYNIHAN. Mr. President, I rise to support H.R. 4154, the Age Discrimination in Employment Amendments of 1986. This bill removes the specific mandatory retirement age of 70 for non-Federal employees, established by the Age Discrimination in Employment Amendments of 1978. This bill will allow the 78,000 Americans over 70 who are still working to continue to do so—and it will permit the 177,000 Americans between 65 to 70, who are still working—but might have had to retire in the next 5 years—to do so as well. For as long as they are able and so desire.

I must note, however, that I am troubled by the application of this change to the unique situation of tenured faculty members at colleges and universities. In order for these institutions to remain effective centers of teaching and scholarship, they must have a balance of old and new faculty. Hence, universities must ensure that older faculty members retire at an appropriate age, not simply to "make room" for younger faculty, but to maintain a contemporary, innovative and creative atmosphere where students can obtain the fullest education.

Unfortunately, I am not at all certain that this bill adequately takes into account the history of academia since the late 1950's. As a result of vast expansion in the number of individuals pursuing careers in academia at this time, there is now a bulge of faculty members who will not be retiring before the end of this century—even if they retire at the current mandatory age of 70.

This is certainly not to criticize in any way these undoubtedly qualified faculty members. But there does appear to be a severe shortage of teaching positions available for today's scholars. And the situation at this time is such that most new faculty openings occur as a result of retirement. We should be very careful, I think, about eliminating the retirement age altogether, unless we can be sure that this Nation's education will not suffer as a result.

Therefore, I note that the legislation before us today provides a temporary exemption, for 7 years, for tenured faculty from the provisions of this bill. In other words, tenured faculty or the equivalent, will still have to retire at 70 for the next 7 years. I would have perferred an even longer period—12 or 15 years—but note that the House inexplicably chose not to provide any exemption.

Importantly, during this 7-year period, the bill calls upon the National Academy of Sciences to appoint—within a year of enactment—a nine-member Commission to study the impact of removing the mandatory retirement age on colleges and universities. This study will be due in 5 years, allowing the Congress to adequately review the effects of this bill on academic communities, and make the appropriate changes in order to protect the vital national resource embodied in education.

Mr. HELMS. I am primarily concerned about two aspects of this bill—the effect it will have on our State and local police and firefighters and the effect it will have on small business. When the bill passed the House, it contained a permanent exemption for law enforcement personnel and firefighters. Is the Senator from Kentucky satisfied that the compromise he has reached will give our law enforcement officers and firefighters sufficient leeway to establish acceptable retirement policies?

Mr. FORD. Let me assure my good colleague from North Carolina that I firmly believe the compromise before us is a good one and is the best possible solution under the circumstances. While I would have preferred the Murphy language, there were some legitimate problems with its scope that came to our attention after the House bill passed. This compromise is supported by the major police and firefighting groups and the organizations representing State and local governments. As with any compromise, it is no one's perfect answer. I am confident that we have provided the necessary relief for our public safety and health personnel and a reasonable amount of time to completely study this issue.

The compromise provides for a 7-year exemption which will allow State and local governments the ability to set hiring and retirement plans suited to their individual needs. At the same time, we provide for a study of whether physical and mental fitness tests can measure the ability and competency of these workers. During this study, representatives of police and firefighting groups will be consulted, as well as their employers, which includes State and local governments.

There is a very strong need for this exemption at this time. As of March of this year 33 States or localities were facing litigation by the EEOC on this issue. Numerous other private suits have also been filed, threatening fiscally pressed State and local governments with potential added litigation costs. There is no uniformity in this litigation and much uncertainty of how a bona fide occupational qualification [BFOQ] defense will be treated.

I commend my colleague for raising these issues and appreciate his willingness to let this compromise move forward. Our State and local governments desperately need this relief.

Mr. HELMS. I thank my good friend from Kentucky. I am also concerned about the potential increase in litigation and litigation costs for small businesses. Has the Senator from Pennsylvania taken that potential problem into consideration?

Mr. HEINZ. Yes, I have. We are fortunate to have several excellent examples of situations where raising the age cap has made no significant change in the number of age discrimination cases. Since 1978 when the cap was lifted for Federal workers from age 65 to age 70, there has been no appreciable increase in the number of Federal complaints, according to the National Senior Citizens Law Center.

We have also looked at the experience of two States which have large elderly populations, California and Florida, and which have outlawed mandatory retirement. There is no evidence in these States of an increase in age discrimination lawsuits. In California, in 1984, of the 1,400 age complaints filed, 28 complaints or a mere 2 percent were filed by persons 69 years of age or older. Data from Florida in 1985 suggests a similar trend. Of the 756 age discrimination in employment cases filed, only two charges were made by individuals over age 70. These examples bolster the information collected by the EEOC in 1981, which revealed that of the total charges filed—9,100—only 22 percent were filed by persons 60 and over. The remaining 78 percent were filed by persons 59 and under. In addition a recent Syracuse University study of ADEA litigants, found that 73 percent of plaintiffs were under age 59.

These points lead one to be very confident that this legislation which lifts the mandatory retirement age 70 cap will not significantly increase the number of age discrimination cases filed.

I want to thank my distinguished colleague from North Carolina for his interest and cooperation in this matter and I hope that my responses to his questions have been helpful.

Mr. HELMS. I thank my distinguished colleagues for their straightfoward responses. I commend them for the tremendous work they have done on this issue, and I especially appreciate the efforts they have made to allay my concerns. Mr. President, I have no objection.

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

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4154) was passed.

Mr. SIMPSON. I move to reconsider the vote by which the bill passed.

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

The motion to lay on the table was agreed to.

RELIEF OF AUDREY O. LEWIS AND EMERSON B. VEREEN

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 1010, for the relief of Audrey O. Lewis and Emerson B. Vereen, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1010) for the relief of Audrey O. Lewis and Emerson B. Vereen.

AMENDMENT NO. 3485

(Purpose: To reduce certain awards.)

Mr. SIMPSON. I send an amendment to the desk on behalf of Senator THURMOND and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] for Mr. THURMOND, proposes an amendment numbered 3485.

On page 1, line 6, strike out "$140,500" and insert in lieu thereof "$70,250".

On page 1, line 8, strike out "$43,750" and insert in lieu thereof "$18,275".

On page 2, line 23, strike out "$9,100" and insert in lieu thereof "$4,550".

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

The amendment (No. 3485) was agreed to.

The PRESIDING OFFICER. Are there further amendments? If there be no further amendment, the question is on the engrossment and third reading of the bill.

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

The bill was read the third time and passed.

Mr. SIMPSON. I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

BILL PLACED ON CALENDAR—H.R. 2652

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 2652, a bill for the relief of Kumari Rajlakshmi Bais, and that it be placed on the Senate Calendar.

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

RECOGNITION OF UNITED WAY'S 100TH ANNIVERSARY

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 684, calling for recognition of the United Way's 100th anniversary, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the resolution will be stated by title.

The assistant legislative clerk read as follows:

A House joint resolution (H.J. Res. 684) calling for recognition of United Way's one hundredth anniversary.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the second time by title.

Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. DOLE. Mr. President, this year, the United Way, an organization known for its outstanding volunteer work will be celebrating its 100th anniversary. Today, along with many of my colleagues, I am introducing this resolution to commemorate the United Way's centennial, as well as its many superlative achievements.

CENTENNIAL CELEBRATION

Over 2,200 United Ways across America have been established in its 100-year existence. These offices have been helping individual communities provide for critical health and human care needs. In addition to direct services, the United Way has also contributed to, and supported, over 37,000 different groups and programs through a vast network of local charitable groups and volunteers. As a result of this comprehensive involvement in the needs of communities throughout this country, the effects of the United Way's activities can be felt in all parts of this Nation.

SECOND CENTURY CHALLENGES

The United Way's second century promises to be more successful than its first, as it challenges itself to look forward beyond its past accomplishments toward the new challenges and opportunities that lie ahead. As Members of Congress, we should applaud the United Way's efforts and congratulate the attempts of its dedicated workers to reach out and involve new agencies and new people in order to improve the quality of life for all Americans.

With this resolution, the Congress of the United States can encourage the spirit of voluntarism exemplified by this organization and express our gratitude to the United Way on a very outstanding 100 years of community service.

Mr. D'AMATO. Mr. President, I rise today to express my support as an original cosponsor of a joint resolution being introduced by the distinguished majority leader, Senator DOLE. The purpose of this resolution is to express congressional admiration of the United Way of America on the occasion of its 100th anniversary.

One of the most important concerns facing the strength and durability of our Nation as a people, is the stability of American family and community life. It is important, therefore, that, as we offer our thanks and appreciation to the United Way, Americans rededicate themselves to the basic values of family and community upon which our great Nation was founded. The United Way long has promoted these values.

Established in 1918 as the Community Chests and Councils of America, the United Way, since its inception, has operated with a stated mission: to increase the organized capacity of people to care for one another. The United Way is primarily made up of volunteers who support a broad range of human-care programs and service organizations in their local community. Through its nationwide organization the United Way raises funds, mainly through the workplace, that are distributed among a broad range of services to the surrounding community.

Beyond this invaluable fundraising capacity, the United Way's strong community presence long has served as a focal point in pulling together key business, political, and religious leaders to address critical problems affecting the country as a whole. On issues such as teenage pregnancy, drug abuse, shelters for the homeless, and hunger, the United Way has long been a leader in addressing the problems at hand and seeing that coordinated action is taken to address these problems.

Providing assistance to more than 37,000 human-care-related organizations throughout the United States, the United Way represents the best of America's volunteer and charitable spirit. In light of the increasing budgetary constraints that we face as a nation, however, it is going to become even more important to have a strong United Way acting to support the many essential human care organiza-

tions that exist in every community in this Nation.

It is for all of these reasons, Mr. President, that I salute the more than 2,200 United Ways operating throughout America and the individuals and organizations that support them. The United Way is a unique organization and deserves the vigorous support of every Member of this body, the House of Representatives, and, indeed, the Nation.

Thank you, Mr. President.

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 684) was ordered to a third reading, read the third time, and passed.

Mr. SIMPSON. I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

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Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate companion bill introduced by Senator DOLE be indefinitely postponed.

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

TRANSFER TO COMPETITIVE SERVICE

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 5218 dealing with competitive status and I ask for its immediate consideration.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5218) to amend title 5, United States Code, to provide that certain individuals be accorded competitive status for purposes of transferring to the competitive service.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5218) was ordered to a third reading, was read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

TEXAS WILDERNESS ACT AMENDMENTS OF 1986

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be discharged from further consideration of H.R. 4685, the Texas Wilderness Act Amendments of 1986, and I ask for its immediate consideration.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4685) to adjust the boundaries of areas of the National Wilderness Preservation System in the State of Texas.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3486

The PRESIDING OFFICER. Are there amendments?

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator HELMS.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. HELMS, proposes an amendment numbered 3486.

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

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

The amendment is as follows:

On page 1, line 10, strike out "June" and insert in lieu thereof "October".

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment (No. 3486) was agreed to.

Mr. BENTSEN. Mr. President, I thank the distinguished chairman of the Agriculture Committee [Mr. HELMS] for his assistance in arranging for consideration and passage of this bill.

The Texas wilderness bill, which I introduced together with Congressman CHARLIE WILSON of Texas will make some needed adjustments in the boundaries of the wilderness areas in Texas. The suggested changes would even out jagged boundaries and move those boundaries to make them more easily marked and recognizable. The bill would also provide additional acreage to the east Texas wilderness areas of Upland Island, Big Slough, Turkey Hill, Indian Mounds, and Little Lake Creek.

In 1984, I introduced and helped pass the legislation to establish these wilderness areas. The original measure designated 34,000 acres of Federal land as components of the National Wilderness Preservation System. This insured the continued protection of these unique ecosystems, assuring that they would remain unspoiled for the enjoyment of future generations.

The alterations originally proposed in this bill would have added a total of 1,770 acres to these areas; 1,080 of these acres would come from existing U.S. Forest Service lands, and 690 acres from the acquisition of private lands, but only from willing sellers. The private landowners would have been compensated through exchange of U.S. forest lands of comparable value, so there would have been no Treasury outlays.

Objections have been raised to certain parts of this bill, and I am pleased to report that an accommodation has been reached which is agreeable to all parties concerned. This compromise would entail deleting the 690 acres of private lands from the bill, leaving only the boundary adjustments involving Federal lands. These remaining adjustments will still improve the existing wilderness areas from both an environmental and managerial standpoint.

Mr. President, in the national forest units in Texas the surface of the land is owned by the Federal Government, but in many cases the mineral rights are in private ownership. The law originally establishing these wilderness areas recognized and preserved the right of access of the mineral owners.

It was my intent in introducing this legislation that the rights of the private mineral owners would be preserved. If I might ask a question of the chairman of the Agriculture Committee, has any change been made through this legislation which would change that right of access from that which now exists for these Texas wilderness areas?

Mr. HELMS. Mr. President, if I might respond briefly to my colleague from Texas, it is my understanding that this bill makes no change in the treatment of private mineral owners or any rights of access to minerals underneath units of the National Wilderness Preservation System in Texas. It merely revises the boundaries of these units somewhat, in the process bringing in some small additional acreage which is already under Federal ownership.

Mr. BENTSEN. I thank the distinguished chairman of the Agriculture Committee. It is my understanding that this bill as amended is acceptable to all the other parties involved in this legislation, and I urge the adoption of the bill.

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 of the amendment and the third reading of the bill.

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

The bill was read the third time and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

PUBLIC LAW 99-396 AMENDMENT

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Energy be discharged from further consideration of S. 2921, the Omnibus Territories bill, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2921) to amend the Public Law 99-396 exception to the Balanced Budget and Emergency Deficit Control Act of 1985, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3487

The PRESIDING OFFICER. Are there amendments?

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator McCLURE in the nature of a substitute.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. McCLURE, proposes an amendment numbered 3487.

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

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

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

"Section 19 (b) of Public Law 99-396 (100 Stat. 837, 844) is amended by:

"1) inserting 'section 30 of' immediately before 'the Organic Act of Guam';

"2) inserting 'section 3 of' immediately before 'the Joint Resolution to approve';

"3) inserting 'section 4 of the Act of April 12, 1900 (31 Stat. 78, 48 U.S.C. 740), as amended, and section 9 of the Act of March 2, 1917 (39 Stat. 954, 48 U.S.C. 734), as amended, which became a part of' immediately before 'The Puerto Rican';

"4) inserting 'section 28 (a) and (b) of' immediately before 'the Revised Organic'; and

"5) inserting 'section 4(c)(2) of' immediately before 'an Act to authorize'."

Mr. McCLURE. Mr. President, this legislation was transmitted by the administration last week to make certain technical amendments to section 19 of the omnibus territories measure, Public Law 99-396, which was enacted earlier this year. Although the administration had seen the language of section 19 prior to its passage by the Congress, after it had been sent to the President and Congress had recessed, questions were raised regarding the interpretation of the language. Without going through the episode in detail, I do want to express my appreciation to Pam Turner who alerted us to the problem and the general counsel's office at OMB which helped resolve the matter. The President agreed to sign the measure and we agreed to make the necessary technical corrections as soon as possible. I ask unanimous consent that a copy of a letter which Senator JOHNSTON and I sent to the President be printed in the RECORD.

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

(See Exhibit 1.)

Mr. McCLURE. The amendment in the nature of a substitute reflects further discussions with the Department of the Interior and it fully conforms with the intent to resolve this technical problem as had been agreed to by myself, Senator JOHNSTON and the administration. I urge adoption of the amendment and passage of S. 2921, as amended.

Mr. JOHNSTON. I would like to join with Senator McCLURE in urging passage of this legislation, as amended. The bill will resolve a technical problem in the Omnibus territories legislation which was passed earlier this year. The substitute amendment is consistent with the intent of the original language of section 19 of the Omnibus Territories bill; language which had been cleared by OMB, the Department of the Interior and the Budget Committee and I understand that this language has been cleared by all concerned.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON ENERGY
AND NATURAL RESOURCES,
WASHINGTON, DC, AUGUST 27, 1986.

The PRESIDENT,
The White House
Washington, DC.

DEAR MR. PRESIDENT: We are writing with respect to H.R. 2478, the omnibus territories measure. Subsequent to final Congressional action and the adjournment of the Congress, the Committee was informed that the Administration was considering a veto of the measure as a result of a possible interpretation by the Department of Justice of certain language in section 19 of the bill. The Department apparently believes that the reference to the 1978 Omnibus Territories Act contained in section 19 could be interpreted to include any appropriations made pursuant to that Act.

The language of section 19, however, does not mention either authorizations or appropriations pursuant to the 1978 Act. Section 19 addresses only amounts "covered into the treasuries of said islands or paid pursuant to said laws". Sections 1(c) and 4(c) of the 1978 Act deal with the timing of payments to Guam and the Virgin Islands and are the only provisions of that Act which form the basis for such payments. All other grants or transfers are mere authorizations and require the enactment of an appropriation. There is no reference to any appropriation in sectic
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decisions with respect to the distinction between authorizations and appropriations.

The Committee staff have reviewed the issue, and it remains our view, as well as that of the Budget Committees which approved the language, that the interpretation offered by the agencies is completely contrary to the legislative history, the clear meaning of the statutory language, and principles of statutory construction.

It remains our view, as expressed in the explanation of the legislation during Senate consideration on August 9, 1986, that section 19 applies only to the section 30 funds for Guam, those funds covered over to Puerto Rico under the Federal Relations and Foraker Acts, the section 28(b) funds for the Virgin Islands, and those funds for the Northern Mariana Islands which are backed by a pledge of the Full Faith and Credit of the United States. As OMB Director Miller testified before the Budget Committee, these funds "appear in the Federal budget as an incidental matter for convenience of administration rather than as a means of resource allocation." Section 19 was drafted and approved by the Budget Committee to address those and only those accounts.

Accordingly, we urge you to sign H.R. 2478. If the Administration continues to believe that a clarification of section 19 is necessary, we would be happy to work with you to secure the prompt enactment of such amendments to section 19 which you request and which are consistent with the intent of H.R. 2478.

Sincerely,

J. BENNETT JOHNSTON,
Ranking Minority.
JAMES A. McCLURE,
Chairman.

The PRESIDING OFFICER. Are there amendments to the substitute? If not, the question is on agreeing to the amendment in the nature of a substitute.

The amendment (No. 3487) was agreed to.

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

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

INDIANA DUNES NATIONAL LAKESHORE

Mr. SIMPSON. Mr. President, I ask unanimous consent the Energy Committee be discharged from further consideration of H.R. 4037, the Indiana Dunes bill and I ask for its immediate consideration.

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

The clerk will report.

The assistant legislative clerk read the bill as follows:

A bill (H.R. 4037) relating to the Indiana Dunes National Lake Shore, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3488

an amendment to the desk on behalf of Senators QUAYLE and LUGAR in the nature of a substitute.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON) on behalf of Mr. QUAYLE and Mr. LUGAR, proposes an amendment numbered 3488.

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

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

The amendment is as follows:

Strike out all after the enacting clause and insert:

SECTION 1. INDIANA DUNES NATIONAL LAKESHORE.

(a) BOUNDARY CHANGES.—The first section of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u), is amended by striking out "December 1980, and bearing the number 626-91014" and inserting in lieu thereof "October 1986, and numbered 626-80,033-B".

(b) DEFINITION OF IMPROVED PROPERTY.—Section 4 of such Act is amended by striking out the first sentence and substituting "As used in this Act, the term 'improved property' means a detached, one-family dwelling which meets each of the following criteria:

"(1) The construction of the dwelling began before the date (shown in the table contained in this section) corresponding to the appropriate map.

"(2) The property is located within the boundaries delineated on the map described in such table which corresponds to such date.

"(3) The property is not located within the boundaries of any other map referred to in such table which bears an earlier date.

The term 'appropriate map', means a map identified as 'Boundary Map—Indiana Dunes National Lakeshore' (for 'A Proposed Indiana Dunes National Lakeshore' in the case of a dwelling the construction of which was begun before January 4, 1965) which is dated and numbered as provided in the following table:

Property within boundaries of map	Construction began before
Dated October 1986, #626-80,033-B.	February 1, 1986
Dated December 1980, #626-91014.	January 1, 1981
Dated September 1976, #626-91007.	February 1, 1973
Dated September 1966, #LNPNE-1008-ID.	January 4, 1965

The term 'improved property' also includes the lands on which the dwelling is situated which meets both of the following criteria:

"(A) The land is in the same ownership as the dwelling.

"(B) The Secretary has designated the lands as reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use.

Such term also includes any structures accessory to the dwelling which are situated on the lands so designated. The maps referred to in this section shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior. The Secretary shall designate the land referred to in subparagraph (B).".

(c) RETAINED RIGHTS.—Section 5(a) of such Act (16 U.S.C. 460u-5a) is amended as follows:

(1) Strike out "the first section" and insert in lieu thereof "section 4, dated December 1980, and numbered 626-91014."

(2) Strike out ": *Provided*, That" and substitute a period followed by "In the case of improved property within the boundaries of the map dated December 1980 and numbered 626-91014".

(3) After "(a)" strike "Except for" and insert "(1) Except for owners described in paragraph (2) and".

(4) Strike "(1)" in each place it appears and substitute "(A)" and strike "(2)" and substitute "(B)".

(5) Add the following at the end thereof:

"(2)(A) In the case of property included within the boundaries of the lakeshore after 1980, any owner or owners of record of improved property may retain a right of use and occupancy for noncommercial residential purposes for a term ending at either of the following:

"(i) A fixed term not to extend beyond September 30, 2010, or such lesser fixed term as the owner or owners may elect at the time of acquisition.

"(ii) A term ending at the death of any owner or of a spouse of any owner, whichever occurs last.

The owner shall elect the term to be reserved.

"(B) The retention of rights under subparagraph (A) shall be available only to individuals who are homeowners of record as of July 1, 1986, who have attained the age of majority as of that date and who make a bona fide written offer not later than July 1, 1991, to sell to the Secretary.".

(d) AUTHORIZATION.—Section 9 of such Act (16 U.S.C. 460u-9) is amended as follows:

(1) In the first sentence strike "$11,000,000" and insert in lieu thereof "$20,000,000".

(2) Add after the last paragraph "In addition to any other sums authorized for the acquisition of lands and interests in lands pursuant to the provisions of this Act there are authorized to be appropriated an additional $3,500,000 to be used for such purposes. The Secretary shall conduct a feasibility study of establishing United States Highway 12 as the 'Indiana Dunes Parkway' under the jurisdiction of the National Park Service. The Secretary shall submit the results of such study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Commerce on Energy and Natural Resources of the United States Senate within two years after the enactment of this sentence.

Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the feasibility study.".

(e) EXISTING PROPERTY RIGHTS.—Section 10 of such Act (16 U.S.C. 460u-16) is amended by inserting at the end thereof: "Nothing in this Act shall be construed to diminish the existing property rights of Northern Indiana Public Service Company (as of October 1, 1986) with respect to—

"(1) a parcel of land owned in fee by the Northern Indiana Public Service Company and used for high voltage electrical transmission lines, pipelines, and utility purposes, beginning at said Company's Dune Acres substation and extending east to said Company's Michigan City Generating Station, which parcel by this Act is included within the boundaries of the Indiana Dunes National Lakeshore and herein designated as area II-I on National Park Service Boundary Map No. 626-80,033-B, dated October 1986, excluding that certain parcel of approximately 6.0 acres adjacent Mineral Springs Road in areas II-I, and

(2) land owned in fee by the Northern Indiana Public Service Company and used for high voltage electrical transmission lines, pipelines, and utility purposes as has by this Act been included within the boundaries of the Indiana Dunes National Lakeshore and herein designated as area II-H on said National Park Service Boundary Map No. 626-80,033-B."

(f) OWNER CONSENT REQUIRED.—Section 13 of such Act (16 U.S.C. 460u-13) is amended by changing "SEC. 13." to "SEC. 13. (a)", by striking out "the first section" and inserting in lieu thereof "section 4, dated December 1980 and numbered 626-91014", and by adding a new subsection (b) as follows:

"(b) The Secretary may acquire that portion of area IV-B in private ownership on the map referred to in section 1 of this Act only with the consent of the owner: *Provided*, That the Secretary may acquire an agricultural easement should the owner change the use in existence as of September 19, 1986, through eminent domain.".

(g) MAP REFERENCE.—Section 16 of such Act (16 U.S.C. 460u-16) is amended by inserting at the end of the first sentence "on the map referred to in section 4, dated October 1976, and numbered 626-9100".

(h) RIGHTS-OF-WAY.—Section 15 of such Act is amended by adding the following at the end thereof: "The Secretary may acquire only such interest in the rights-of-way designated 'Crossing B' and 'Crossing C' on the map dated October 1986 and numbered 626-80,033-B as he determines to be necessary to assure public access to the banks of the Little Calumet River and the banks of Salt Creek within fifty feet on either side of the centerline of said river and creek.".

(i) COOPERATIVE AGREEMENT AND STUDY.—Add the following new section at the end of such Act:

"SEC. 24. LITTLE CALUMET RIVER AND BURNS/PORTAGE WATERWAY.

"(a) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement with the Little Calumet River Basin Development Commission, the State of Indiana or any political subdivision thereof for the planning, management, and interpretation of recreational facilities on the tract within the boundaries of Indiana Dunes National Lakeshore identified as tract numbered 09-117 or on lands under the jurisdiction of the State of Indiana or political subdivision thereof along the Little Calumet River and Burns Waterway. The cooperative agreement may include provision for the planning of public facilities for boating, canoeing, fishing, hiking, bicycling, and other compatible recreational activities. Any recreational developments on lands under the jurisdiction of the National Park Service

planned pursuant to this cooperative agreement shall be in a manner consistent with the purposes of this Act, including section 6(b).

"(b) STUDY.—The Secretary shall conduct a study regarding the options available for linking the portions of the lakeshore which are divided by the Little Calumet River and Burns/Portage Waterway so as to coordinate the management and recreational use of the lakeshore. The Secretary shall submit the results of the study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within two years after the enactment of this section. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the study.".

Mr. LUGAR. Mr. President, I rise in support of this important legislation, which would authorize the acquisition of key land parcels for the Indiana Dunes National Lakeshore.

This substitute amendment to H.R. 4037 would also increase the authorized limit on development projects in the lakeshore from the current level of $11 to $20 million. This would accommodate a prudent portion of the development projects which have been planned for the lakeshore. And this legislation would also require the National Park Service to complete a study of the idea of making all or portions of U.S. 12 within park boundaries a scenic "Indiana Dunes Parkway."

I am impressed by the wide support which this bill enjoys among citizens groups, local officials, and affected industries in Indiana. This legislation is well coordinated with stringent Federal budgetary limitations. These will necessarily require that the land acquisitions and developments that the bill permits will occur over a period of years as Indiana receives its fair share of scarce park funds. This bill will further improve one of our Nation's most heavily used and unique natural parks. It will enhance and lead to better future planning of the lakeshore.

I wish to commend Senator QUAYLE and Congressman VISCLOSKY for their hard work and concerted efforts in fashioning this legislation. I urge its passage by the Senate.

Mr. QUAYLE. Mr. President, before the Senate today is legislation to address the management, development and environmental needs of the Indiana Dunes National Lakeshore.

H.R. 4037 was passed by the House of Representatives and this measure has become a basis for the legislation before the Senate now. I appreciate the support and assistance that I have received from Senator LUGAR, a cosponsor of this substitute. This measure has evolved based in part upon a meeting I conducted in Chesterton, IN, with individuals actively concerned about the Indiana Dunes; and in part upon conversations I have had since that time. I believe the substitute under consideration is a design for the next decade.

This substitute differs from the House bill in a number of respects. First, where the House bill authorizes the acquisition of 853 acres, the Senate proposal increases this figure by approximately 30 acres. This addition conforms with an agreement reached by Bethlehem Steel, environmentalists and Portage Mayor Robert E. Goin to increase the acreage along the Salt Creek corridor. This addition could be used to facilitate access for such recreational activities as fishing and canoeing.

Not all of the acres slated to be included within the boundaries of the lakeshore will be acquired by fee purchase. In the Heron Rookery, for example, the House-passed bill proposes two parcels of property for acquisition, one to the south owned by the State of Indiana and one to the north owned by private landowners. Several of these landowners have expressed reservations about selling their lands and concern over the consequent loss to the local tax base. Because the current owners have no plans to use the land for any purpose but agriculture, one the lakeshore finds consistent with protection of the herons, I believe a trigger mechanism is a more appropriate approach to acquiring this parcel than fee purchase. The Senate substitute provides that the Park Service would be authorized to negotiate for an agricultural easement for this land only in the event a landowner decides not to conduct farming operations on it any longer. Otherwise, landowners could continue their current practice of farming this property, and there would be no loss to the local tax base.

The Senate substitute also includes language clarifying the property rights of the Northern Indiana Public Service Co. (Nipsco) with regard to land to be included within the boundaries of the lakeshore by this legislation. This language is acceptable to both Nipsco and environmentalists. The legislation includes within the boundaries of the lakeshore the Nipsco/South Shore Railroad corridor. Including this corridor within the lakeshore would give the Park Service both management responsibility for trails along this strip and enable the Park Service to coordinate better its development of a system of trails within the dunes.

Finally, this substitute raises the authorization from the current $11 million threshold to $20 million. The existing ceiling has been breached, therefore, it is appropriate to address this matter. I believe that a $20 million authorization ceiling will permit adequate development activities to take place within the lakeshore for the foreseeable future.

There are two issues that the Senate substitute does not address. First, three parcels of land within the city of Gary corporate limits are not included. While I originally proposed these parcels for acquisition because of their environmental significance, particularly the Woodlake Dune Savannah, local concern and opposition by the Gary City Administration that having these parcels within the boundaries of the park would delay or hamper local marina development prevented their inclusion here.

Second, several constituents brought to my attention their concerns over leaseback arrangements held by homeowners within the park boundaries and raised the possibility of lengthening the time when the leases would expire. I certainly understand the attachment of these homeowners to the beauty of the area. This legislation does not address this issue because of the great difficulty in determining an equitable solution. Opposition was raised to this proposal by those who believed that creating a uniform lease termination would further delay the access of the general public to these lands. Considering the need for a consensus package, it was not possible to address this issue in this legislation.

To meet other management needs of the park besides acquisition, this substitute incorporates several features of the House-passed bill. Two studies are to be conducted under this legislation. The first would be a study of the feasibility of establishing portions of U.S. 12 as a scenic parkway. The second study would examine linking the west and east units of the lakeshore. While I certainly believe this needs to be studied, it is my hope the emphasis would be on assessing nonacquisition means of linkage, such as through easements or cooperative agreements, wherever possible.

This legislation also gives the Secretary of the Interior the authority to participate in planning recreational activities along the Little Calumet River and Burns Waterway. This is warranted because any development of recreational facilities outside the park boundaries will have an effect on the number of visitors to the park and the services it provides.

The Indiana Dunes National Lakeshore is an important asset to the northwest Indiana region and to the State as a whole. Already an enhancement to the quality of life in the region, the park can also act as a drawing card for increased economic activity there. I believe this legislation makes improvements to the management, development, and environmental quality of the lakeshore that will carry it forward into the next decade.

The PRESIDING OFFICER. Are there further amendments to the substitute. If not, the question is on

agreeing to the amendment in the nature of a substitute.

The amendment (No. 3488) was agreed to.

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 of the amendment and the third reading of the bill.

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

The bill was read the third time and passed, as follows:

H.R. 4037

SECTION 1. INDIANA DUNES NATIONAL LAKESHORE.

(a) BOUNDARY CHANGES.—The first section of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u), is amended by striking out "December 1980, and bearing the number 626-91014" and inserting in lieu thereof "October 1986, and numbered 626-80,033-B".

(b) DEFINITION OF IMPROVED PROPERTY.—Section 4 of such Act is amended by striking out the first sentence and substituting "As used in this Act, the term 'improved property' means a detached, one-family dwelling which meets each of the following criteria:

"(1) The construction of the dwelling began before the date (shown in the table contained in this section) corresponding to the appropriate map.

"(2) The property is located within the boundaries delineated on the map described in such table which corresponds to such date.

"(3) The property is not located within the boundaries of any other map referred to in such table which bears an earlier date.

The term 'appropriate map', means a map identified as 'Boundary Map—Indiana Dunes National Lakeshore' (or 'A Proposed Indiana Dunes National Lakeshore' in the case of a dwelling the construction of which was begun before January 4, 1965) which is dated and numbered as provided in the following table.

Property Within Boundaries of Map	*Construction Began Before*
Dated October 1986, #626-80,033-B.	*February 1, 1986*
Dated December 1980, #626-91014.	*January 1, 1981*
Dated September 1976, #626-91007.	*February 1, 1973*
Dated September 1966, #LNPNE-1008-ID.	*January 4, 1965*

The term 'improved property' also includes the lands on which the dwelling is situated which meets both of the following criteria:

"(A) The land is in the same ownership as the dwelling.

"(B) The Secretary has designated the lands as reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use.

Such term also includes any structures accessory to the dwelling which are situated on the lands so designated. The maps referred to in this section shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior. The Secretary shall designate the land referred to in subparagraph (B).".

(c) RETAINED RIGHTS.—Section 5(a) of such Act (16 U.S.C. 460u-5a) is amended as follows:

(1) Strike out "the first section" and insert in lieu thereof "section 4, dated December 1980, and numbered 626-91014."

(2) Strike out ": Provided, That" and substitute a period followed by "In the case of improved property within the boundaries of the map dated December 1980 and numbered 626-91014".

(3) After "(a)" strike "Except for" and insert "(1) Except for owners described in paragraph (2) and".

(4) Strike "(1)" in each place it appears and substitute "(A)" and strike "(2)" and substitute "(B)".

(5) Add the following at the end thereof:

"(2)(A) In the case of property included within the boundaries of the lakeshore after 1980, any owner or owners of record of improved property may retain a right of use and occupancy for noncommercial residential purposes for a term ending at either of the following:

"(i) A fixed term not to extend beyond September 30, 2010, or such lesser fixed term as the owner or owners may elect at the time of acquisition.

"(ii) A term ending at the death of any owner or of a spouse of any owner, whichever occurs last.

The owner shall elect the term to be reserved.

"(B) The retention of rights under subparagraph (A) shall be available only to individuals who are homeowners of record as of July 1, 1986, who have attained the age of majority as of that date and who make a bona fide written offer not later than July 1, 1991, to sell to the Secretary.".

(d) AUTHORIZATION.—Section 9 of such Act (16 U.S.C. 460u-9) is amended as follows:

(1) In the first sentence strike "$11,000,000" and insert in lieu thereof "$20,000,000".

(2) Add after the last paragraph "In addition to any other sums authorized for the acquisition of lands and interests in lands pursuant to the provisions of this Act there are authorized to be appropriated an additional $3,500,000 to be used for such purposes. The Secretary shall conduct a feasibility study of establishing United States Highway 12 as the 'Indiana Dunes Parkway' under the jurisdiction of the National Park Service. The Secretary shall submit the results of such study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within two years after the enactment of this sentence. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the feasibility study.".

(e) EXISTING PROPERTY RIGHTS.—Section 10 of such Act (16 U.S.C. 460u-16) is amended by inserting at the end thereof: "Nothing in this Act shall be construed to diminish the existing property rights of Northern Indiana Public Service Company (as of October 1, 1986) with respect to—

"(1) a parcel of land owned in fee by the Northern Indiana Public Service Company and used for high voltage electrical transmission lines, pipelines, and utility purposes, beginning at said Company's Dune Acres substation and extending east to said Company's Michigan City Generating Station, which parcel by this Act is included within the boundaries of the Indiana Dunes National Lakeshore and herein designated as area II-I on National Park Service Boundary Map No. 626-80,033-B, dated October 1986, excluding that certain parcel of approximately 6.0 acres adjacent Mineral Springs Road in areas II-I, and

(2) land owned in fee by the Northern Indiana Public Service Company and used for high voltage electrical transmission lines, pipelines, and utility purposes as has by this Act been included within the boundaries of the Indiana Dunes National Lakeshore and herein designated as area II-H on said National Park Service Boundary Map No. 626-80,033-B."

(f) OWNER CONSENT REQUIRED.—Section 13 of such Act (16 U.S.C. 460u-13) is amended by changing "SEC. 13." to "SEC. 13. (a)", by striking out "the first section" and inserting in lieu thereof "section 4, dated December 1980 and numbered 626-91014", and by adding a new subsection (b) as follows:

"(b) The Secretary may acquire that portion of area IV-B in private ownership on the map referred to in section 1 of this Act only with the consent of the owner: Provided, That the Secretary may acquire an agricultural easement should the owner change the use in existence as of September 19, 1986, through eminent domain.".

(g) MAP REFERENCE.—Section 16 of such Act (16 U.S.C. 460u-16) is amended by inserting at the end of the first sentence "on the map referred to in section 4, dated October 1976, and numbered 626-9100".

(h) RIGHTS-OF-WAY.—Section 15 of such Act is amended by adding the following at the end thereof: "The Secretary may acquire only such interest in the rights-of-way designated 'Crossing B' and 'Crossing C' on the map dated October 1986 and numbered 626-80,033-B as he determines to be necessary to assure public access to the banks of the Little Calumet River and the banks of Salt Creek within fifty feet on either side of the centerline of said river and creek.".

(i) COOPERATIVE AGREEMENT AND STUDY.—Add the following new section at the end of such Act:

"SEC. 24. LITTLE CALUMET RIVER AND BURNS/PORTAGE WATERWAY.

"(a) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement with the Little Calumet River Basin Development Commission, the State of Indiana or any political subdivision thereof for the planning, management, and interpretation of recreational facilities on the tract within the boundaries of Indiana Dunes National Lakeshore identified as tract numbered 09-177 or on lands under the jurisdiction of the State of Indiana or political subdivision thereof along the Little Calumet River and Burns Waterway. The cooperative agreement may include provision for the planning of public facilities for boating, canoeing, fishing, hiking, bicycling, and other compatible recreational activities. Any recreational developments on lands under the jurisdiction of the National Park Service planned pursuant to this cooperative agreement shall be in a manner consistent with the purposes of this Act, including section 6(b).

"(b) STUDY.—The Secretary shall conduct a study regarding the options available for linking the portions of the lakeshore which are divided by the Little Calumet River and Burns/Portage Waterway so as to coordi-

nate the management and recreational use of the lakeshore. The Secretary shall submit the results of the study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within two years after the enactment of this section. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the study.".

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

ORDER FOR RECESS UNTIL 9:30 A.M., FRIDAY, OCTOBER 17, 1986

Mr. SIMPSON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., later today, Friday, October 17, 1986.

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

ORDER FOR ROUTINE MORNING BUSINESS

Mr. SIMPSON. Mr. President, following recognition of the two leaders under the standing order, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond 10:30 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

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

PROGRAM

Mr. SIMPSON. Mr. President, at 10:30 a.m., the Senate will resume consideration of (H.J. Res. 738) the continuing resolution. Rollcall votes can be expected and could occur well before 12 noon.

At 1 p.m., by unanimous consent, a vote will occur on the motion to invoke cloture on the immigration bill conference report.

Also, during the day, the Senate can be expected to turn to the consideration of any of the following items: Reconciliation conference report, the debt limit conference report, any conference reports available for action, any legislative or executive items cleared for action.

Votes can be expected to occur throughout the day on Friday, October 17, 1986.

I inquire of the acting Democratic leader if he has any further business.

Mr. MATSUNAGA. Mr. President, we have nothing further to bring up.

I congratulate the acting majority leader. In all my 24 years here, I have never seen so many bills passed in so short a time. Congratulations.

Mr. SIMPSON. I thank the acting Democratic leader.

I thank the staff. I think that sometimes, while we in the Senate complain a bit about our duty, we forget the remarkable people before us, who spend an inordinate amount of time long after we have left these Chambers. I appreciate what they do, and I thank them.

RECESS UNTIL 9:30 A.M., FRIDAY OCTOBER 17, 1986

Mr. SIMPSON. Mr. President, I move, in accordance with the previous order, that the Senate stand in recess until 9:30 a.m., Friday, October 17, 1986.

The motion was agreed to, and at 2:46 a.m., the Senate recessed until 9:30 a.m., Friday, October 17, 1986.

NOMINATIONS

Executive nominations received by the Senate October 15, 1986:

DEPARTMENT OF STATE

Arnold Lewis Raphel, of New Jersey, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

James H. Duff, of Pennsylvania, to be a member of the National Museum Services Board for a term expiring December 6, 1991. (Reappointment)

CONFIRMATIONS

Executive nominations confirmed by the Senate October 15, 1986:

DEPARTMENT OF STATE

L. Paul Bremer III, of Connecticut, a career member of the Senior Foreign Service, Class of Career Minister, to be Ambassador at Large for Counter-Terrorism.

David C. Fields, of California, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Central African Republic.

Alexander Fletcher Watson, of Maryland, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Peru.

Charles J. Pilliod, Jr., of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico.

James Daniel Phillips, of Kansas, a career member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Burundi.

Peter O. Murphy, of the District of Columbia, for the rank of Ambassador during the tenure of his service as Special Negotiator for United States-Canada Trade and Investment Issues.

James Roderick Lilley, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Korea.

Ronald DeWayne Palmer, of the District of Columbia, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mauritius.

David A. Korn, of the District of Columbia, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo.

James Wilson Rawlings, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Zimbabwe.

Everet E. Bierman, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Papua New Guinea, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Solomon Islands.

Everett Ellis Briggs, of New Hampshire, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Honduras.

Theodore E. Gildred, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Argentina.

Frank Shakespeare, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Holy See.

James Edward Nolan, Jr., of Maryland, to be Director of the Office of Foreign Missions, with the rank of Ambassador.

Donald K. Petterson, of California, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania.

Walter Edward Stadtler, of New York, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Benin.

Edward Joseph Perkins, of Oregon, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of South Africa.

Elinor Greer Constable, of New York, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kenya.

UNITED NATIONS

Joan Clark, of California, to be an Alternate Representative of the United States of America to the Forty-first Session of the General Assembly of the United Nations.

The following-named persons to be Representatives and Alternate Representatives of the United States of America to the Forty-first Session of the General Assembly of the United Nations:

Representatives:

Vernon A. Walters, of Florida.

Herbert Stuart Okun, of the District of Columbia.

Thomas F. Eagleton, U.S. Senator from the State of Missouri.

Larry Pressler, U.S. Senator from the State of South Dakota.

Helen Marie Taylor, of Virginia.

Alternate Representatives:

Patricia Mary Byrne, of Ohio.

Hugh Montgomery, of Virginia.

Joseph Verner Reed, of New York.

John Kerry, U.S. Senator from the State of Massachusetts.

Paul S. Trible, Jr., U.S. Senator from the State of Virginia.

EXECUTIVE OFFICE OF THE PRESIDENT

Jorge L. Mas, of Florida, to be a Member of the Advisory Board for Radio Broadcasting to Cuba for a term expiring August 12, 1989.

WORLD HEALTH ORGANIZATION

Frank E. Young, of Maryland, to be Representative of the United States on the Executive Board of the World Health Organization.

DEPARTMENT OF AGRICULTURE

Peter C. Myers, of Missouri, to be a Member of the Board of Directors of the Commodity Credit Corporation.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

SENIOR FOREIGN SERVICE

The following-named Career Member of the Senior Foreign Service of the Department of State for promotion in the Senior Foreign Service to the class indicated:

Career Member of the Senior Foreign Service of the United States of America, Class of Career Minister:

Edwin G. Corr, of Oklahoma.