SENATE—*Friday, July 24, 1987*

(Legislative day of Tuesday, June 23, 1987)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

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

Let us pray.

How precious also are Thy thoughts unto me O God! How great is the sum of them! If I could count them, they are more in number than the sand: When I awake, I am still with Thee.

Our Father in heaven, the psalmist speaks of Your love for us, Your care, Your interest in the infinitesimal as well as infinite, the microcosm as well as the macrocosm. As You know when a sparrow falls, so each tiny detail of our lives is known to You. You know, Father, the struggle, the stress under which the Senators have been laboring these past days. You know how families have sacrificed, the pressure under which staffs have been. Grant Gracious God that this weekend will provide rest, recreation, and renewal for Your servants and their loved ones in Thy name, O Lord we pray. Amen

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 24, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. LEAHY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the distinguished Senator from West Virginia, the majority leader is recognized.

Mr. BYRD. I thank the Chair.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, the Chaplain in his prayer this morning spoke of the love that our Father has for us; the fact that He is all-watchful, omnipotent, omnipresent, and omniscient; and of the quietness and the strength that are born of solitude, quietness, and meditation; and that we who are so busily engaged in our little worlds here might do well to take a few minutes off, go to the hills, reflect, meditate, pray about our problems. There is a message in the prayer by the Chaplain. I hope that we will reflect on it.

A LUMP OF CLAY

A Persian fable says one day
A wanderer found a lump of clay,
So redolent with sweet perfume,
It's odor scented all the room.
"What art thou?" was his quick demand,
"Art thou some gem from Samarkand?
"Or Spikenard in this rude disguise,
"Or other costly merchandise?"
"Nay, I am but a lump of clay."
"Then whence this wondrous perfume, say?"
"Friend if the secret I disclose,
I have been dwelling with the rose."
Sweet parable! Will not those
Who love to dwell with Sharon's Rose
Diffuse sweet odors all around
Though low and mean themselves are found?
Dear Lord, abide with us that we
May draw our perfume from Thee.

RESERVATION OF TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the distinguished Republican leader be reserved for him.

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

Mr. BYRD. Mr. President, if I have any time I yield it to the distinguished Senator from Wisconsin.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

LET'S KEEP AMERICAN BANKS LEAN, MEAN, COMPETITIVE, AND NUMEROUS

Mr. PROXMIRE. Mr. President, are massive megabanks efficient? Should this Congress adopt policies to encourage the development of U.S. banks that could give our country the biggest banks in the world? Under Secretary of the Treasury Gould fervently believes so. And he is the point man for the Reagan administration in pushing the big is beautiful in banking Reagan administration policy. Is he right? Let's look at the facts. How do we measure the efficiency of banks? If you're an investor the measure is simple and sure. It is profitability. It is return on equity. Whether we measure the efficiency of a bank in Wisconsin or Georgia, in Japan or Australia profitability is the key to efficiency. Whether the bank is large or small, a money center bank or a community bank, return on equity can give you a reliable, honest measure of efficiency.

So let us apply that profitability, that return on equity standard to huge foreign banks and to small and large U.S. banks. Would that not give us some guidance to the wisdom of trying to build banks as the Japanese? It would indeed. Mr. President, the latest Fortune magazine—that is the August 3 issue reports on the 100 biggest non-U.S. banks. Fortune reports the assets, deposits, loans, net income, stockholders' equity of these 100 largest banks in the world outside of the United States. How are those huge banks doing in profitability or efficiency? Last year the average return—the median for these 100 world largest banks was a relatively poor 8.8 percent. Mr. President, U.S. banks had in every single size classification last year a sharply higher rate of return than 8.8 percent. Overall the rate of return of American banks is a solid 50-percent higher than these 100 foreign banking behemoths. And only about 10 percent of these 100 banks had a return on equity that was as high as the average American bank.

Recently, Mr. President, I pointed out on the floor that reports for American banks for 1986 showed that the least—I repeat the least profitable banks in this country are the biggest banks—the money center banks. The return on equity for the biggest U.S. banks was substantially higher than the return for the big banks outside the United States, but it was lower than small U.S. community banks and far lower than the intermediate regional banks. So whether we are considering U.S. banks or foreign banks it is clear that the most efficient banks as measured by profitability are not the massive dinosaur banks lumbering around with their hundreds or even thousands of branches and their $200 billion plus in assets but the far smaller U.S. regional banks that are less than 10 percent as large.

The Japanese do indeed today have five of the six biggest banks in the world. Why? First because they have

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

very few banks—about one-half of 1 percent as many as the United States has: 77 in Japan; 14,000 in America. Since their economy is about 35 percent the size of ours, their far fewer banks should on the average be about 70 times the size of ours. But it is worse. The average Japanese person saves 20 percent of his income. A substantial proportion of those savings become banks deposits. They constitute the major base of bank assets. The average American over the years saves about 5 percent of his income. Last year he saved only a little more than 2 percent. Since over the years Japanese saving has been 4 times as high as ours, and since we have about 200 times more banks than Japan, we could expect Japanese banks to be more than 200 times the size of ours. And there is more. In the past couple of years the Japanese yen has soared in value compared to the dollar. Since the size of the Japanese and the American bank assets are compared in dollars, and since the Japanese banks primarily hold yen, one could expect that the Japanese would have increased their size in comparison with American banks even more in the past couple of years and they have. Japanese banks are indeed bigger. But are they more efficient? The record shows that they are not. Of the 30 biggest Japanese banks only one was clearly more profitable in 1986 than the average American bank.

Now some would argue that we should be talking not about profitability and efficiency, we should be talking about success in international competition. On that point Federal Reserve Board Chairman Paul Volcker told the Senate Banking Committee recently that American banks are "right at the cutting edge" of international banking competition. He pointed out that our banks compete with great success in the Euro-dollar market for instance. He also testified that the most aggressive and successful Japanese bank is not one of their huge banks. It is the Bank of Tokyo. How big is the Bank of Tokyo? Its assets are only one-sixth of the size of Japan's biggest bank. The Bank of Tokyo, the Japanese most vigorous and successful international competitor is smaller than a number of American banks.

Mr. President, the United States is alone, unique in the world in our large number of competing banks. We have 14,000 independent banks. Our big banks are very big—indeed they are among the biggest in the world. They are plenty big enough to trade punches with banks anywhere else in the world and win. Our 10 biggest banks do about 30 percent of the country's banking business. In virtually every other country the five or six biggest banks do 90 to 95 percent of the Nation's banking business. We have local, community ownership for most of our banks. They are more efficient than other banks in the world on the basis of the tough standard of profitability. They are at the cutting edge in international finance. Do we really want to follow the lead of Under Secretary Gould? Do we need to merge our vigorously competing, highly efficient community and regional banks into massive combines with hundreds of offices and tens of thousands of employees taking orders from a centralized headquarters in New York or San Francisco or London or Tokyo? No way.

ACID RAIN

Mr. PROXMIRE. Mr. President, yesterday the Center for Clean Air Policy released a historic report entitled, "Acid Rain: Road to a Middle Ground." This report is the result of 16 months of discussions among the diverse players in the acid rain issue including: coal companies, environmental and consumer groups, and Governors of Midwestern and Northeastern States.

As part of their deliberations, they decided to commission studies from the ICF consulting company of the cost impacts of acid rain controls on the Nation's largest privately owned utility, American Electric Power Co., and the largest publicly owned utility, the Tennessee Valley Authority. Using a least-cost model which allowed free choice of measures to meet a 10 million tons per year target in sulfur dioxide emission reductions, the participants found that this level could be achieved for a modest rate increase of under 3 percent. Even when strategies were adopted to minimize the loss of jobs in high sulfur coal producing regions, rate increases totaled no more than 9 percent. Even better, when new clean coal technologies like sorbent injection were modeled, rate increases could be kept to just 4 percent with almost no job losses.

Other high points of the report include: phased reductions in emissions with earlier reductions traded for a slight extension of the final compliance date; support for a new Federal clean coal program which speeds up the availability of new lower cost emissions control technologies; and, a cap on existing sources and stronger new source performance standards to hold down future emissions once the acid rain program is completed.

I urge my colleagues to read this study which is available from the Center for Clean Air Policy in Washington, DC, and ask unanimous consent that a fact sheet from the center, information about the center, and a list of the participating groups in the dialog be included in the RECORD.

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

[Factsheet]

AMERICAN ELECTRIC POWER [AEP] AND TENNESSEE VALLEY [TVA] SYSTEMS

	AEP	TVA
States served	OH, WV, IN, KY, VA, MI	KY, TN, AL, MS, NC, GA, VA
Generating capacity (megawatts)	23,400	29,700
1985 revenues (billion)	$5	$4.5
1985 SO_2 emissions (million tons)	1.8	1.2
Share of national 1985 SO_2 emissions (percent)	10	7

ELECTRIC RATE CHANGES IN 2,000 RESULTING FROM ACID RAIN REQUIREMENTS

[10 million ton SO_2 emission reduction or equivalent]

	Least cost (percent)	Local coal protection and sorbent injection (percent)
American Electric Power Co	+3.2	+4.6
Appalachian Power Co	+1.2	
Columbus and Southern	+1.3	
Indiana and Michigan	+.1	
Kentucky Power	−.4	
Ohio Power Co	+7.5	
Tennessee Valley Authority	+2.5	[1]

[1] Not applicable.

AMERICAN ELECTRIC POWER HIGH-SULFUR COAL CONSUMPTION

[In millions of tons]

	Least cost case	Local coal protection with sorbent injection
High-sulfur coal consumption in 2,000 as percent of 1985 levels	31	100

NOTES ON FACTSHEET

1. American Electric Power company has 5 subsidiary utility companies. The Tennessee Valley Authority has no subsidiary companies.

2. Under acid rain control scenarios, low sulfur coal prices are projected to increase and high sulfur coal prices are projected to decrease. Thus utility companies which are already relatively clean (and will not be required to retrofit scrubbers or significantly alter their coal use) may have electric rate decreases since the high sulfur coal they are using will fall in price.

3. Local coal protection scenario depicted here assumes sorbent injection technology will be available at costs and efficiencies currently being experienced in Europe.

4. AEP consumed 16 million tons of high sulfur coal in 1985. Their high sulfur coal consumption is projected to increase to about 18 million tons in 2000 absent acid rain control requirements.

THE CENTER FOR CLEAN AIR POLICY

In October, 1985, a group of governors headed by Tony Earl of Wisconsin and John Sununu of New Hampshire created the Center for Acid Rain and Clean Air Policy Analysis, recently renamed the Center for Clean Air Policy. The Center was established with a dual mission:

(1) to develop and analyze innovative approaches to resolving a wide range of air pollution issues and

(2) to mediate discussions between key stakeholders on major issues in the air pollution field.

It was created with a desire to inform decisionmakers of the underlying environmental and economic implications of air pollution controls with the hope of advancing the air pollution debate beyond traditionally polarizing perspectives.

CENTER BOARD OF DIRECTORS

Gov. Anthony Earl, Chairman, Wisconsin;
Gov. Thomas Kean, New Jersey;
Gov. Richard Riley, South Carolina;
Gov. Ted Schwinden, Montana;
Gov. Scott Matheson, Utah;
Dr. William Hogan, Energy and Environmental Policy Center, Harvard University;
Senator Gaylord Nelson, the Wilderness Society;
Dr. Martin Rivers,[1] Tennessee Valley Authority;
Ned Helme, Executive Director, Center for Clean Air Policy;
Governor John Sununu, Vice Chairman, New Hampshire;
Governor Rudy Perpich, Minnesota;
Governor Bruce Babbitt, Arizona;
Gov. Michael Dukakis, Massachusetts;
Dr. Anthony Cortese, Director, Tufts University Center for Environmental Management;
Leland Walker, Chairman, Northern Engineering and Testing;
Richard Schwartz, President, Boat Owners Association of the United States; and
William Laub, President and Chief Executive Officer, Southwest Gas Co.

LIST OF DIALOG PARTICIPANTS

American Council for an Energy Efficient Economy.
American Horizons, Gov. Bruce Babbitt, Chairman.
Center for Clean Air Policy.[1]
Consolidation Coal Co.
Electric Power Research Institute.
FMC, Corp.
ICF, Inc.[2]
Illinois Department of Energy and Natural Resources.
Illinois Governor James Thompson's Office.
Massachusetts Department of Environmental Quality Engineering.
Michigan Environmental Council.
Minnesota Pollution Control Agency.
Montana Governor Ted Schwinden's Office.
New Hampshire Department of Environmental Quality.
New Jersey Department of Environmental Protection.
New Jersey Governor Thomas Kean's Office.
Ohio Consumers Counsel.
Ohio Governor Richard Celeste's Office.
Ohio Public Utilities Commission.
Pennsylvania Bureau of Air Quality.
Resources for the Future.
Southwest Gas Co.
State and Territorial Air Pollution Program Administrators [STAPPA].
Stern Brothers.
Tennessee Valley Authority.
U.S. Environmental Protection Agency.[3]
Vermont Department of Environmental Conservation.
West Virginia Highlands Conservancy.
Wisconsin Department of Natural Resources.
Wisconsin Public Service Commission.

[1] Affiliate member.
[1] Mediated and coordinated dialog; oversaw AEP and TVA studies.
[2] Conducted AEP and TVA studies and provided technical support.
[3] Participated as technical advisors.

Note—Several other organizations participated during various stages of the project.

INCREASING OPPORTUNITIES FOR WOMEN IN THE MILITARY

Mr. PROXMIRE. Mr. President, in February, my distinguished colleague from Maine [Mr. COHEN] and I introduced a bill to broaden the assignment opportunities for women in the military: S. 581, the Service of Women in the Armed Forces Act. This bill would open more combat support positions to women in the military, and protect our military personnel strength in the 1990's, when the available number of young men will be decreasing.

The acceptance of military personnel, regardless of gender, into the combat support arena would be mutually rewarding for the military organization, in affording a larger—and thus higher quality—pool of candidates; and for the military person, who would be allowed to seek full and rewarding careers, without gender restriction.

There is evidence of increasing interest in this issue. Congressman DICKINSON, the ranking minority member of the House Armed Services Committee, has introduced a companion bill to my legislation, H.R. 2719. Senator DECONCINI has legislation that would permit female members of the Air Force to receive fighter pilot training.

Meanwhile our NATO allies are passing us by. They are acting. Denmark is the first NATO country to allow women in combat units. Canada has eliminated gender restrictions in all of its Air Force jobs. Canadian women are now eligible to serve as CF-18 jet fighter pilots and in tactical helicopter squadrons.

Canada has launched a militarywide study that allows women to serve in any capacity for which they qualify. This study is targeted for 4 years' duration, with the objective to determine if readiness will be affected. The elimination of gender restriction in the Canadian Air Force is the first milestone in the Canadian implementation of this study.

If our NATO allies have determined that there are strong military and economic reasons to increase the role of women in their military forces, then the United States should do likewise. Women can contribute more to our national security, if given the chance.

Mr. President, I ask unanimous consent that this news article from the European Stars and Stripes of July 13, 1987, be printed in the RECORD.

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

CANADA TO TEST WOMEN IN COMBAT JOBS

(By Joseph Owen)

LAHR, GERMANY.—Discarding part of a plan to test women in combat jobs previously reserved for men, Canada has eliminated gender restrictions in all of its air force jobs.

"Henceforth, male and female air force personnel will be equally eligible for employment throughout the air community," National Defense Minister Perrin Beatty said in a message to Canadian Forces Europe officials this month.

Beatty said the forces may have to delay combat-related employment trials for women in army jobs, however, because too few female recruits and women already serving in the military have volunteered to participate in them. The forces expect navy trials of women in combat jobs to occur on schedule. The navy experiment calls for staffing a destroyer with a crew of which 25 percent will be women, and evaluating the results over a two-year period beginning in the fall of 1989.

Women make up about 9 percent of Canadian Forces personnel, and about 18 percent of Canadian reservists. Before the air force decision, women were eligible to work in 75 percent of the forces' occupations, compared with 19 percent in 1971.

The air force decision will affect Canada's Lahr and Baden-Soellingen bases immediately, at least on paper, because it makes women eligible to serve as CF-18 jet fighter pilots and in tactical helicopter squadrons. Canadian army units in Germany should see no change for at least a few years, however. The army combat trials are scheduled to take place in Canada.

The experimental combat programs have made no big waves at CFE bases, forces spokesmen said.

Beatty announced the creation of the Combat-Related Employment of Women (CREW) Trials Office in February, according to another Department of National Defense message to CFE officials.

"The fundamental principle involved here is that every Canadian citizen has equal rights and responsibilities when it comes to the defense of this country," Beatty said in a speech to the University of Toronto Law School faculty. Because of the ambiguous nature of modern combat, he said, women who serve in units supporting front-line troops are actually in combat jobs already.

Beatty said the forces are drafting gender-free physical standards for each military occupation to be studied in the trials, and his department will make no changes that put the forces' operational effectiveness at undue risk.

The Trials Office director, Brig. Gen. Lewis W. MacKenzie, said the forces are having a much harder time finding the 300 women needed for the army trials than the 60 women for the navy trials.

"The reason is probably because in the navy trials, women won't have to change their occupational specialties in most cases," MacKenzie said. "If they're a clerk in the navy, they can be a clerk on the ship. But in the army, this entails changing occupations. A clerk will have to retrain as an infanteer, or in the armor corps, or whatever.

"The applicants for the navy trials will take their basic training and occupational training in early 1988 and will graduate in the fall of 1988," he said.

The forces have considered integration of the sexes to be trickiest in the navy because of crowded living conditions and the lack of facilities for women on some vessels, particularly on Canada's three diesel-electric submarines. Those structural obstacles may disappear, however, in the wake of a major defense policy "white paper" that the Progressive Conservative government released June 5. The policy calls for creating a three-ocean Canadian navy, partly through building six new frigates and buying 10 to 12 nuclear-powered submarines.

During a recent visit to Canadian Forces Base Baden-Soellingen, Associate National Defense Minister Paul W. Dick acknowledged the limitations of Canada's current vessels, some of which are 30 years old.

"We just can't find a place to put women's washrooms in our submarines," he said, but he added, "We're not going to be designing a whole new submarine. We're going to be taking what other countries can offer us."

In Canadian press reports, unnamed military leaders have accused the defense ministry of taking a myopic view of army problems in setting up the mixed-gender combat trials. One senior officer quoted in the Toronto Star newspaper said that tanks and armored personnel carriers are like "little sumbarines."

"And they overflow with people. Up in the high arctic, on our exercise Lightning Strike, the basic infantry unit is a section of 10 men. They all cram into one tent and do everything in it. The conditions are just as onerous as in a submarine."

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein.

The Chair, in his capacity as a Senator from Vermont, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. NUNN. Mr. President, is the Senate in morning business?

The ACTING PRESIDENT pro tempore. The Senate is in morning business not to extend beyond 10 a.m.

Mr. NUNN. Is there an order, Mr. President, recognizing the Senator from Georgia and the Senator from Virginia?

The ACTING PRESIDENT pro tempore. There are no specific orders. Senators are permitted to speak upon recognition until 10 a.m.

Mr. NUNN. I thank the Chair.

(Mr. SHELBY assumed the Chair.)

MILITARY PROMOTIONS

Mr. NUNN. Mr. President, the Committee on Armed Services is favorably reporting to the Senate today the nominations of eight Marine Corps brigadier generals for promotion to the grade of major general. The 8 nominees are from a list of 10 nominees submitted by the President in January of this year. I want to take a few minutes this morning to give my colleagues a brief summary of the background and the reasons for the committee's action because it is important to the Senate's consideration of the nominations. The full details are provided in the committee report that Senator WARNER and I are today filing with the nominations. My summary is taken from that 14-page report.

Shortly after the committee received the nominations on January 12, 1987, I was informed of alleged irregularities with respect to the selection process that resulted in the nominations of the 10 officers. These irregularities involved allegations that the then Secretary of the Navy, John Lehman, and the then Commandant of the Marine Corps, Gen. Paul X. Kelley, improperly influenced the outcome of the board. I conferred with Senator WARNER, the ranking minority member of the committee—and also, I might add, a previous Secretary of the Navy who has had considerable experience in these matters—and we decided to have the committee staff determine if sufficient grounds existed to support further inquiry into the allegations. That staff review found sufficient grounds for further inquiry. After conferring further with Senator WARNER and the chairman and ranking minority member of the Subcommittee on Manpower and Personnel, Senator GLENN and Senator WILSON, we met as a group with the Assistant Secretary of Defense for Force Management and Personnel to request that the Secretary of Defense investigate and report to us on this matter.

As a result of our request, the Secretary of Defense directed the General Counsel of the Department of Defense to conduct an inquiry. The report of that inquiry was provided to the committee by the Secretary of Defense on May 6, 1987, along with his recommendations and a statement of the action he had taken to prevent recurrence of a similar situation. Upon receipt of the report of inquiry, Senator WARNER and I directed the committee staff to evaluate and report to the committee the legal and policy issues addressed in the report of inquiry. The committee met in executive session on June 19, 1987, to receive a staff briefing of the evaluation. The committee met five more times, all in executive session, to discuss this sensitive personnel matter.

After carefully weighing all of the facts and circumstances presented in the report of inquiry and analyzing the legal and policy issues related to this matter, the committee decided to take the action it is reporting today.

The facts considered by the committee concerned alleged actions by the then Secretary of the Navy, John Lehman, and the then Commandant of the Marine Corps, Gen. Paul X. Kelley, to improperly influence the outcome of the Marine Corps major general promotion selection board that was conducted in October 1986.

Specifically, the allegations involved claims that former Secretary Lehman, with concurrence of former Commandant Kelley, improperly amended instructions to the promotion selection board after it had acted and reported eight selectees under its original instructions. The amended instructions authorized two additional selections for promotion. It was alleged that former Secretary Lehman's purpose in amending the instructions was to obtain the selection by that board of a certain individual. It was further alleged that former Commandant Kelley thereafter suggested to the president of the board that another certain individual be selected to fill one of those additional authorizations.

Mr. President, I will try to frame these allegations in the context of a brief chronology of the key events and circumstances in this case, so that my colleagues can place the committee's decision in perspective.

The promotion selection board in question was initially convened on October 27, 1986, by former Secretary Lehman and given written instructions to select no more than eight officers for promotion to major general. The board complied with the instructions and reported its compliance in writing to former Secretary Lehman.

During verbal debriefing of the board's report by the president of the board, former Commandant Kelley expressed his disappointment that a particular officer was not selected. However, he sent forward the board's report recommending approval.

In his debriefing with former Secretary Lehman, the president of the board synopsized the consideration given each officer being considered. He provided slightly greater detail on two officers about whom the former Secretary of the Navy had expressed an earlier interest but who were not selected. The Secretary's interest had been made known to the president of the board before the initial convening of the board during a preconvening call he had had with the former Secretary of the Navy. This communication had no apparent effect on the initial results since neither officer was selected. In the debriefing, the president of the board indicated that one of the two officers, an aviator, had been very competitive during the board's deliberations. Former Secretary Lehman then asked if the competitive aviator would be selected if he were to authorize an additional selection and specify

that the selectee must be an aviator. The president of the board replied:

That in his judgment, the board would select the aviator that the Secretary had previously mentioned.

The Secretary of the Navy did not approve the board report but indicated that he would speak to the Commandant of the Marine Corps before taking any action. Quoting now directly from the committee report:

The Secretary has indicated that at the time he received the report he was concerned that only two of the eight officers selected were aviators, while he believed, correctly, that historically approximately one-third of the Marine Corps officers recommended for promotion to major general were aviators. Thus he said he formed an opinion that at least one additional aviation officer was needed. The Secretary of the Navy then telephoned the Commandant, who was in New York, and discussed his suggestion to amend his precept to add an authorization for an aviator. The Secretary of the Navy and the Commandant disagree on the reaction of the Commandant to the telephonic suggestion. The Secretary recalled that the Commandant did not attempt to dissuade him, indicated the Commandant thought it was "a good idea," and suggested that the Secretary add two rather than one more authorization. The Commandant, however, recalled that he first attempted to dissuade the Secretary but later relented when the Secretary persisted. He then suggested that two authorizations instead of one be added to give the board more flexibility and to take the focus off the one aviator, whom he felt would otherwise be marked by the Secretary's action.

Subsequently, former Secretary Lehman sent written instructions to the board authorizing it to make two additional selections, one of which could only be used to select an aviator. In his amended precept, the former Secretary of the Navy cited additional requirements to assign Marine Corps general officers to joint billets and the need for at least 3 of the 10 selectees to be aviators. After intense, heated discussions on the legality and propriety of further proceedings under the amended instructions, the board proceeded to review the records of the officers who were not selected under the initial precept. The board eventually selected two officers and reported the results in writing to the former Secretary of the Navy who approved the amended board results. The two officers who were selected were the ones preferred by former Secretary Lehman and the former Commandant. It is relevant to note here that the officer preferred by the former Commandant superseded another officer of the same skill who was more competitive in the first round of proceedings.

Based on these facts and circumstances, which I have presented in very abbeviated form, the committee concluded that the proceedings under the original instruction which resulted in the selection of eight officers was legal and proper and that the nominations of these eight officers should be confirmed.

With respect to the amended proceeding which resulted in the addition of two officers to the selection list, the committee concluded that the facts and circumstances considered in totality constituted considerable evidence of impropriety and unfairness.

The committee concluded that the process itself was flawed and therefore the committee has taken no action with respect to the two nominees recommended as a result of this process.

In its deliberations, the committee was keenly aware of the personal considerations for these two officers, and the committee remains concerned about their future in the Marine Corps. This consideration was carefully weighed against the committee's paramount responsibility for ensuring the integrity of a selection system that provides all officers with a fair opportunity to be selected on merit. The committee took seriously the potential effect that approval of the two additional officers, who were selected under a flawed process, would have had on other officers who were competing but were not selected and to whom the committee owes an equal responsibility.

I must add here that there is no evidence or even suggestion that either of the nominees whom the committee decided not to consider had any knowledge of or participation in the improprieties surrounding their selection. To the best of the committee's determination, they were not involved in this at all but they were selected under a flawed process.

If an officer's selection is influenced by actions or oral communications of senior officials occurring outside of the authorized selection board process, then other officers under consideration, who must rely only on the authorized board process, are denied a fair and equitable opportunity to be selected.

I would include my remarks this morning by saying that this matter involves a very important responsibility for the Senate. The men and women in uniform in this country, who serve our Nation so well at such sacrifice to themselves and their families, look first and foremost to their leaders in uniform and their leaders in the Pentagon, but ultimately to the U.S. Senate, in our confirmation role, to keep the promotion system fair and free from manipulation. The integrity of the promotion process is a very sacred trust. What we had in this case was a situation where the leaders, in whom this trust was placed, violated that trust. It therefore fell on our shoulders to restore the integrity of the promotion process through our role in the confirmation process which is also a very sacred trust.

All of the members of the committee are troubled by the effect of the committee's action on the two officers who are innocent victims of the errors of their leaders. We have attempted to protect these two individuals by writing to the President and to the Secretary of the Navy urging that appropriate material be placed in the files of these two officers to ensure their future consideration will not be tainted by this action. However, it remains our primary responsibility to uphold the integrity of the selection process in the eyes of those who look to us to fulfill our important confirmation responsibility under the Constitution. I believe the action of the committee meets that test.

I want to express my appreciation to my colleague and friend from Virginia, Senator WARNER, and all the members of our committee—one of whom, Senator SHELBY of Alabama, is in the Presiding Officer's chair at this time—for their attention to and participation in the committee decisionmaking process.

I want to also express my appreciation to Secretary Weinberger, and in particular to the general counsel of the Department of Defense, Larry Garrett, for their cooperation with the committee in this sensitive and important matter.

Finally, I urge my colleagues to read the committee report, since the Senate will hopefully take up the nominations reported prior to the recess. Because of the importance of this, I believe that every Member of the Senate should read the report.

Mr. President, I yield to my colleague and friend from Virginia, who has been a pillar of strength and wisdom in this sensitive matter. I have looked to him for guidance, for advice, and for the benefit of his wisdom and experience as a former Secretary of the Navy as well as his service in the Senate.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank my distinguished colleague, the chairman of this committee.

Mr. President, through his leadership, the members of the committee have reached their conclusion, one that we find most difficult but, nevertheless, one on which the committee spent many, many hours of hard and intensive work.

I think the chairman and all members of the committee can take justifiable pride in the diligence and confidentiality with which they handled this case.

This is a unique case, Mr. President. Under the law adopted in 1980, this is a case of first impression.

If you go back in the records of the Armed Services Committee of the Senate for some 40 years, we find that only as a rare exception has the

Armed Services Committee had to come before the Senate and report a decision such as this.

Mr. President, under the Constitution, this body is entrusted to make very, very special decisions. I shall read from article II, section 2:

The President—

* * * shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, * * *

That confers upon this body a special trust. And through the years—I have now served eight on the Armed Services Committee, and prior to that, over 5 years in the Pentagon—I have observed this process. I wish to make it clear that in my judgment an officer of the Armed Forces of the United States is every bit as important as a Federal judge or an Ambassador. This body should take no less time or consideration on behalf of the selection of an officer, especially flag officers, of the U.S. Armed Forces than we do in other cases recited in the Constitution.

Through the years, a practice has evolved in the Senate, a practice whereby we receive from the President the nominations, the Armed Services Committee reviews those nominations and then makes a recommendation to the Senate.

As I have said, this process has worked and worked well for many years. Only with rare exceptions has the committee had to recommend that the Senate not act favorably on a military officer nominated for promotion by a President of the United States.

But in this case, there is ample ground, as recited by the distinguished chairman, for the unique and perhaps historic action that we are now about to recommend as a committee to the Senate as a whole.

We take that action after very careful deliberation and a finding by the majority of the members of this committee that there is sufficient evidence to support this action. But I return again to the practice we have followed through the many years whereby the recommendation of the chairman and the members of the Armed Services Committee has been sufficient regarding military nomination and the Senate has accepted that. That is one of the reasons that this committee went so deeply into this case, because the other Members of this body repose in our committee the responsibility to evaluate the process and the nominees. We do not, except in unusual circumstance, or in connection with four-star and three-star officers, take testimony on military nominations. We trust the process that selects those nominees. Under that process, officers of a service are designated by the Secretary and concurred in by the chief of the service to sit as trustees in judgment of their fellow officers, and to select officers for promotion under rules of fairness and impartiality.

As Secretary I supervised and observed the operations of this process for many years and to the extent I could without compromising the facts of this case, I consulted with other Secretaries of Navy as to their recollections of how the process must work. They concurred in my recollections.

It is quite clear to this Senator, and I conveyed this to my colleagues on the committee, that there is ample reason for the committee and the Senate to repose in the process of selection boards a full measure of confidence. Except in limited cases, like the confirmation of a chief of service or a CINC, there is no need for independent hearings on the nominations forwarded by the President. The system has worked and worked well for many years. It will continue to work especially under the new guidance given by the Secretary of Defense in the light of this case.

This case was brought to our attention by retired individuals. Senior officer of the corps are trustees of the traditions and the honor of the Marine Corps. They felt so strongly that they came to the Senate, as a court of last resort, a court of appeals, to see if we would not de novo, as we say under the law, look at this case. To determine whether it was our judgment that these selections were made in accordance with law and tradition, and most importantly, in a sense of fairness. I say a sense of fairness because as the chairman pointed out, our military men and women who dedicate their careers and are often called upon to risk their lives in the service of our country, are entitled to a promotion system that is fair and objective. That's all they ask, their families ask, in return for their dedication to public service.

The chairman had the option, when this information first came to his attention, to hold committee hearings. My recommendation was to allow the Department of Defense to investigate the matter first, then, following our examination of their findings, the Armed Services Committee would still have the option of conducting our own independent examination, if necessary.

I commend my chairman for accepting that recommendation and not starting a series of independent hearings because, had we started those hearings, I question whether the full story we now have would have ever come out.

The Secretary of Defense took this initiative and conducted an inquiry. We stress today that our findings are predicated solely on the facts as developed by the Secretary of Defense and we reach our conclusion on that body of fact and the law.

Mr. President, shortly after the information came to the chairman and me, we involved the chairman of the Subcommittee on Manpower, as well as the ranking member of that subcommittee, so there were four of us who provided the leadership. Coincidentally of those four, three were privileged during their lifetime to wear the uniform of the U.S. Marine Corps.

I wish to say to all marines who will study this case that the three of us had foremost in our minds at all times the history, the traditions, and the honor of the corps and that weighed heavily as we participated with the committee in making this difficult decision.

Mr. President, I see other members of the committee desiring to be recognized. I may rise again and seek recognition.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I would like to extend my appreciation to our distinguished chairman and the ranking minority member on the committee for their very dedicated efforts on this issue, and I would like, speaking as a person who was involved for quite a number of years in the military and has a deep and long relationship with selection boards, to elaborate a little bit so that my colleagues will know that this issue was a very difficult and divisive one.

I see my colleague from Illinois, Senator DIXON, who I believe will also have some remarks on this issue.

There is nothing more important to the morale of the officer corps in the military than the sanctity and integrity of selection boards. If there appears to be manipulation or unethical behavior, or improper orders given to those boards by anyone—including the service Secretaries—it can cause enormous and long-lasting damage to the morale of the officer corps.

In this case the committee has concluded this selection board was unfairly and improperly interfered with by the Secretary of the Navy and the former Commandant of the Marine Corps. I do not share that view. In fact, I think our colleagues should know that in our committee on a proposal by my colleague from Illinois that all 10 of these nominees be selected there was a 10–10 tie. So this committee was by no means unanimous in their opinions as to the proper disposition of all 10 of the nominees.

Mr. President, the Secretary of the Navy as is his proper role as any service Secretary has substantial authority over the military. This is one of the basic precepts of the way our Government operates.

As part of the responsibilities of civilian leadership the service Secretary

has not only the right but also an obligation to provide certain instructions to a selection board, usually in a broad and general fashion, as to what type of officer should be selected, consistent with the best interests of the service. This has been a standard procedure ever since selection boards were first convened.

The question before the committee was simply: Did the Secretary of the Navy and the Commandant of the Marine Corps act improperly with regard to this particular selection board?

Part of this question, in my opinion, hinged around whether there was indeed a changed requirement for two additional major generals in the Marine Corps beyond the eight that were originally authorized.

At the initial convening of the board, the selection of eight major generals was authorized. Later, after the board had reported out, the Secretary of the Navy determined there was a requirement for two additional major generals in the Marine Corps. It has been made clear in testimony before the committee that at least one of those major generals would have been selected anyway had there been an additional requirement. According to the regulations, which were reviewed during the hearings, the Secretary of the Navy does have the responsibility to set the numbers that a selection board should select for promotion.

I do not think there is any doubt that there is a cloud of suspicion and there is indeed a great deal of controversy which may never be resolved about what actually took place. But I have great concerns about a statement, which appears as a conclusion of the committee report, that "the facts and circumstances, considered in totality, constituted considerable evidence of impropriety and unfairness." I believe that there were certainly allegations of such, but I think it is not clear, at least to this member of the committee, that that was indeed the case. I would look forward to hearing from my colleague from Illinois on that.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. BYRD. Mr. President, will the Senator yield to me?

Mr. DIXON. I yield to the majority leader, of course, Mr. President.

Mr. BYRD. I thank my distinguished friend.

ORDER EXTENDING MORNING BUSINESS UNTIL 10:15 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the period for morning business be extended until 10:15 a.m. and that the same restrictions that were ordered heretofore be in effect.

The PRESIDING OFFICER. Without objection, it is so ordered

Mr. DIXON. Mr. President, I thank the distinguished majority leader for giving us the additional time. My remarks may take 8 or 10 minutes.

Mr. President, may I say, first, that I see the chairman of the Armed Services Committee and the ranking member on the floor. At the very outset of my remarks, I would like to say that I know I express the opinion of the entire committee when I say that there are no two Members of the U.S. Senate, now or ever in its history, who have a reputation for fairness in their dealings with their colleagues that excel that of the distinguished chairman of the committee and that of the ranking member.

In the discussions that were held about this entire controversy which took a long period of time and a great many hearings of the committee, I want to make it clear that every one of us who disagreed with this final conclusion, that we discuss here this morning, felt that the chairman and the ranking member were exceedingly considerate of our point of view. All of this was fully discussed in the committee.

I think it is only fair to state, though, Mr. President—and the Senator in the chair was privy to all of these proceedings and attended all of those meetings—that there were substantial differences of opinion in the committee as to the ultimate result that should be taken in this case.

The committee is composed of 11 Democrats and 9 Republicans. Ten of us, half of the committee, felt that the two brigadier generals, who were not promoted as a consequence of the report of this committee that deserved promotion. So it was an even division, 10 to 10, on whether we ought to report 10 persons or only 8.

Now there is some difference of opinion among the 10 Senators who supported reporting all 10 about the process by which ultimately 10 were recommended for promotion. This Senator from Illinois happens to feel that there was considerable question about the second precept and the second meeting of the board and some of the things done by the Secretary of the Navy and the Commandant of the Marine Corps.

But I think as a lawyer I must say that it is not my opinion that the second precept and the second board hearing was illegal. As a consequence of that, I believe that there is reason to promote the additional two brigadier generals.

I would like to go through the history of what happened very briefly to explain how I have come to my conclusion.

As has been stated by the chairman and the ranking member, the original precept called for promoting eight brigadier generals to major general. There is not any question about the propriety of that and the activity of the board. When that result was brought to the Secretary of the Navy, there were only two aviators among the eight. Historically, the experience has been that usually a third of those promoted were aviators, and the Secretary expressed concern about that. I think it is clear that he may have had a favorite among those who were not promoted.

The Commandant and the Secretary had a discussion, a second precept was issued, and thus a second board met.

I want to comment about this point. Some of the comments by staff for the committee originally indicated that they felt it was illegal for the second precept to issue and for the board to meet a second time. The fact is, and I think this should be clearly noted, that since 1980 there have been six occasions, when a second precept was issued and a second board met. So I believe there is considerable historical precedent, which appeals to my sense of fairness as a lawyer, for a second precept and a second meeting of the board.

Now, this is a point I want to stress. I want to urge my colleagues to read this report, Mr. President, and particularly to read page 15 of the report on the conclusions of the committee. I would like to read it into the RECORD.

> The committee wishes to make it very clear that there is no evidence or even suggestion—

I underline "or even suggestion"—

> that either of the nominees whom the committee decided not to consider had any knowledge of or participation in the improprieties surrounding their selection.
>
> Accordingly, the committee is forwarding letters to the Department of the Navy for insertion of the official records of these nominees stating the express concerns of the members of the committee over the undue personal hardships thrust upon these nominees and their families and that future selection boards should view the action the Senate is compelled to take with respect to their promotions as being in no way detrimental to consideration for future selection.

I hope my colleagues in the Senate clearly understand what this states. It clearly says that the two brigadier generals, with an exemplary lifetime service in the Marine Corps, highly decorated veterans with combat experience, serving the people of this United States of America are absolutely innocent of anything that may have occurred.

Mr. President, you attended those committee hearings. I cannot read from the record. It is committee sensitive.

I have made inquiries to make sure how much I can say, because these things are delicate. But I understand that while I cannot read from the

record I may represent generally what occurred in the committee.

I want to make it clear that this Senator from Illinois said in the committee, on the basis of everything he had heard and understood the facts to be, that the issuance of the second precept and the activity of the second board was in accordance with what has happened on at least six separate occasions in the past in the last 6 years. In addition, the two brigadier generals constituting the additional 2 in the 10 recommended for promotion, were entirely innocent.

Under those circumstances I made a motion that we make sure that this kind of thing never happens again. I asked that in view of the exemplary lifetime military records of these two brigadier generals, who were absolutely innocent and absolutely unknowing of anything that occurred, that we would treat the second precept and the second board meeting as being clothed in legality on the basis of a historical precedent. I asked that we promote these two brigadier generals.

I want my colleagues in the Senate to know this. On my motion to promote the additional two brigadier generals the committee of 20 U.S. Senators, 11 Democrats and 9 Republicans, divided evenly 10 to 10 on the question of promoting these two brigadier generals.

They lost that star on a tie vote in the committee.

Please understand this Senator is not here to protect John Lehman. I have had many differences with John Lehman when he was Secretary of the Navy, and differ with that man now with respect to the issuance of the call for the second precept. I think what the Commandant of the Marine Corps did was largely locker room discussion and not of any great moment. I do not condone that.

I think we have taken the necessary steps to correct this problem and see that it will not occur in the future. But I do believe that these two innocent, distinguished members of the Marine Corps, who have served a lifetime of Marine Corps service with valor and distinction, should not have been denied the promotions that in my view they richly deserved.

We voted to recommend the eight that were clearly entitled to recommendation under the original precept. We voted to clothe the Chair and the ranking member with the authority to go to the Secretary of Defense and talk about the other two. I believe it was implicit that it would be suggested to the President of the United States that he ought to promote these two contemporaneously, so they stood in the same line with the other eight.

The Secretary of Defense in his own judgment of it said the second precept and the second board were valid and they already recommended promotion and we should follow that.

And so there was a disagreement between the Secretary of Defense and the committee, and as a result those other two have not been promoted.

But I want to say for the record, Mr. President, that the Chair was fair. There is an honest misunderstanding here. The President of the United States, the Secretary of Defense, the Marine Corps lines of command and everybody ought to take into consideration these two innocent brigadier generals, and at the earliest possible convenient moment, they should be promoted now.

In conclusion, I call upon the President, I call upon the Secretary of Defense, I call upon the Commandant of the Marine Corps to, at the earliest convenient moment, take the necessary legal steps to promote the other two brigadier generals who were not promoted under this recommendation from the committee. I thank my colleagues, the chairman and the ranking member on the committee, for all of their courtesies throughout this controversy and I yield the floor, Mr. President.

AMENDMENT TO THE NATIONAL HEALTH SERVICE CORPS RESTORATION BILL

Mr. METZENBAUM. Mr. President, yesterday I offered an amendment with Senator KENNEDY on the National Health Service Corps restoration bill. The purpose of the amendment is to get family physicians into urban areas to deal with problems like infant mortality, drug and alcohol abuse, maternal and child health care, and other problems which are so prevalent in our cities.

In Cleveland we have a crisis. Three family physicians are being reassigned—Drs. Reininga, Fitzpatrick, and Lay. Cleveland needs these family physicians, but the bureaucracy does not place a priority on the needs of cities. My amendment addresses this problem.

Mr. President, I hope that when it comes to meeting the health needs and health care of those most in need that we will help those who live in the cities as well as those who live in rural areas.

MISSING IN ACTION NEGOTIATIONS

Mr. McCAIN. Mr. President, I will be asking unanimous consent to be held at the desk a resolution which I am hoping will be voted on on Tuesday. Mr. President, this resolution is one which will be expressing the support of the Congress of the United States to General Vessey as he proceeds to Hanoi on Tuesday in an effort to resolve the terrible and enduring issue which has plagued this Nation for so many years, and that is the issue of those men who are still listed as missing in action.

General Vessey, appointed by the President, is perhaps the highest level person to address this issue, to go to Hanoi to meet with the North Vietnamese and to try and resolve this and other humanitarian issues.

I am pleased to be joined in this resolution by my distinguished colleague from Georgia, Senator NUNN, Senator DECONCINI, and others. At the time of the vote on Tuesday, if this body agrees to my unanimous-consent request, I will elaborate more on this resolution, its intent, and my belief that this body and this Congress share its commitment to those who are still listed as missing in action in Southeast Asia.

Mr. NUNN. Will the Senator yield to that point?

Mr. McCAIN. I am pleased to yield.

Mr. NUNN. Mr. President, I will take just a moment, but I want to commend the Senator on that resolution. I am proud to be a cosponsor of it.

The Senator has been a prisoner. The Senator understands the plight of the families that still do not know what happened to the missing in action. It is an extremely important resolution. General Vessey's mission is very important.

The resolution has been, I believe, worded very, very carefully and very skillfully by the Senator. So I commend him on his resolution, and I urge our colleagues to give it serious consideration.

Mr. McCAIN. I appreciate the kind remarks of the distinguished chairman who has been involved in this issue for many, many years. He has met with great frequency with the families of those who are missing. He has kept this issue before the Armed Services Committee and this body and I am very grateful for his support on this effort.

Mr. President, I ask unanimous consent that this resolution be held at the desk.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

The text of the resolution follows:

Whereas fourteen years have passed since the last American combat troops left Southeast Asia, and twelve years have passed since the end of the war in Vietnam;

Whereas 2,413 Americans missing in action during our involvement in Southeast Asia remain unaccounted for:

Whereas President Reagan has repeatedly stated that the fullest possible accounting of those Americans missing in action in Southeast Asia is "a matter of the highest national priority";

Whereas the President, the Congress and the American people stand united in supporting continued efforts to account for

Americans still missing in action in Southeast Asia;

Whereas other humanitarian issues affecting the people of the United States and Vietnam remain unresolved, including the resettlement of Amerasians still in Vietnam, the release of political prisoners in Vietnamese reeducation camps, the rejuvenation of emigration procedures for Vietnamese who wish to leave their country through the orderly departure program;

Whereas the aforementioned humanitarian issues have caused great hardship to the peoples of both the United States and Vietnam, and it is in the interest of both countries that they be fully and quickly resolved;

Whereas in February, 1987, President Reagan appointed retired General John Vessey, former Chairman of the Joint Chiefs of Staff, as Special Presidential Emissary for POW/MIA affairs;

Whereas General Vessey will, in the near future, travel to Hanoi to discuss with officials of Vietnam humanitarian issues of concern to both countries: Now, therefore, be it

Resolved by the Senate, That the Congress—

(1) expresses its full and undivided support for General Vessey in his forthcoming negotiations to determine the fate of those Americans missing in action in Southeast Asia, to facilitate the return of the recoverable remains of those missing in action, and to discuss the remaining humanitarian issues affecting both nations.

(2) calls on Vietnam to respond positively to the aforementioned concerns of the American people in a humanitarian context.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, we just cannot go on all morning on morning business, but I see there are two other speakers. I ask unanimous consent that Mr. WEICKER may have 10 minutes, Mr. REID may have 6 minutes and then that morning business be closed.

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

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute so that the time not be taken out of either Senator's time.

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

Mr. BYRD. Mr. President, I understand the acting Republican leader is here.

TIME LIMITATION AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, proceed to the consideration of Senate Resolution 255, a resolution dealing with MIA negotiations with Vietnam; provide further that there be a time limitation on the resolution of 20 minutes to be equally divided between Mr. MCCAIN and Mr. PELL or their designees; that there be no amendments in order to the resolution, that no motions to recommit with instructions be in order, and that is it.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Reserving the right to object, if I might just consult with the majority leader.

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

UNANIMOUS-CONSENT AGREEMENT—SENATE RESOLUTION 255

Mr. BYRD. Mr. President, I have been authorized by the distinguished Republican leader to ask unanimous consent that on Tuesday, July 28, at 9:40 a.m., the Senate turn to the consideration of Senate Resolution 255 a resolution dealing with the MIA negotiations with Vietnam.

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

Mr. BYRD. Mr. President, I ask unanimous consent, and this is with the concurrence of the Republican leader and the acting Republican leader [Mr. WEICKER], who is on the floor, that at 10 a.m., Tuesday, July 28, the Senate proceed to vote on the resolution.

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

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays on passage of the resolution.

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

Mr. BYRD. Mr. President, I ask for the yeas and nays on passage of the resolution.

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

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I thank all Senators and I thank the distinguished Senator from Connecticut, the acting Republican leader.

Mr. President, I ask unanimous consent that if either Mr. REID or Mr. WEICKER need an additional 4 or 5 minutes they may have it under morning business.

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

The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I thank the majority leader for his consideration in granting time for several of us to speak.

(The remarks of Mr. WEICKER are located in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 10 minutes.

There being no objection, the Senate, at 10:28 a.m., recessed until 10:39 a.m., whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KERRY).

DEBT LIMIT EXTENSION

Mr. BYRD. Mr. President, under the order at this time the Senate is to resume consideration of the debt limit extension measure. The parties who are the principal managers and those most involved at this point in that matter are not prepared to come to the floor.

We saw on yesterday the amendment by Mr. CHILES go down. We saw on yesterday the amendment by Mr. DOMENICI go down indirectly because 60 votes could not be produced to waive the provisions of the Budget Act. So, we have to go back to the drawing board.

I do not want to bring up the debt limit extension and have it here as a target for all kinds of crapshooting amendments that would unnecessarily tie down the manager, Mr. CHILES, and Mr. DOMENICI, the ranking manager. They need to be off negotiating, working at the table, attempting to come to some compromise and accommodation, rather than be here battling against all types of amendments. It is hard to say what we might get; we could get foreign policy amendments, arms control amendments, you name it, and it could be offered.

What we need is to get on with that bill. The deadline is fast approaching. It is my understanding come Wednesday midnight or it may be Tuesday midnight, this Government can no longer meet its obligations and the checks to the Social Security recipients and veterans are not going to go out.

So the main matter of greatest importance right now before this Senate is the debt limit extension. It still has to go to the House. It has to go to conference. So we are not out of the woods even when we pass the measure in this body.

All of these ancillary and extraneous and sideshow issues ought not to come up on this bill. We need to deal with the main thrust. We are attempting to develop some trigger mechanism in the light of the Court decision. We are trying to come up with some approach that will get around the constitutional problem.

But while we are waiting, I also do not want to keep the Senate in recess or keep it in quorum calls. It seems to me we can be doing something and making good use of the Senate's time.

I have discussed with the distinguished Republican leader the possibility of getting up the Department of Defense authorization bill, and he is working at this time with his colleagues on his side in the effort to let us bring up the DOD bill. We are not

asking that we go to cloture on it, certainly not at this time. I think if we can get it up, I would hope that we could work our way through that bill, take a few days and have it disposed of before the August recess. That is what the Republican leader is attempting to do now, get the consent of Members on his side. Mr. WARNER, who is the ranking member, is very supportive of getting the bill up. Mr. NUNN, the chairman, is supportive of getting it up. Hopefully, we will be able to get up the DOD bill. If we can do that, then from time to time perhaps time agreements can be reached in relation to amendments thereto.

We have the time between now and the August recess to dispose of both the DOD authorization bill and the debt limit extension.

I say all of this to explain to the audience that is watching and to explain to the press and to explain to Senators what the situation is.

Hopefully, within a short time we will be able to take up the DOD bill. Of course, that will require unanimous consent. Any Senator can block it. But we need to be getting on with that bill and it will take some time. There is not going to be any effort to rush it through, or immediately throw a cloture motion on it, or vote on a cloture motion on it next Tuesday.

I think with some time we can dispose of the amendments that will be offered on that bill.

But we could be utilizing our time today in a very good way if we can get that bill up, and I hope that Senators will allow the Republican leader to give his consent and, of course, he has his problems. He cannot force another Senator to give consent. I cannot do the same on my side.

But that is where we are and with that explanation, unless the distinguished Senator from South Carolina wishes to address the Senate on some matter, I will put the Senate into recess.

SENATE RESOLUTION 255

DESIGNATING TIME FOR VOTE

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on Senate Resolution 255, which was earlier ordered for Tuesday at the hour of 10 o'clock a.m., occur no later than 10 o'clock a.m.

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

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate simple resolution submitted by Mr. MCCAIN be placed directly on the calendar.

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

DEBT LIMIT EXTENSION

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished majority leader and the Chair.

I wholeheartedly endorse the distinguished majority leader's appeal that we come together on a constructive compromise that restores a strong Gramm-Rudman-Hollings trigger and deficit-cutting targets.

I must say, however, that the events of last evening were a bad act, particularly the part of the majority. It does not lay the basis of fair play and good will to say, "Look, we will waive the Budget Act so the Democratic alternative can be voted upon, but we are not going to waive the Budget Act so the Republican version can be voted upon."

The fact of the matter is we have been criticizing our Republican colleagues, and properly so, all year long on this budget. We have taken them to task for refusing to participate and offer proposals throughout the budget debate.

This was especially counterproductive in the Budget Committee where the minority declined to go on the record with a constructive alternative. As a consequence, we were forced to unilaterally, on this side of the aisle, present a budget.

Under these difficult circumstances, I think the distinguished leader and the distinguished chairman of our Budget Committee did an outstanding job of producing the best budget possible.

Today, our back is to the wall. We will not arrive at a solution by early next week unless both sides get together. One side cannot do it on its own. In that regard, I note the fact that we finally have gotten some movement over on the Republican side and I welcome it.

It is like us Democrats. For 5 long years we were saying that the President did not know what was going on. "He doesn't know what is going on." Then, this year, he came on national TV and said, "I don't know what is going on." And we said, "You are lying."

Likewise we say to the Republicans in this body that they refuse to participate, they refuse to participate, and then they finally respond, "We have got an amendment. We want to participate." And the Democrats respond by saying, "You can't present your amendment. We won't waive the Budget Act for you." That was clearly wrong on our part. We must move in the other direction. We must come together. We are not going to succeed in passing a bill that says to the President on the budget, "Gotcha." The President has to sign it. And if I am the President, I am not going to permit myself to get caught or trapped.

Likewise, the President is not going to catch us. I rather agree with the strong feelings on this side of the aisle with respect to, say, flexibility on apportioning cuts in defense spending. In all candor, if you permit flexibility on materiel and contracts, you ought to do it for personnel and other categories. Currently the President is not in the game, he lacks that discretion. I agree with those who say he should.

At the same time, I endorse the distinguished majority leader's characterization that we are trying to put a gun with a trigger to the heads of both the executive and the legislative branches. Let us understand just exactly what our objective is. The original trigger—the one struck down by the Supreme Court was automatic. It allowed us to say of the sequester, "The Shadow did it."

But we have a trigger now which is the fallback trigger. It requires a majority of both Houses and the signature of the President. That is where we are at this moment. The amendment presented yesterday on behalf of this side of the aisle also requires three affirmative votes of Congress and the President's signature.

An automatic cut or sequester is what we have at the State level. If you exceed your revenues, then there is a cut straight across the board automatically. And that is the posture we are in. We are trying to put in a trigger that will result in an automatic sequester unless we raise revenues and cut spending in order to meet deficit targets. That is what we must accomplish by majority vote in the House and in the Senate.

In the plan presented and voted on on last evening, instead leaving the sequester on automatic, it would have required not one vote but no less than three votes. And therein was the amendment's downfall. It did not fall for reasons of political partisanship. It fell for lack of merit.

So I would suggest, Mr. President, that we must come together. We must understand that they cannot catch us and we cannot catch them.

Frankly, Mr. President, questions have been raised in my mind recently about the independence of CBO. Likewise, I appreciate the widespread distrust of OMB. But, as a practical matter, we ultimately must put trust in the Executive as the Constitution requires. And bear in mind that, with luck, it will be our party in the Executive on January 20, 1989. Accordingly, in the interest of compromise, we would do well to revisit the formula proposed by Senator LEVIN last year. As you will recall, he advocated containing OMB's creativity by imposing a series of set economic assumptions to guide OMB's work. By imposing these constraints, Mr. President, we can overcome our skepticism of OMB and

move on to the larger issues involved in fixing Gramm-Rudman-Hollings.

Mr. President, to put it bluntly, we have a trigger now that, in a pinch, is not going to produce the desired result. It requires each Senator, at the end of the session, to stand in the well and vote to cut education, to cut veterans' hospital programs, to cut defense. That trigger is not going to work.

And that is why we are trying to put in place a new trigger, and why we are not going to get a debt limit bill without a new trigger. Indeed, without a workable new trigger, our distinguished chairman of the Finance Committee and the chairman of the Ways and Means Committee on the House side will not have the sufficient pressures to get out a reconciliation bill. We are asking for $19 billion in revenues. In the absence of a real threat of sequester, there is zero chance the President will sign off on those new taxes. Thus, in the absence of a real threat of sequester, there is no chance Congress will indulge in the futile, thankless task of voting taxes that we know the President will veto with impunity.

I do not believe Senator BENTSEN is going to have a good chance of debating new taxes if he does not have a trigger lurking in the background. The pressure must be put on us. The majority leader has expressed it well. We have got to put a gun to the heads of both the Executive and Congress. But let us do it in an evenhanded fashion.

We do not have a majority, or at least we are split down the middle, on this side, and we have a similar split on the other side. So those of good will who want a new trigger are going to have to get together. I hope we can do that.

And be on notice that the new trigger formula must please the majority of Democrats in both bodies. The Republicans have got a President, but we have got an overwhelmingly Democratic House. Accordingly, the trigger ought to be patterned—and that is what I have been working on—on what our House colleagues also have in mind, because it must pass there also, and it must pass there by early next week.

I thank the distinguished majority leader for yielding the floor. Let me conclude by reminding my colleagues that there is not a possibility of a bill that will catch Ronald Reagan. If there was, I would have introduced it long ago. Believe me, I've tried. If I had succeeded, we wouldn't have a $2 trillion debt today.

The final trigger formula cannot give advantage or disadvantage to either side of the aisle. It must be self-discipline for both sides.

It is not critical that this Senator or any other Senator get credit. What we ought to do is find out what can be done and then let it be introduced by Senator CHILES and Senator DOMENICI, who have done the majority of the work. But, by all means, let us come together with a reasonable, workable solution.

Mr. BYRD. Mr. President, I agree with most of what the distinguished Senator from South Carolina has said. As to what happened yesterday, Mr. President, I think we had to do what we did.

Mr. CHILES had a proposal. Mr. DOMENICI had a proposal. We all know that neither proposal was going to get the necessary majority votes but we had to show that. That had to be demonstrated.

So I think it was time well spent. We had to do it. There was no way to keep from going through with it.

Now we have done that, and I agree with the distinguished Senator from South Carolina that we now need to get together, go back to the drawing boards, and I know that the distinguished Senator from South Carolina is going to be a part of that negotiation. I am glad of that.

I was against the Gramm-Rudman-Hollings proposal in 1985. I was against the trigger. But I have come to the conclusion, as he so well stated, that if we are going to have reconciliation we are going to have to have a gun at both our heads: The President's head and at ours.

In the final analysis, we have to try to resolve this and get these budget deficits down and find some way to get this public debt going in the other direction so that our grandchildren's grandchildren will not have the kind of exorbitant interest that we in our day and in this administration are putting on them. So I hope that we will find a middle ground.

As the distinguished Senator from South Carolina says, they are not going to "catch us" and we are not going to "catch them." I think what we need to do is try to arrive at an accommodation here that will pass this Senate and will get a majority of the votes, and hopefully get this President involved.

I hope that our negotiators can sit down together and I am ready to offer whatever assistance I can offer, if it will indeed be of assistance to them, in any way that I can.

I have talked with the distinguished Senator from Florida this morning, Mr. CHILES, who says he is ready to talk again. I see the distinguished ranking manager is here on the floor. We are all, I hope, ready to talk again and get the negotiations started.

There is nobody who is more eager than I to get this matter behind us.

Mr. President, I have indicated that I do not intend to let this matter come up which our people who are the principal negotiators need to be giving their time to it off the floor, and I do not want it sitting here as a target for any and all kinds of amendments because if it is up here as a target for other amendments, neither the Senator from Florida, Mr. CHILES, nor the Senator from New Mexico, Mr. DOMENICI, will be able to spend any time anywhere else.

Unless anybody has anything to say, I thank the distinguished Senator from South Carolina for what he has said. What we want to do is stop partisanship and get everybody involved in solving this problem for the country.

I hope negotiations will go forward today. I will be glad to yield if the distinguished Senator from New Mexico wants me to yield; I do not want this bill to come back down, the debt measure, for the moment. I will be glad to yield to the distinguished Senator.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator yielded to the Senator from New Mexico.

Mr. DOMENICI. I understand the majority leader's position about the bill because of our natural tendency to proliferate the offering of amendments that are not relevant to the debt limit and I think there is a general understanding that what would be relevant this year would be budget reform items and possible Gramm-Rudman fix legislation. So I do not rise to in any way suggest that the distinguished majority leader is doing anything but the right thing in not having the debt limit out there for people to start putting amendments on. What I said is I agree that is a good approach.

I would say, however, to my good friend the majority leader, I think it is getting more and more difficult. Time is running. From our standpoint, at least from my standpoint, what makes it slightly more difficult is yesterday's events.

We did not have an opportunity to get a vote and I think the distinguished majority leader knows that the Senator from New Mexico understands the rules. When I spoke last night of fair play, I understand that is in the eyes of the beholder and what is fair play to us in terms of getting an up or down vote—which seemed to us eminently fair, since we worked very hard to let the chairman of the Budget Committee have the vote on his amendment—it does not necessarily seem fair from your side of the aisle.

I want you to know that while I argued for that kind of fairness, I do not come here to the floor with any kind of lasting antagonism because of it. I have not been here as long as the distinguished majority leader, the senior Senator from West Virginia, but I understand the game. I understand the rules.

But I just wanted to make a point. It does appear to me that we had a vote

on an overall new kind of idea for the Gramm-Rudman sequester.

Perhaps some of those who did not vote for it on your side—there were none on this side, 25 on your side—perhaps it was because they did not understand it. I do not know. It was new and very cumbersome.

But it does seem to me that there was a rather clear expression, if any expression came out of yesterday, that we ought not go off on some new approach but rather that we ought to try to work off the previous approach that the U.S. Senate had adopted by a rather significant margin. Sixty-three votes is pretty good, a sizable vote, with 21 from your side of the aisle supporting us. It is a pretty heavy vote. A supermajority is not required for that. All we require is a majority of the Senators voting so that is a rather handsome support.

Nonetheless, we were denied an opportunity to see where we stood on that proposition, the tried and true proposition that we voted on before, procedurally.

You know, the distinguished Senator from West Virginia and the majority leader knows that the senior Senator from Florida, the Senator from New Mexico—not only are we good friends but we try very hard to see if we cannot work things out here. I wish I could tell you that our negotiations are moving along toward some kind of daylight but I must report that I do not believe that that is the case at this point.

I stand ready and willing. I think you know as well as I that a number of Senators are leaving this afternoon. That certainly does not have much to do with your obligations and I understand that. But, clearly, I do not see, unless my good friend from Florida has something new in mind that I have not heard, I do not see us moving in the negotiations today to any significant degree.

We are what might appear to be only blocks apart, but apparently, because of the way things have gone, those have stretched into being miles apart. That is about where we are.

I regret to inform the distinguished majority leader of that. I thank him for yielding to me without losing his rights. That is about how I see it at this point.

I do understand that the United States of America cannot default on her obligations and I share with you that genuine concern. You have repeated it over and over. We cannot, next Tuesday or Wednesday, after building our credit for 200 years in the world money markets and with the creditors of the world, including millions of our own who own our obligations—we cannot let that go into default. And 4 days after that occurs we cannot let all the pensioners of America go without their checks. I am working against that very serious eventuality and you are working against that with even more responsibility because you are the majority leader, obviously. This is the Senate that has to do something.

While I understand that and I know that and I think everybody knows that, we always have a tendency to work right up to the last minute on these debt limits anyway but this one is a serious one and I think everybody should know that. This is not like the debt limits of 3 or 4 years ago.

For lack of a better word, we have generated a new concept of debt limit and we have a drop-dead debt limit now, as the distinguished majority leader knows. We are operating off the cash-flow in the Government because the debt limit is now reduced to a previous level. We do not just add to—it is very, very low because that is what we wanted to do to force action.

I just want the majority leader to know that that is how I feel. I understand it and I think everybody here understands it, but I do not know how we are going to accomplish anything in the next few hours to alleviate that problem.

I yield the floor.

Mr. GRAMM. Would the distinguished majority leader yield?

Mr. BYRD. Yes.

Mr. President, may I say to the distinguished Senator from New Mexico he has indicated to me on yesterday that he would stay around here today until 6 o'clock p.m.

The fact that others may be leaving, that does not impress me at all. The others who are leaving may not even be involved in the negotiations.

The distinguished ranking manager is here; the manager is here, Mr. CHILES. Other Senators are here. The Senator from South Carolina is here; the Senator from Texas is here; the Republican leader is here; I am here.

We ought to go forward with those negotiations.

This Senator is not a standoffish Senator. If I have to walk across to the other side of the aisle and extend my hand, I am ready to do it.

I am not waiting on anybody to come to me. I may have to go to them and I shall.

We are talking about the interests of the people. This business about Senators leaving early to go elsewhere leaves me cold. How many coal miners are leaving their places of duty this morning? How many farmers are walking off the fields and leaving their work? We Senators get paid to work here. It has gotten to the point where we can't do business on Mondays, and Senators do not want to vote early on Tuesdays. They want to wait until the shadows of the evening are falling before they vote on Tuesdays. They want to leave early on Fridays. Not everybody who leaves early is going home on Fridays, I dare say. It might be interesting to know where they are flying to on Friday. Here is the place Senators ought to be. This debt limit extension is a serious matter. Nobody can point that out more vividly and more lucidly than the distinguished Senator from New Mexico has just pointed out.

I talked with Mr. CHILES earlier this morning and he indicated to me he was ready to negotiate. He said he was working on something to propose.

Mr. SYMMS. Mr. President, will the majority leader yield for a question?

Mr. BYRD. Mr. President, our business is here, and I hope we will stay ready to negotiate. I am certainly ready.

I hope also that in the meantime we will be able to take up the DOD authorization bill. The distinguished Republican leader is still working on that. He may have a response within an hour.

Mr. DOMENICI. Will the distinguished majority leader yield without losing his right to the floor?

Mr. BYRD. Yes.

Mr. DOMENICI. Let me say to the distinguished majority leader the Senator from New Mexico said he would be here until 6 o'clock. I share your concern that if others want to leave, that is their business. I am not really interested in where they are going.

Let me suggest to you that I had a slight change. So you will know, and I have told the minority leader, I must leave at 5. I am not concerned about anyone finding out where I am going. I am going to an economic summit conference for the Navajo Indians in New Mexico which has been scheduled for 3 months. Senator DECONCINI and I are cosponsors of it. We are trying to do something for people in an underdeveloped part of our Nation, with the heaviest unemployment in America.

It is not a trivial thing for us. It has been planned for 3 months. That gives us 5 hours today.

Mr. BYRD. It does.

Mr. DOMENICI. I will be here. If the other side has something to talk about and wants to begin discussing it, I am within a few moments.

Mr. BYRD. I thank the distinguished Senator.

Mr. GRAMM. Will the distinguished Senator yield?

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

Mr. GRAMM. I thank the distinguished majority leader for yielding.

I do not believe that yesterday was wasted. I admit it ended in frustration on both sides. I think there was a feeling yesterday that after 36 Republicans voted to waive the technicality that denied Senator CHILES, and then only 5 Democrats reciprocated by moving to allow us the same opportunity, I think there was a feeling that

perhaps there was a lack of reciprocity in treatment.

But I think we learned something yesterday. That is, we learned that the Chiles approach, despite the sincerity of the author, was not broadly supported. Only 25 Members of the Senate voted for it; 71 voted against it.

There are some on our side who feel that if we had had an opportunity to have an up-or-down vote as Senator CHILES did, we might have won. I am not going to cry over that spilt milk and I am not going to let feelings of fair play stand in the way of trying to work this thing out. I am here today. I was here yesterday. In fact, the day before yesterday, I spent 8 hours with Senator CHILES trying to work out a compromise that we could move forward with.

But I think what we learned yesterday, I say to the majority leader, is that a totally new approach to the problem, after we had spent 14 months trying to work out an approach that was broadly supported at one time, a new approach is probably not going to be successful; that if we are going to sit down together—and I am ready as of right now for the rest of the day to do that if and when we are invited to do that—I think what we have to do is to go back to something that we at one time agreed upon and work from there. I think what we learned yesterday is that we are unlikely, with the pressure of time that we have, to be able to reinvent the wheel. What we have to do is go back and look at that solid, old wagon that we adopted once, see how we can upgrade it, make some minor modifications to satisfy people's concerns, and see if we can put together a bipartisan consensus. I think that if we are unable to fix the Gramm-Rudman-Hollings law, it is not a partisan matter, the whole country loses from it. I think to the degree that we hold up the debt ceiling and we, in the process, have a negative reflection on the credit worthiness of the Nation, or if my mama and other people's mamas do not get their Social Security checks, we are likely to hear about it. I think there will not be any partisan element in there but it will be a negative reflection on everybody. I am ready to move ahead.

I think we demonstrated clearly yesterday that probably the most productive way to do that is to try to work on what we agreed to before and look at the new concerns that have arisen, to see if we can accommodate them in such a way that we can come together. I am certainly willing to do that. I hope we can do that.

I think delay hurts that effort, lessens the chances that we will get the Gramm-Rudman-Hollings law fixed and, therefore, have a chance to someday balance the budget we are all old and gone.

I, for one, am ready to try to move ahead.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Texas, the distinguished Senator from New Mexico, and the distinguished Senator from South Carolina. I believe that reasonable men, men of good will, can work together and we can move ahead today.

I am happy to yield to the distinguished Senator from Idaho without losing my right to the floor.

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

Mr. SYMMS. I thank the majority leader for yielding. I asked him to yield for the purpose of making a brief statement and then make a proposition to the majority leader in this process.

As a Member of the Senate who came over from the other body, I was in the House when the Budget Control Act was passed. At that time, in the early 1970's, we still had a process working in the Congress where we did pass 13 appropriations bills each year and there were 13 passed over here and 13 bills went to the President for either signature or veto. In the process of the numberkeeping, and so forth, of the Budget Control Act, in the way it is done, we have ended up where we are headed for another continuing resolution at the end of the year.

I know that is not what the majority leader wants. That is not what the membership of both bodies want. They would rather see the process work.

One of the problems I see is that the Budget Act is an abysmal failure. I agree it gives us a forum to debate, but that is all we end up doing, debating. The numerical projections of the numbers are unworkable in a practical sense. We have to project numbers of what they think they are going to spend and they are normally wrong.

For example, in program A, they project that last year we spent $100 million and they project next year we will spend $130 million. We cut $10 million and we say we cut $10 million in the process, but we actually spend $120 million.

When you continue to do that on all the different programs, what happens is that you cannot estimate how bad the deficit is going to be. And that is not the fault of the majority leader. That is not the fault of the minority leader. It is the process which makes it impossible for the Congress to be able to solve the problem. We all have our own constituencies. One Senator has a large group of farmers, one has a large group of senior citizens, or someone has a big military base. There is always the parochial pressure that each program is more important than the other.

I say to the majority leader that I have in my hand a sense-of-the-Senate resolution which I had intended to offer today as an amendment if we got on the debt ceiling, but it certainly could be a freestanding amendment, and it expresses the sense of the Senate that the Congressional Budget and Impoundment Control Act of 1984 has failed to achieve its purpose. It has a resolving clause that states that the forecasts of deficits upon serious reductions in programs for defense of the United States, domestic programs, cannot be used as a basis for planning, and so on and so forth. And then it states further that it is resolved that it is the sense of the Congress that the Congressional Budget and Impoundment Control Act has failed to provide a coherent method for Congress to exercise control over the budget process.

I have another resolution, Mr. President, which I did not think I would offer, which would repeal the Budget Act, give the President authority to impound spending because that is the only elected officer of the country who does not have a parochial interest; he has the Nation's interest, but I am not naive enough to believe the Congress is going to pass that yet.

But I suggest to the majority leader I have this resolution. I would be happy to call it up if he wanted. We could debate it very briefly and have a vote on it. He could get all of his Senators over here and maybe if they recognize what the problem is, Senators could sit down together and work this thing out so we could do the business the majority leader wants. At any time he wishes, I would be happy to call this up, send it to the desk, and debate it, if there is anybody who is interested in debating it, and get a vote on it.

I thank the majority leader for yielding.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Idaho, but as I indicated earlier, I prefer not to have amendments of any nature right now called up to the debt extension measure. That would necessitate our taking the principal actors from that arena. It would necessitate our tying them down here on the floor at this point needlessly when they need to be working in the back room trying to negotiate a compromise. By saying that, I do not denigrate his proposal at all.

Mr. President, I do not want to hold the floor and just field out the time; that is not fair to other Senators, but will the Senator from North Dakota be kind enought to tell me how much time he wishes?

Mr. CONRAD. Five minutes.

Mr. BYRD. Mr. President, I yield to the Senator 5 minutes without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from North Dakota.

Mr. CONRAD. I thank the Chair, and I thank the majority leader. I rise to try to communicate with those who are negotiating on the budget matter. Yesterday we had two votes, one on the Chiles amendment, one on the Domenici amendment, to fix the Gramm-Rudman-Hollings law. I voted against both of those measures, although I firmly am convinced that we must have a fix of the Gramm-Rudman-Hollings law.

One of the reasons I opposed both of those fixes was because the first year target in both was $150 billion, and I would like to try to communicate to those who are negotiating on the Gramm-Rudman fix when we passed our budget, we had a different set of assumptions than the ones we face now.

When we passed our budget, we thought the 1987 deficit was going to be $171 billion. We thought the 1988 budget deficit was going to be $134 billion. In other words, we had real deficit reduction from fiscal year 1987 to fiscal year 1988. In fact, we had approximately $36 billion or $37 billion of deficit reduction. And over the next 5 years the assumptions from the CBO told us we were going to see steadily declining deficits.

Now, the new estimates produced by CBO just last week paint a much different picture. Those new estimates tell us that the 1987 deficit will be approximately $161 billion, the 1988 deficit will be $152 billion, and that is without a supplemental. We know there will be a supplemental. We know that supplementals average about $10 billion. And that is assuming $19 billion of revenue. In other words, we have the very real prospect of the year-to-year deficit rising rather than declining.

I think that would be a policy mistake of major proportions. I think that would send completely the wrong signal to the country. I think that would break faith that the Congress had committed itself to year-to-year deficit reduction. That after all is what was contained in Gramm-Rudman-Hollings—year-to-year deficit reduction. I think it would mean higher interest rates. I think it would mean a continuation of the trade deficit. I think it would mean an addition to our status as the world's greatest debtor nation. Those are things we ought to avoid, and the best way to avoid them is to stick to the commitment to produce year-to-year deficit reduction.

So, Mr. President, I hope that those who are negotiating can listen and hear those of us who feel very, very strongly that there needs to be year-to-year deficit reduction. That is not going to happen if the first-year target is $150 billion. I am hopeful that they will go back and come back to us with a lower first-year target, one that assures the American people that we have year-to-year deficit reduction. Again, I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The majority leader retains the floor. The majority leader.

RECESS

Mr. BYRD. Mr. President, while I am waiting on the indication as to whether or not we can proceed to the Department of Defense authorization bill, rather than put the Senate into a quorum call, and so as to give the Chair a little time to get out and do some other work and the doorkeepers and faithful employees of the Senate around, who would perhaps like to get a glass of water or walk outside and get a breath of fresh air, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 11:27 a.m., recessed until 11:42 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GRAHAM].

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the distinguished Republican leader has a meeting going on in his office and another one planned with respect to the DOD authorization bill. He has indicated to me that he can give me an answer by 12:30.

ORDER FOR RECESS SUBJECT TO THE CALL OF THE CHAIR

So, I will ask unanimous consent that the Senate stand in recess awaiting the call of the Chair until 12:30, which means that any Senator may come over and the Chair will give that Senator recognition.

I ask unanimous consent that any recognition for Senators be only with reference to morning business, that Senators be permitted to speak in morning business, to be permitted to offer resolutions and bills, have them referred, but that the pending business not come down and that the unfinished business not come down prior to that time or no other business come down prior to that time unless the majority leader appears on the floor and after consultations with the Republican leader proceeds in one way or another. In this way if Senators have some morning business, they can offer the bills and resolutions, they will be permitted to speak in morning business which under the rules they are not allowed to speak in morning business.

At the same time it would not keep the Chair tied down. So I will make that request.

First I yield to the distinguished Senator from Vermont.

Mr. LEAHY. Only for a question.

Does this mean we will go immediately into another recess, because the Senator from Vermont would like 3 or 4 minutes at most in what would normally be morning business type discussion.

Mr. BYRD. Yes, Mr. President, this would not interfere with the distinguished Senator's wishes in that regard.

The PRESIDING OFFICER. The unanimous-consent request will incorporate the opportunity for Senators as in morning business to make appropriate statements and introductions but not to undertake the pending business of the Senate.

Is this a correct summary?

Mr. BYRD. The Chair is preeminenly correct.

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

The Senator from Vermont.

THE HILLS OF VERMONT

Mr. LEAHY. Mr. President, this morning it was my privilege to serve as the Acting President pro tempore to open the Senate and listen to the Chaplain's prayer, a very apt one, speaking of the stresses and strains on the Senate, the difficulty in working, the fact that Senators have worked very hard to accommodate each other's concerns to move the business of the country ahead. He spoke of us having a chance to perhaps go to the hill, seek solace, prayer and so forth, to guide us.

The distinguished majority leader as is his wont to do came back immediately with a most appropriate poem, one that happens to be a favorite of mine but, as I pointed out to the distinguished majority leader subsequently, while I enjoy reading it and am able to recognize it when reading it, I could not do as the distinguished Senator from West Virginia did and recite it verbatim.

The distinguished Senator from West Virginia has impressed I think all Senators over the years with his ability to recite not only poetry but the Bible, quotes from famous Americans, quotes from Shakespeare, and others and he always does it correctly, never with notes; oftimes obviously with no predetermination to do it because usually he will make an appropriate quote in response to something he just heard.

I recall listening to him do that, and I hope I do not embarrass the distinguished Senator in saying this, back in my days as a law student here in Washington when I would wangle a ticket to come in here from either Senator Prouty or Senator Aiken and hear him do it.

I would say, without the distinguished majority leader feeling in any way I am a Johnny-one-note, I, too,

want to have that chance to go to the hills for solace and for rejuvenation, for a chance to think about the problems of the world.

Now, the hill I have in mind, I say to the distinguished Presiding Officer who comes from a beautiful State and to the distinguished majority leader who comes from a beautiful State, much of which reminds me of my own, but the hill I think of is not a hill in the beautiful State of Florida, not a hill in the beautiful State of West Virginia, not the plains of the beautiful State of North Dakota, as I see my friend from North Dakota, but the hills of Vermont.

The hills of Vermont, Mr. President, are so beautiful this time of the year. They sit out there with shades of blue, green, gray. From my farm on the back of Hunger Mountain in Middlesex, VT, I look down this valley about 40 miles and in that 40 miles I do not see another home except for one that is a building in a clearing about 20-some-odd miles away and I intend one of these days to drive over and see who that is, introduce myself to them, my wife wants to perhaps bring them some food, a kind of welcome thing.

But my nearest neighbor is miles away, over hills. Our home sits in the center of a little tree farm, about 225 acres of just very, very pretty area. We have fields out front.

I remember this week, the day I came back, I got up very early so I could take a little swim before I flew back here. About 5:30, 6 o'clock in the morning, I was swimming around. I looked out across that field and saw a beautiful white-tailed deer just walk across there. In the afternoon, I might sit there reading and working on the business of the Senate, of course, I look up and I will see a hawk circling around there; hear the various birds singing in the bushes; sometimes even see a brown bear amble down across the dirt road.

This is a place so private and so comfortable that it was referred to once in an article in the New York Times which got reprinted. They told, Mr. Leader, of somebody driving up to the farmer whose property adjoins mine, the man who hays my field, grows corn in one of my fields to feed his cows.

A man in a large car drove up and he said: "Does Senator LEAHY live up this road?" My neighbor is kind of careful with my privacy. He said, "Are you a relative of his?" And the visitor said, "No." He said, "Are you a friend of his?" He said, "No, we never really met." He said, "Is Senator LEAHY expecting you?" The man said, "Not really." The farmer looked him straight in the eye and said, "I never heard of him."

Now, I mention that with my good friend from North Dakota here because he is going to be at my home for dinner Sunday night because we are having a hearing there on Monday with 9 or 10 members of the Senate Agriculture Committee. We have had our committee all over the country—in North Dakota, South Dakota, Iowa—in fact, it is the only time a whole lot of Senators came to Iowa and nobody declared for the Presidency—Minnesota, Georgia, Mississippi, Nebraska. Now, 9 or 10 of them are coming to Vermont. We decided to have a hearing in New England. I wanted to be fair about it. We picked a State alphabetically and ended up in Vermont. The Secretary of Agriculture will be there.

Mr. President, I will yield the floor in just a minute. As I go to the beautiful hills of Vermont, I just want to leave you with this picture: Looking down that lovely valley at the mountains, Mount Ellen, Sugar Bush Range, 35 miles away, one rolling into the other, sometimes it is blending in the various colors and various shades; I sit there and watch my apple trees, watch the applies grow; drive back down to my other home in Burlington, look out across the lake, see the sailboats on there, see the people I chat with as I walk down to get my newspaper, spend a couple of hours on the street just talking to anybody who might be on the street who has a question or anything else, finding out what is on their minds, knowing how they feel about the Iran hearings, how they feel about the trade bill, how they feel about everything else we might do here.

So I hope that I can join in the prayer of the Chaplain and go to the hills for the solace.

Having said that, I must say, however, that the distinguished majority leader has worked, has done the chores of Hercules when he thought he was emulating Sisyphus as he brought up the trade bill. Having done the impossible, he got that through. And now he is going to cap that, I guess, with DOD. And I will stay here to help him as long as that might be. But at the moment when that help is no longer needed, I will return to the hills.

Thank you.

WEST VIRGINIA

Mr. BYRD. Mr. President, "a word fitly spoken is like apples of gold in pictures of silver." The distinguished Senator from Vermont has drawn some beautiful word pictures of the hills and mountains of his great State.

Mr. President, if one really wants to see some beautiful viridescent hills and mind-boggling iridescent sunsets, go to Spruce Knob in West Virginia.

West Virginia is the most northern of the Southern States, the most southern of the Northern, the most eastern of the Western, the most western of the Eastern.

It is where the East says "Good morning" to the West, and where Yankee Doodle and Dixie kiss each other "Good night."

It extends farther north than Pittsburgh, as far east as Buffalo, NY, farther south than Richmond, the capitol of the old Confederacy, and as far west as Columbus, OH.

It is an intensely patriotic State. Its citizens have, in the Nation's wars, given their taxes, their treasure, and their blood. In Vietnam, West Virginia was No. 1 in deaths; in Korea, it was No. 1 in deaths, insofar as the State's eligible male population is concerned in proportion to the total eligible male population of the country.

It is a State that blends the old with the new. The interstates cross our State. They are like ribbons in the sunlight. One drives along those silvery ribbons and sees the green hills to the right and the verdant mountains to the left. And still it has the pioneer environment. Peoples still gather in some of the old country stores and sit on the nail kegs.

And when I take my fiddle, Mr. President, into the hills of West Virginia, and go back to one of those old country stores where you still see the horseshoes hanging on the walls and an old coffee grinder sitting up on the shelf and you look over behind the counter and see the Copenhagen snuff and the Brown Mule chewing tobacco—and they do not have spittoons like this one here—where is it? It is not even here at my desk. Yes, it is; it is made in Taiwan. They do not have spittoons made in Taiwan in West Virginia. I take my old fiddle and I sit down there on a nail keg, take off my coat, roll up my sleeves and play "The West Virginia Hills." And many times they will join in in song.

Ours, may I say to the distinguished Senator from Vermont, is a State with a million hills—a million hills. We have Harpers Ferry, where John Brown, of historical note, carried out his action on the great world stage. And we have Charles Town, the old courthouse still sits there where the trial of John Brown took place. As to parks and lodges, we have Blackwater Falls. You ought to see those Blackwater Falls. Those falls sparkle in the sunlight, at morning, at midday, and at evening.

There is nothing like a West Virginia sunset. A West Virginia sunrise. If one wishes to really reinvigorate his spirit, come to West Virginia.

Do not go to Vermont. [Laughter.]

Go to West Virginia.

Well, I will not say do not go to Vermont.

Mr. LEAHY. I want to say—I want to check the rules, Mr. President, if I might say.

Mr. BYRD. No, go to Vermont, but you will always come back to West Virginia if you go there once.

I should add that whether it is Vermont or West Virginia, we both can be proud that we are from States that are great States of the Union. They are beautiful States. We do not have to go to Europe; we do not have to go to Asia. Come to West Virginia, the little Switzerland; the land that is almost heaven, where we have friendly people. They are good neighbors. They believe in God. They believe in this country's flag.

It is the State with the lowest crime rate in the Union; a State whose people believe in law and justice; a State that was born in the midst of the Great Rebellion; a State that was born in the midst of a great civil war; a State whose people were divided in that conflict, probably two-thirds pro-Union and one-third pro-Confederacy, but those wounds have long been healed.

Come to our great reunions, the Hatfields and the McCoys.

The story of that feud is an interesting one. But our people stand together.

If I may just close by saying how wonderful it is that we as Senators can stand here and talk about our great States—and I am sure that we could spend the weekend talking about them. Of course other Senators would be willing to join in talking about theirs as well.

What a wonderful country this is. What a wonderful country this is and what a wonderful system of government we have in which Senators can stand and talk about their States. It is a country in which I can go to Vermont; I do not have to have a passport to go to Vermont. The Senator from Vermont can come to West Virginia. We live as good neighbors with Canada. We do not have to have standing armies on the borders. What a great country this is.

We often take it too much for granted. Sometimes we have to go abroad to really learn how wonderful a country we have of our own.

In some countries, we cannot drink the water. If you send a letter or postcard, it may never get to its destination. We all can be thankful that the Vermonts and the West Virginias and all others are as one, we stand united.

God has blessed us all. He gave us the beautiful hills of Vermont and the beautiful hills of West Virginia.

Mr. President——

Mr. LEAHY. If the Senator will yield? In that I have had the advantage of traveling in West Virginia, as I said earlier, it is absolutely a beautiful State. It reminds me so much of home, especially in the rural areas.

In fact, everything the Senator said has made me even more homesick and I am just sitting here hoping that he will say now, having let everybody know, everybody who may be watching and everything, how beautiful West Virginia, how beautiful Vermont, that he will close by saying: And he would encourage everybody—beginning, of course, with the Senator from Vermont—to go off to these States quickly. I say that because I see the distinguished Senator from Georgia, who is also going to be in Vermont this week, along with the distinguished Senator from North Dakota and the distinguished Senator from South Dakota and the distinguished Senator from Iowa and the distinguished Senator from Indiana and the distinguished Senator from Louisiana and the distinguished Senator from Arkansas, I believe the distinguished Senator from Alabama, and others, for our hearings.

But the Senator from West Virginia has just made it so crystal clear—best we be back there.

I know that he is doing everything possible to bring up this other legislation and I encourage him in that and I will stay here so I can help him any way I can, but once we reach the point that he feels we should be able to see first hand the beauties that he talked about, let me know because I will be out the door.

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

Perhaps it would be appropriate at this time to close this little dialog with a bit of verse by Henry Van Dyke.

'Tis fine to see the Old World, and travel up and down
Among the famous palaces and cities of renown,
To admire the crumbly castles and the statues of the kings,—
But now I think I've had enough of antiquated things.

So it's home again, and home again, America for me!
My heart is turning home again, and there I long to be
In the land of youth and freedom beyond the ocean bars,
Where the air is full of sunlight and the flag is full of stars.

Oh, London is a man's town, there's power in the air;
And Paris is a woman's town, with flowers in her hair;
And it's sweet to dream in Venice, and it's great to study Rome,
But when it comes to living, there is no place like home.

I like the German fir-woods, in green battalions drilled;
I like the gardens of Versailles with flashing fountains filled;
But, oh, to take your hand, my dear, and ramble for a day
In the friendly western woodland where Nature has her way!

I know that Europe's wonderful, yet something seems to lack!
The Past is too much with her, and the people looking back.
But the glory of the Present is to make the Future free,—
We love our land for what she is and what she is to be.

Oh, it's home again, and home again, America for me!
I want a ship that's westward bound to plough the rolling sea,
To the blessed Land of Room Enough beyond the ocean bars,
Where the air is full of sunlight and the flag is full of stars.

[Applause in the gallery.]

The PRESIDING OFFICER (Mr. FOWLER). The Chair will remind spectators they are guests of the Senate. They will show no displays. But the Chair will also add that he is overwhelmed with pride and admiration at the words of our majority leader.

The Senator from Iowa.

HIGH SCHOOL DROPOUTS, EVERYONE'S PROBLEM

Mr. GRASSLEY. Mr. President, on Tuesday evening of this week, this body passed legislation that I think very strongly deals with many of our trade problems and it has a lot of legislation added to it that tries to deal with our trade problems through improving our educational system and providing more educational opportunities so that the United States can be more competitive with our trading partners.

So today, Mr. President, I rise to speak to this body on the subject of high school dropouts, and the fact that high school dropouts is everyone's problem.

The national rate for dropouts has been estimated by the Department of Education to be 20 to 25 percent.

Substantial numbers of these students will never return to the educational system, ensuring for the dropouts and their families economic and social disadvantages for the remainder of their lives. These youth will neither be able to fully contribute to our Nation, nor will they be able to enjoy the higher quality of life available to those who have graduated from high school.

The economic cost of the dropout to society is reflected in the difficulty the dropout faces in obtaining and keeping a job, therefore, expenditures on welfare tend to be higher for dropouts, and, most of the unemployed pay no taxes. The costs to society for crime and crime prevention are higher as the number of dropouts increase. In Iowa we have less of a problem with the number of dropouts than in some States, but we found in Iowa that 45 percent of our State prison inmates have less than a 12th grade education.

Other studies show that each year we incur an additional $26 billion in social program costs as a result of our failure to graduate another 1 million "at risk" students. Not all dropouts do poorly, but the averages are definitely against them.

A 1986 Department of Education study by the Office of Educational Research and Improvement outlines the consequences to the individual of dropping out. These include the following:

Dropouts face an inability to locate and keep a job because opportunities are limited for them.

They have a decreased possibility for advancement, and are twice as likely as the graduate of the same age to be unemployed.

They earn a lower income over their lifetime. The average lifetime earnings of the dropout is $200,000 less than the high school graduate.

A second consideration is that dropouts tend to come from disadvantaged families. There is a disproportionate number of minority youth, who frequently have two strikes against them already with their socially and economically deprived backgrounds. One in eight of the Nation's 17 year olds is functionally illiterate, one in three minority teens is functionally illiterate. While youth are becoming a smaller segment of our total population, the number of youth in poor families is growing. About one in five children is now living in poverty.

It is projected that by the year 2000, a full one-third of the Nation's children will be economically disadvantaged. Children now constitute the largest age group in the United States who live in poverty. These poor or disadvantaged youth are the young people most likely to become dropouts. Children who have the least, need schools the most.

Since the educational achievement of poor youth is on average lower than the achievement of more advantaged youth, the basic skills competency of the entry-level work force is on the decline. This concerns not only the educational community, but the business community as well. If students do not finish high school, then it is doubtful they have sufficient knowledge, skills and abilities to function productively in society.

Unfortunately, changes in public education inspired by the reform movement of the early 1980's have done little to improve the performance, or retention, of youth who are doing poorly in school, or who have dropped out entirely. These reforms have focused on upgrading the achievement of youth already performing acceptably. Thus, this segment of the population falls farther behind in the basic skills made essential by an increasingly complex society and economy.

However, there is a bright side. Programs are now being initiated which appear to be stemming the tide of the dropout problem. Communities and/or States have designed their own programs to meet their needs. Some are within the normal school setting, others are designed as completely separate schools. The results have been gratifying. These various programs have reported:

Fewer students dropping out.

Their ability to read, write, and compute is at a higher level.

The students exhibit less disruptive behavior.

They exhibit better social adjustment.

They have improved attendance and fewer tardies.

The students have achieved a higher level of self-esteem

Morale has improved in the school systems as a whole.

And—employment opportunities have increased for these youth.

Some of these programs identify potential dropouts at a very early grade level and then provide special assistance, so fewer students in their schools become dropouts. Some provide incentives such as college scholarships for students who achieve a high grade point average and maintain excellent attendance records. Still other programs emphasize life skills and proper parenting, special counseling in life/career planning and workshops are held to help meet student needs.

The Nation's concern about the growing deficit has led us to proceed cautiously, as we must, in expanding programs which are needed to create the changes necessary to turn around the dropout problem. Both the States and the Federal Government have instituted programs which have proven effective in changing the dropout picture. I applaud their achievements.

Clemson University's Dropout Prevention Center estimates that 700,000 students drop out of public schools yearly. They estimate that the present annual cost of $26 billion, caused by these students dropping out, will become an eventual yearly cost of $77 billion in lost tax revenues, welfare, unemployment and crime costs. This is a social and economic cost which we cannot afford.

We must learn more about how to identify these potential dropouts early, how to prevent their dropping out and how to encourage those already out, to return to school. This information then needs to be disseminated to all State and local educational agencies.

High quality education for all young people and a strong economy are intricately intertwined. The Federal, State, and local government must work together to insure that the American public provides a quality education for every American child. Parents and teachers must instill in all children the value of doing their best in school, and impart the expectation of completing high school.

We must continue our investment in our youth, for this is truly an investment in America.

Even though it is 3 days since this body passed the trade bill, I think it will improve investment in America so that we are more competitive individually as well as collectively as a society, as an economy. The trade bill and those educational portions of it I hope will help accomplish these goals, particularly for reducing the number of dropouts because that has to be the key to America's competitiveness.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

TROPICAL OILS LABELING ACT

Mr. KARNES. Mr. President, I rise today to cosponsor and express my support for the Tropical Oils Labeling Act, S. 1109.

This bill advances aggressive efforts toward assuring a physically healthy America while giving consumers of vegetable oils a better opportunity to know about the products they buy. The bill will provide an important boost for our domestic oils producers as well.

When American consumers purchase food products, they rely on information printed on the grading label to assess the contents and quality of the product. However, at present, there is no comprehensive labeling requirement for vegetable oils. Consequently, consumers are often misled by labels which only disclose that the product within contains 100 percent pure vegetable oil. But this is only half the story, and not the most important half.

Palm oil, palm kernel oil, and coconut oil are categorized in the broad grouping of vegetable oils. However, they contain much higher levels of fatty acids than soybean oil, which is also a vegetable oil. S. 1109 is designed to correct this problem by altering labeling requirements for vegetable oils to enable consumers to make a conscious, healthful decision regarding the kind of vegetable oil contained in the product being purchased.

Palm oil, palm kernel oil, and coconut oil are all imported into the United States. They serve as not only a competitor to domestically produced soybean oil in terms of usage, but their usage does not necessarily contribute to the good health of consumers. On the other hand, soybean oil, also considered a vegetable oil, is recognized as a preferable vegetable oil due its high level of polyunsaturated fats, compared to saturated fats, which are a suspected cause of heart disease. The American Heart Association recommends the use of food products low in saturated fats as a means for reducing the risk of heart disease. Therefore, it is no surprise to this Senator that the American Heart Associa-

tion and the Consumer Federation of America support this legislation.

Mr. President, I believe this is a good bill from several perspectives. It requires identification as the type of vegetable oil contained, thereby providing consumers an opportunity to make a conscious decision regarding the healthfulness of the food they purchase. I believe that American consumers are indeed concerned about good health and the content of the foods they eat. This refinement in labeling will result in a third benefit—the increased consumption of soybean oil which will serve to increase market demand for soybeans.

Mr. President, we have just concluded 3 weeks of work on the trade bill in an effort to improve the competitive position of American producers. This is a product where Americans would clearly prefer to "buy American"—if they had the facts before them. Increased demand for soybean oil could only have a positive impact on the American soybean industry. Soybeans are a major agricultural commodity in the United States, and one of my State's largest crops. The value of soybeans produced annually in Nebraska is approximately $425 million—the fourth largest cash crop. It is estimated that the value of soybean oil displaced by palm and coconut oil consumption was $304 million in 1985. This is equal to approximately 75 percent of Nebraska's annual soybean production.

Mr. President, I wish to emphasize that this measure is not designed to be a protectionist measure, nor is there a cost to the Government. Rather, the thrust of S. 1109 could more accurately be described as a "truth-in-labeling" measure. I urge the Senate to pass the bill in the spirit of facilitating informed and healthy decisions by American consumers, and enhancing our Nation's agriculture industry.

Mr. President, I yield the floor.

DEBT LIMIT EXTENSION

Mr. JOHNSTON. Mr. President, I am delighted the majority leader is here because I wanted to speak on the issue of the debt limit and the Gramm-Rudman extension and let him know what my plans are and the plans of those who are in league with me. We affectionately call ourselves a cabal.

Mr. President, we feel very strongly about the issue of making the so-called Gramm-Rudman sequestration mandatory with absolutely no means to escape. It clearly is in my view one of the most, if not the most, far-reaching, important, difficult, complicated subjects with which we will deal all year.

Now, I know it is on this debt limit, but I for one feel that the issue of sequestration, mandatory sequestration is of sufficient gravity to demand at whatever cost appropriate consideration. I would hope, if we are going to deal with that, we could do so at a time when we have more chance to draft amendments and to really consider the matter.

It is only within the last 24 hours that I have received a copy of the Chiles amendment, and that is now under negotiation. There are those who say this amendment or that amendment is precisely the same as last year. We had that debate yesterday. There may be small changes which may have great import. But it takes time to ponder those. Not only that, but there are alternatives to that which they are drawing up, whatever it is, which are going to take time to consider. So at an appropriate time, the first amendment I would want to have considered is a second-degree amendment to the pending resolution, or to some appropriate legislative vehicle to test the Senate on the issue of a clean extension of the debt limit.

A second-degree amendment would be designed to do that by simply changing the figure stated in this resolution of $100 million, which I guess would give us a few hours' extra time on the debt limit, but essentially it would be just to test the Senate's will. How many votes are there for a clean extension? We ought to know that before we make the Senate and the country jump through all these hoops and suffer all the pain of maybe having the Government shut down for a few days.

Having Gramm-Rudman sequestration made mandatory is not the only way to extend the debt and keep the Government running. There may be Senators who are willing to filibuster if they do not get their way on Gramm-Rudman, but it is their filibuster, and it is on their shoulders that the responsibility will be.

The debt limit can be extended by simply adopting the present resolution, which is a simple, five-line resolution. In my view, that is what ought to be done. If it is not to be, it is not to be. But I can tell you that at some point we will have to vote on some kind of second-degree resolution that is a simple extension of the debt limit.

We could vote on that and adopt it, or vote on that and kill it, and have an appropriate test of the sentiment on that issue, and then go on with further debate on whatever the results of that committee are. It is certainly not meant to kill their results, but it is meant to give an indication of how the Senate feels on a clean debt extension. If that clean debt extension vote should fail—and perhaps it would on a first try—then I must say that there are a number of other amendments which would have to be considered. Let me state the general outlines of one amendment I would propose.

It is to say that if we have a sequestration, that sequestration should not adopt the formula of both Chiles and Domenici, both of which say you cut the budget 50 percent defense and 50-percent domestic. Rather, it would say that you have a one-third share of that which goes to revenues in the form of a surtax on personal and corporate income tax, one-third defense, and one-third domestic.

Mr. President, there has not been one serious proposal that I have seen come before the Senate or come before the Budget Committee that did not include revenues. There have been some political documents that have been sent up—impractical—but on both sides of the aisle everyone recognizes that some form of revenue is necessary between here and a balanced budget. If that is so, why in Heaven's name do we provide for a sequestration that does not have any revenue in it?

Under the amendment I will propose, it will say that if Congress does nothing, then you have the surtax on income. By the way, in order to raise $12 billion, which is one-third of the $36 billion target which is being discussed here, we would require a surtax on corporate and personal income of about 2 percent to 2.5 percent. I am not suggesting that is the way we ought to raise that revenue, but I am saying that it is not an unreasonable way to do it. But we would provide a mechanism under my amendment so that if Congress wanted to change that particular revenue package—substitute therefore a gasoline tax or whatever tickled the fancy of Congress at that particular time—my amendment would permit them to do so, utilizing the fast-track procedure. so that if that tax is not attractive, we can come back on the fast track and put in another tax.

Mr. President, it is curious to me, when we talk about sequestration—over here on this side of the aisle, why do people say we need sequestration? They say we need this terrible thing to make the President deal with us on the budget. What do they mean, "deal with us on the budget"? They mean to make the President accept some taxes. If that is the whole purpose of the sequestration drill, to get the President to accept taxes, on the assumption that he does not like taxes—and that is a safe assumption—then why do we put taxes in the sequestration? I can tell you why they were not there in the first place.

I remember when we were talking about that at the time we first confected Gramm-Rudman—I say "we" confected it. I did not have any part of it, except to suggest some things that were bad about it. I voted against it then, and I am still against it. I think it demonstrably has not worked. I do

not think it has reduced the deficit. To the extent there has been any restraint on the deficit, I think it would have been that much or more, anyway. I can tell you that it has delayed the process. We have not passed a single appropriation bill in the Senate. We put off all the work of the Senate until the last few weeks, and we put in one CR. We, in Congress, the President, and the people criticize that process. That is all brought about by the Gramm-Rudman law, as engrafted upon the budget.

In any event, if the purpose of that is to get the President of the United States to go along with taxes, why not put it right there in the sequestration document? The reason was, as I mentioned, that back at the time we were putting this together, in the first Democratic draft, we were not the majority. We had precisely that: a third, a third, a third; taxes, defense, and domestic. But, in the wisdom of the Democratic meetings, we decided not to put in taxes, because at that particular time we did not want to be accused of being for taxes. This was right before the election, and President Reagan was saying that we were tax and tax and spend and spend Democrats. So we should not be guilty of being for taxes.

The fact of the matter is that that was not valid then, and it is not valid now. Everyone recognizes—I say everyone. Everyone who knows much about this budget and is willing to be candid about it recognizes that you cannot cut that much safely from the budget without revenues playing some part. Indeed, the President's own budget has some revenues. He calls them user fees, but they are revenues.

In any event, Mr. President, that is a serious discussion that has to take place here if we are going to go to this automatic sequestration. For those amendments and the discussion which they will provoke, we have to set aside time here.

I was hoping that we could consider those matters on the floor today. I am not arguing with the leadership in not allowing for that time today. But I want to put everyone on notice that I have been ready. I tried to submit one of these amendments yesterday. They are going to take some time and will provoke some discussion.

So, when Tuesday rolls around and we have not finally disposed of this matter and there are amendments still pending, let it not be said that the senior Senator from Louisiana is standing or has stood in the way of action on this bill. I am ready with my amendments to begin the discussion, to begin the amendatory process.

If it is more approrpiate that the other group, those who believe in this automatic sequestration, have time to deal before we consider everything else that may be an appropriate strategy. But it is not going to be the fault of the senior Senator from Louisiana that we have not adopted this resolution by Tuesday, because my amendments will be debated and it will take some time and it may take a lot of time.

Frankly, I doubt the basic wisdom of trying to legislate with a gun to our heads on matters of this gravity.

To me, it is like the old kamikaze planes in World War II. You know they would take off from the carriers loaded with bombs, the bombs would be armed, the cockpits would be locked and the wheels would drop off the plane so there was nothing the kamikaze pilot could do but crash into the aircraft carrier.

Under the present law we have a cockpit we can get out of if we want to and jump out in the parachute. That may be a little dangerous to do but at least we can do it.

If we are going to lock that cockpit, take away the parachute and arm the bombs, then I say let us at least consider it for a little while before we do it instead of coming with just a few minutes or a few hours before the time set for the Government to shut down and say, "Oh, you can't consider how you are going to do it; you have to get in that plane, you have to close the cockpit, lock it, take off, drop the wheels and go kill yourself and the country." And maybe somebody will maybe figure out something in the meantime, maybe the President would say, "Oh, yes, I like that $19.3 billion package of taxes."

Mr. President, I do not know a lot of things, and I may not be one of the intimates of Ronald Reagan, but I can tell you as the Sun is shining out there today, and believe me it is searingly hot, as the Sun is shining out there today, President Reagan is going to veto that tax package if the Congress can pass it. He is going to veto it. And then there we are going to be set with the cockpit closed and locked, the landing gear gone and the bombs armed and somebody is going to say "Well, let's think of something."

I can tell you what in my view is going to happen. The American public is going to be all over us like a cheap suit. They are going to be saying "Do something; restore my COLA; take care of my retirement; please don't take our nutrition funds away; you have got to restore this money for national defense, because we are going to have to let off a division, we are going to have to shut down the aircraft lines," and believe me, we are going to have to do some of that if you are going to cut $12 billion. Well, really it is going to be more than $12 billion out of defense. If you have to cut $36 billion in outlays that is $18 billion in outlays in defense which translates to about $36 billion out of defense and in budget authority because there is about a 2-to-1 spend-out rate in national defense.

If anybody thinks you can cut $37 billion out of national defense and do it, you know, even do it in any kind of rational way, you have not looked at the defense budget or else you have a wholly different view of how much the defense of the country needs than I do and some have criticized me for not being strong enough on national defense, but that is going to happen.

The public is going to be in here first mad as a hatter at the Congress, and they ought to be, and people are going to say, "Don't blame me; blame the President."

Now, that is just not going to wash. They are going to say, "How did you vote on this procedure that we are in right now? How did you vote on this kamikaze flight?"

You are going to say, "I voted for it, but * * * " "But what?" "Well, you got us into this," they are going to say "you get us out of it," and it is going to be not only a severe political embarrassment, and it ought to be. It is going to be more than that. It is going to be an economic crisis of severe dimensions to this country.

So if anybody thinks we are going to get into that, just back into it smiling and do so on a unanimous-consent request with a couple hours' debate and no amendments considered, they have another thought coming.

This is deadly serious, and you know we are locking ourselves into that not only this year but for 5 years to come, and the only way you can get out of it is by 60 votes. You know in the kind of partisan politics we play around here, the dedicated minority, and maybe the Democrats will be in the minority in the next Congress, if we adopt this we may very well be, but a dedicated minority can frustrate an intelligent majority very easily when you have a 60-vote requirement. When you can do it by majority rule, it is not so easy, but you can certainly do it and usually successfully do it with a 60-vote requirement.

So, Mr. President, I think the Senate ought to consider these matters and I think the Senate will consider them, and I stand ready to begin the amendment process or the discussion process just as soon as the schedule is appropriate for doing so.

I thank the majority leader for sitting here and listening to my long ruminations.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his observations and he is a very able member of the Committee on the Budget and certainly his thoughts, opinions, and ideas are very important. I am sure he will have an opportunity to call up amendments to the debt limit extension measure in due time.

I do not want to bring the measure up today. I am trying to give the chairman of the Budget Committee and the ranking member and others as much of an opportunity as I possibly can away from the floor to continue their negotiations. I have no pat answer to this problem. I do not say that I have the answer and somebody else does not. But I do feel it is incumbent upon me as much as I can to give them the opportunity to try to develop an approach that will have bipartisan support.

That is the only way I think we are going to be able to deal with this situation and it is critical. I do not know of anything that is as important as this matter at this time.

So the distinguished Senator, I am sure, will have the opportunity to offer amendments and to speak as long as he wishes, and his talents are extensive and his persuasive abilities are virtually unlimited.

But at this time I hope we can get on with something else. I have been talking with the distinguished Republican leader about getting up the DOD authorization bill so as to give our negotiators on the debt limit extension—I will refer to them as negotiators—right now I am kind of casting my lot with the chairman, I want to help him as much as I can as I always try to help any chairman of any bill that is called up here, I want to give them as much of an opportunity and support as I can, and if those efforts fail, then we have to try something else. Maybe we can just go to the bill and let amendments be called up.

The distinguished Senator from Arkansas I believe wants the floor and I do not mean to hold it. Does he wish to speak at this time?

Mr. BUMPERS. Mr. President, I wanted just a couple of minutes in morning business for purposes of introducing a bill.

Mr. BYRD. Fine.

Mr. President, I ask unanimous consent that the distinguished Senator from Arkansas may speak in morning business and that he may speak for not to exceed 5 minutes.

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

The Senator from Arkansas [Mr. BUMPERS] is recognized.

(The remarks of Mr. BUMPERS appear later in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF PROCEDURE

DOD AUTHORIZATIONS

Mr. BYRD. Mr. President, I had inquired of the Republican leader, as I stated earlier today, if it might be possible to call up the DOD authorization bill while we are negotiating behind the scenes on the debt limit extension. The distinguished Republican leader has certainly made the effort and has had some meetings. I would like to yield the floor to the distinguished Republican leader for whatever comments he may have in respect to what the prospects may be for our taking up this bill, Mr. President, the DOD bill. I believe we could complete action on this bill by the August recess and complete action on the debt limit extension, which we have to do one way or another.

But while we are having these long quorum calls and recesses and periods for morning business, in which I extol the virtues of my State and talk about the beauty of the hill country and how lovely it is, that is all well and good. But we do have to get on with some of the other business, and that was my hope, that we could get on the DOD bill.

I yield to the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader, Mr. DOLE, is recognized.

Mr. DOLE. Mr. President, let me indicate that we have had a meeting, just concluded in my office at about 12:30, with Secretary Weinberger, Frank Carlucci, and, I think, all Republican members of the Armed Services Committee, with the exception of two members, and in addition, the distinguished Senator from North Carolina, Senator HELMS, the ranking member on the Foreign Relations Committee.

We did that in response to the request from the majority leader. I share his view that if we can get something going—we have a lot to do. Time is going by and the calendar is there.

But I must say that it was fairly conclusive in that meeting not to alter our stance on taking up the DOD authorization bill, unless, as the Senator from North Carolina suggested, we could remove the Levin-Nunn amendment from the Defense authorization bill and shift it over to the State Department authorization bill where it properly belongs, along with any other arms control amendments.

So if we could bring the DOD authorization bill up free and clear of the Levin-Nunn amendment, and also with the understanding that there would not be any SALT amendment or any other type of arms control amendments offered to the DOD authorization bill, we could proceed. As I understand it, the State Department authorization bill has been reported. Therefore, we could move the Levin-Nunn amendment to the State Department authorization bill, take up the DOD bill, and maybe could have time agreements on a number of amendments.

I agree with the majority leader that the DOD bill would be something that we could complete, something that we could fill in the gaps with, as we try to work out some compromise on the debt limit and the so-called Gramm-Rudman-Hollings fix.

So that is precisely where we are. I cannot tell the majority leader that we can proceed to the DOD authorization bill.

Let me also just comment briefly—and I know the distinguished Senator from Virginia would want to also comment on what I have just stated, and also on the statement by Senator BUMPERS.

I think one thing that was certain this morning, when we woke up and learned that one of the tankers had struck a mine in the Persian Gulf, is that somebody would have a bill today to introduce. We did not know what time it would be, but we all knew it would happen and there would be a press conference and somebody would be decrying American policy. That is surely a right we all have.

But I do believe, having discussed that briefly with Secretary Weinberger, that it is not going to change our policy there. It shoud not change the administration's policy there. I would hope that maybe there will be some time if not today, some time next week that that matter could be fully debated.

Mr. HELMS. Will the Senator yield?

Mr. DOLE. I am happy to yield the floor. The majority leader has the floor, but I would be happy to yield the floor.

Mr. BYRD. Mr. President, I just do not want the debt limit extension bill to come down.

I ask unanimous consent that we may proceed for 15 minutes for a discusssion of the program.

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

Mr. BYRD. Mr. President, I do not want to stray too far away from the subject matter of the program for this afternoon. I certainly want the Senator from North Carolina to be heard and the Senator from Virginia. But I would like at some point to have Senator NUNN here. He is on his way to the floor.

Mr. WARNER. Mr. President, I wonder if the distinguished majority leader might permit those of us who wish to address the bill introduced by Mr. BUMPERS to do so momentarily. I see the distinguished ranking member of the Foreign Relations Committee on the floor. I could wait.

Mr. HELMS. I just had one observation to make, if the able Senator will yield to me.

The Levin-Nunn or Nunn-Levin amendment, however it goes, does not even belong on the DOD authorization bill. It is clearly under the purview of the Foreign Relations Committee. Arms control is in the same category, I would say to the able majority leader.

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I assure him that, for my part, I will do everything that I can to expedite the consideration and the conclusion on that bill. I feel sure that Chairman PELL will feel the same way about it. But I hope we can work out an accommodation on the matter.

I thank the Senator for yielding.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. ADAMS). The majority leader has the floor.

Mr. BYRD. Mr. President, I will not keep holding the floor. I hoped that Senator NUNN would be here.

I sense that we probably will not get consent to take up the DOD authorization bill this afternoon, but I would rather not put that request until Mr. NUNN is here. Perhaps, with some colloquizing with Mr. NUNN and others, who knows what may be the outcome. I have heard what the distinguished Senator from South Carolina had to say.

Mr. WARNER. Mr. President, if the majority leader would yield for an observation.

Mr. BYRD. Yes.

Mr. WARNER. I think we had a constructive conversation during the course of the morning on possibilities. I, for one, wish to express my appreciation to the leadership, both for the majority and minority and to the members of the President's Cabinet who came down here today to provide us with their views on this. Other members of the Armed Services Committee and indeed the ranking member of the Foreign Relations Committee were present this morning so I think we could have what I would regard as a profitable colloquy this morning on that issue and we will await the arrival of the distinguished chairman of the Armed Services Committee.

Mr. BYRD. I do not want to keep holding the Republican leader on the floor. He has some other matters for which he has to leave the floor. But I am concerned that once a Senator strays away from the floor, it takes a while to get him back.

I want to thank the Republican leader for having the meeting. He has called people together and called people from downtown. I want to thank him for that.

I want to know one way or the other this afternoon if there is going to be an objection, but I hesitate to proceed while Mr. NUNN is not on the floor.

EXTENSIONS OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be morning business for 15 minutes and that Senators may speak during that period.

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

REFLAGGING IN PERSIAN GULF

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

MR. WARNER. Mr. President, I regret the distinguished Senator from Arkansas had to leave the floor. He indicated to me, however, he had another commitment otherwise he would be here. But I did want very much to make a reply to certain comments that he made in association with the introduction of his bill.

He asked what would be the reaction of the American people to the misfortune of an exposion, earlier this morning, on the tanker.

Within the hour, I met with the Secretary of Defense and the National Security Adviser. The United States is still looking into the details of this incident.

The Senator from Arkansas asked, however, what will be the reaction of the American people? Well, my first reaction was that I was very grateful that there had been no injuries, and particularly none involving the brave men who are conducting that convoy duty as we are here this morning safely in the U.S. Senate.

My second reaction was that I hoped that the leadership of this Nation, the President and the Secretary of Defense, indeed those of us here in Congress, would approach this incident, as well as others that may follow, with a sense of calm, coolness and dedication to try and reach carefully thought out conclusions. Indeed, each day we should examine the risks of our operations in the Persian Gulf. But inflammatory remarks such as this press release that I have just been given, should not be a part of our deliberations.

This press release states as follows:

Mines in the waters of the Persian Gulf could become what mines and boobytraps were in Vietnam. * * * This is not standing tall in the gulf, said Bumpers. This is using the United States flag as a target in a shooting gallery.

With due respect to my colleagues who issued this press release, it seems to me that that type of rhetoric is not befitting the seriousness of this particular incident; the seriousness of the commitment of our President, the men of the Armed Forces aboard these ships, and other elements of our Armed Forces in that area today.

I am perfectly willing, as has been the leadership of this body and other Members, to periodically examine this issue and others involving the gulf. Many of us expressed our concerns initially. But the decision has been made, the President has gone forward with the execution. Therefore, I urge the Senate, in their continuing examination, in the continuing consultation process between the executive branch and the legislative branch, to proceed with cool heads and carefully chosen rhetoric.

I thank the President.

The PRESIDING OFFICER. Who seeks recognition? The majority leader.

Mr. BYRD. Mr. President, the distinguished Republican leader indicated that we might renew our discussions with respect to the prospect for calling up the defense authorization bill within about 15 minutes and I have asked Senator NUNN to try to be on the floor at that time.

I ask unanimous consent, therefore, that the Senate stand in recess until 1:30 p.m. today.

There being no objection, the Senate at 1:08 p.m. recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ADAMS).

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Washington, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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.

UNANIMOUS CONSENT REQUEST—DOD AUTHORIZATIONS

Mr. BYRD. Mr. President, I think about the best way to bring this matter to a head is for me to ask unanimous consent, and Senators may reserve the right to object and speak their piece. I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 120, S. 1174, a bill to authorize appropriations for the 2 fiscal years 1988–89 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Mr. DOLE. Mr. President, reserving the right to object, and there may be others who want to speak, otherwise I shall object. As indicated earlier we did have a meeting this morning, a good meeting, that included the Secretary of Defense and the President's National Security Adviser, Mr. Carlucci, and along with eight or nine Republican Senators, and in an effort to see whether we could reach some agreement to bring up the DOD authorization bill and get a time agreement on a number of amendments and try to accommodate the majority leader while we are working out the

debt ceiling problem and accommodate the chairman of the Armed Services Committee and the ranking Republican on the Armed Services Committee. I must say that, one, it was a very good meeting; it only lasted 30 minutes; everybody showed up on time, which was a bit of a shock, but which permitted us to end the meeting on time. But it was fairly obvious that we could not accommodate the majority leader or the chairman of the Armed Services Committee.

I do not know what to suggest, except maybe another cloture petition on the motion to proceed or whatever the leadership on that side, of course, wishes to do.

There may be others who wish to speak on a reservation. If not, I will object to the unanimous-consent request.

Mr. WARNER. Mr. President, reserving the right to object, I first want to thank the distinguished leadership of the Senate for indicating the willingness to readdress this question.

The chairman of the Armed Services Committee and myself from time to time discuss it. We see many advantages to the overall national defense of this country, particularly the 2 million men and women serving in uniform, to have this bill addressed.

However, from the onset; namely, the final concluding day of the committee consideration of the bill, it has been unequivocally clear that I and other Republicans feel that a specific provision of this bill is so alien to the interest of the United States that we cannot in good conscience at this time go forward unless there is some provision made whereby the Senate be given an opportunity to address that provision known as the Levin-Nunn amendment, together with arms control provisions. We recognize it is the will of the Senate and the right of the Senate to discuss these provisions.

It would be our hope that the chairman and others would consider a piece of legislation other than the authorization bill and that we could reach an agreement to put those amendments, to be quite candid, matters relating to foreign policy on another piece of legislation and enable this bill to go forward.

Mr. NUNN. Mr. President, reserving the right to object, and I shall not object, but I would like to discuss this just a moment. I appreciate the majority leader giving us an opportunity to make this effort to bring the bill up. We, of course, tried to bring the bill up for the last 2 months. We will continue to work on that to try to bring it up.

I want to thank my colleague from Virginia for good faith efforts on his part, and the minority leader, Senator DOLE, for good faith efforts on his part, to try to see if there could be a way to bring the bill up.

I think time and the clock are ticking against us now. The Senate calendar is getting more and more full in terms of things that are to come and things that are backlogged now.

I think the chances of getting an authorization bill if we do not get it before the August recess go down appreciably.

Frankly, as the Senator from Virginia already knows, we have had some informal conferences going on and I would feel obligated to try to get our committee together and inform everyone, both majority and minority, of some of that informal, nonbinding discussion that has gone on with the House of Representatives before the Appropriations Committees mark up the defense appropriation portion of the appropriations bill.

The reason for that is if we do not do that the appropriations bills will become the operative bills this year on defense and we will not have any need for an authorization bill.

Once this occurs, there will be some things like military construction and pay for our men and women who are risking their lives and so forth, every day that are going to be very difficult to address without an authorization bill, but perhaps we could even figure something out on that.

The point I would like to make to my colleagues is that the need for an authorization bill is before the appropriation bill. If the appropriation bill precedes the authorization bill, then the authorization bill itself becomes if not irrelevant at least less relevant.

So we are going to have to move before the Appropriations Committee does to give them the best advice we can offer based on the good faith efforts of our committee with all participating on both sides of the aisle and based on the results of an informal dialog by various staff members on the Senate and House side that will have to be ratified completely by both our committee and the other committee.

So unless there is a change of heart on that side of the aisle, we may very well not have an authorization bill this year. I do not like that. I think it is bad for the process. I think it is bad for the committee. I think it is bad for the military forces of our Nation. We have spent enormous amounts of time on this. But I am prepared to accept that as being inevitable if our colleagues do not have a change of heart.

I know that some have tried to bring about that change of heart in good faith.

So I thank my colleagues who have tried to get the bill up. As I said before, I will be pleased to separate out the so-called Levin-Nunn amendment at any point and put it on any piece of legislation that comes before the Senate provided the strategic defense initiative funding goes with it because if you separate those two it makes no sense whatsoever and that is, of course, the same offer we had 2 months ago.

So we are right where we were. We made no progress that I see unless someone on that side of the aisle has a change of heart.

I would hope we could have another cloture vote at some point. I know there are a lot of procedural things to consider in this regard.

But I would just like to advise my colleagues that I feel compelled as a chairman of the committee and as a duty as the chairman of the committee to give the Appropriation Committee our best advice and unless we have had some breakthrough in this regard by the time we break for the August recess, I think we will have no option other than to go ahead and just understand that we are not likely to have a bill this year and give them the best advice we can.

Mr. President, I shall not object.

The PRESIDING OFFICER. The Senator from South Carolina. I will protect the rights of each Member. Each is reserving the right to object, and I will recognize the Senators in the order that they rise.

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, reserving the right to object, and I shall not object, I feel very keenly, as the Senator from Georgia does, that we have an authorization bill. I serve on the Defense Appropriations Subcommittee of the Appropriations Committee.

But I feel equally strongly that we stop rewriting treaties and foreign policy on appropriations and authorizations bills. And that is why I oppose so strongly the Levin-Nunn amendment and want to sort of check in with my leader and those interested in this particular subject, whereby, like Voltaire says, I disagree with everything he says, but I agree on his right to say it, similarly, I disagree with the Levin-Nunn amendment, but I agree with the right of the leader to call it up. So I have been voting with the leader.

But that should not mislead the strong sentiment on this side of the aisle that the discipline has broken down. And I can be specific. When I first came here and introduced the textile bill and thought I had really, you know, won everything, they blue-slipped it over in the House of Representatives where the distinguished Presiding Officer served, and we have not seen that bill since. But we have not effected that kind of discipline over on this side, and you can rewrite any treaty on any appropriations or any authorization bill and we bring it over and we redebate it.

And here is one that has been passed and been a good one for some 15 years, with no questions asked, and now we are going to what is implicit, when the

negotiators and the signers said it was precise, and we can go right on down and show that the treaty speaks for itself. I want to be able to show, since the distinguished Senator from Georgia has had a chance for 3 days to stand up and present his view of what happened back in 1972 when many of us voted for that treaty and have supported it and continue to support it, that it certainly does not contain what he says it contains. I can prove that to the Senate's attention, but, Mr. Leader, you have got to get their attention first.

And that is why I have come to the floor, not to object to any unanimous consent, but to register that I want to be present when we have any kind of a time agreement, because we rush through things now and people get all committed up before they even read what they are voting on.

I thank the distinguished leader. I will not object.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming was on his feet reserving the right to object. The Senator from Wyoming is recognized, having reserved the right to object.

Mr. WALLOP. I thank the Chair.

Mr. President, I reserve the right to object and, absent any other objections, I shall object.

I listened to the Senator from Georgia suggesting that it is time for a change of heart. My suggestion is that, this amendment is the heart and that removing it from this bill is the sign that we need to move forward on it. It is basically irrelevant to the armed services budget authorization. It is that which has created our inability to vote, ours, the Senate.

He talks about the concerns that may be in the hearts of the men and women in uniform and others as we go through this process. I understand that. But the change that is necesary is to clean this up so that it is a DOD authorization and not the deauthorization of the President's ability to negotiate in Geneva.

In Heaven's name, right at this moment at the very time when we are in the end game in Geneva in the INF negotiations, along comes the Senate to debate a contentious issue and hand-tie the President right at the moment that he needs the most explicit authority and the most negotiating room that he could possibly ask for. All of this in the same months that we have new information of new Soviet violations of the ABM Treaty, and even more, the alarming stories that have arisen about the Soviet's MIR experiments. And we are sitting here trying to seal ourselves in a vacuum of information that the appropriate thing to do is to tie the defense of this country to what is, in essence, a sophist debate on the interpretation of words, an interpretation that is essentially the privilege of the executive branch, both traditionally and historically.

For these reasons, Mr. President, absent other objection, the Senator from Wyoming shall be happy to object.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, reserving the right to object, and I will object if the Republican leader for some reason chooses not to, let me say, Mr. President, that it has been a couple of months since we had anything like a discussion of the reasons for this honest disagreement between the members of the Senate Armed Services Committee and by and large between the two caucuses that occupy this floor. The reason, very simply, is that there is one provision in the defense authorization bill that is the sticking point. Reference has been made to it on this floor, it is the so-called Levin-Nunn amendment, the substance of which is to condition funding for the SDI Program upon the acceptance by the United States of an interpretation of the ABM Treaty that would prohibit the development and testing of certain antiballistic missile defenses. For there, it would relegate us to pure research within the four walls of the laboratory.

Mr. President, as the distinguished Senator from South Carolina has very clearly indicated, that is unwise. As the distinguished Senator from Wyoming has indicated, it tends to totally undermine the bargaining position of American negotiators in Geneva, at this very moment at work upon the kind of negotiations that we hope can lead to a breakthrough in meaningful arms reductions talks and actual agreement.

There has been reference made on this floor by the distinguished chairman of the committee, my friend from Georgia, Senator NUNN, that if we do not even at this late moment go forward, if we do not like action on that DOD authorization bill prior to the August recess, all of the work of the Senate Armed Services Committee on that bill is lost and we, as a committee, become irrelevant to the appropriations process, a process by which funding for the armed services is affected.

Well, that is absolutely true. And as much as he objects to it, as much as he regrets it, I regret it. But I would have to say, Mr. President, there is something far more important than committee prerogatives. What is more important is that we set a precedent very clearly, and make it stick, that this kind of provision, which has no place on this legislation, not be tolerated on this legislation.

The Senator from North Carolina, who is the ranking member of the Senate Foreign Relations Committee, has made the suggestion that this provision, if it belongs anywhere, belongs on the State Department authorization bill. I think that is a correct observation. Certainly it is correct that it has no business being on this bill. I would argue substantively that it has no business being before the Senate, but that is a debate on the merits and on the substance of the kind that the Senator from South Carolina wishes to engage in.

But the real point the people of this country who are paying attention to this debate should understand is simply this: The Republican members of the Armed Services Committee, the Republican Members of this body are perfectly willing to go forward with the defense authorization bill upon which we have worked hard and which we think to be otherwise a good bill, but this amendment does not allow us in good conscience to do so. We have to oppose its coming to the floor because this is not simply another amendment among hundreds. It is special. It is, in the view of many of us, unconstitutional in that it seeks to usurp the authority that is given exclusively by the Constitution to the President of the United States. It is important in a special way, a unique way, in that it does undermine the SDI Program, it does undermine negotiations in Geneva.

So, Mr. President, we would be delighted to be able to see the DOD authorization bill move. It is otherwise a largely good bill; not perfect, but a good one. But that really is not our option. The price that we are asked to pay is simply too great. And if committee prerogatives must suffer, so be it. Because our importance to this process is of infinitely less importance than that we observe, in this year when we celebrate the bicentennial of our Constitution, those provisions relating to the separation of powers that say it is the President of the United States that shall negotiate treaties and it is important that we not engage in the kind of revision that will violate that principle that is clearly embodied in the Constitution.

So that, my friends, is why we are at this unhappy pass and why people who do not wish to be irrelevant to that appropriations process are prepared even to suffer that unhappy consequence. It is important that people understand that this is a very, very bad precedent.

We should have had this fight out last year, Mr. President, in the conference on the defense authorization bill when the House of Representatives, in two or three provisions relating to arms control treaties, sought to impose upon the President of the United States and the people of the

United States, observance of an unratified treaty.

That is wrong. And we started to have that fight, Mr. President, but did not conclude it. Why? Because the House Democrats, members of that conference committee, those conferees, did not wish to undermine the President on his way to Reykjavik and it was on the eve of Reykjavik that, in fact, they decided to withdraw from that engagement and withdrew those amendments.

Well, I commend to them that same thought now. Let them once again exercise some responsibility and understand what they are about. It is not the President going to Reykjavik but it is his negotiators, our negotiators in Geneva who are being undercut by this amendment, however well intended it may be. It would give to the Soviet negotiators what they cannot get at the bargaining table. That is what this is all about, Mr. President. That is why it is so important.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I made a unanimous-consent request. Senators may reserve the right to object, but I do not lose the floor when I do that but I have to stand here to keep the floor. If I sit down I will lose my right to the floor.

I wish someone would either object or say they are not going to object and let me sit down.

The PRESIDING OFFICER (Mr. DASCHLE). Objection is heard.

Does the majority leader continue to seek recognition?

Mr. BYRD. Who objects? The Senator from California.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I make this one request and then I yield the floor.

I ask unanimous consent that there be a period for morning business not to exceed 30 minutes, Mr. President, the Senators to be permitted to speak therein.

The PRESIDING OFFICER. Without objection, the Senate will be in morning business for 30 minutes.

The Senator from Nebraska has been standing and seeking recognition.

Mr. EXON. I thank the Chair.

Mr. President, I was patiently waiting to become involved in the debate that just took place but I am delighted that I can do it in morning business and I will be as brief as possible.

I think the record should be very clear—could we possibly have order in the Senate, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Nebraska.

Mr. BYRD. I ask also, Mr. President, if the Senator will allow me, that the Senator's remarks appear in the RECORD in conjunction with the colloquy in respect to my request that it not be shown in morning business elsewhere.

The PRESIDING OFFICER. Without objection.

Mr. EXON. I thank the majority leader.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I am keenly disappointed that we were not able to get an agreement despite the fact that there were some on the other side of the aisle that want to bring this bill up.

What we are facing here, of course, is a filibuster against the defense authorization bill by those on that side of the aisle, for very good reasons that they believe in. They object to bringing the bill up and are going to continue to follow the filibuster route, which I think is an ill-advised one indeed.

I frankly am getting just a little bit worried, Mr. President, for any of us who do not support aid to the contras are indirectly branded as not being in support of the President of the United States and his foreign policy.

Many of us who have gone along in many key votes, as those on that side know, are painted with that broad brush that if you do not agree to drop a very important amendment that was adopted by the Armed Services Committee, then you are trying to tie the hands of the President of the United States in negotiations with the Soviet Union. Nothing could be further from the truth.

What those on that side of the aisle are attempting to do is to thwart the will of the Armed Services Committee, that, despite what they say, has a key role to play in where and how much money we are going to spend, at least through the authorization process, for the continued defense of the United States of America.

If everyone knew the details that went on during the lengthy process of authorizing the strategic defense initiative through the Strategic Subcommittee that I chair, and then through the Armed Services Committee itself, it would put all of this in better perspective.

What is the issue? The issue, Mr. President, simply is that there are those of us who support the Levin-Nunn amendment for the reason that we think it is in the national security interest of the United States and for the free world.

The other point of view is that the President of the United States and his operatives continue to say: Congress, do not bother yourself with these things. This is in the realm of the executive experience. This is in the realm that only the President and his nonelected advisers know everything about. Do not be fooling around with this. You are only Members of the U.S. Senate that under the Constitution, I might say, have responsibilities as far as confirming or approving any treaty that this country involves itself with, with any foreign government, Russian or otherwise.

I simply say that the key issue here is whether or not the majority will of the hawkish, and I emphasize that word again, "hawkish," Mr. President, Armed Services Committee is merely trying to send a signal very loud and very clear that all that we want done is for the treaty that this body confirmed to be maintained.

We are not trying to change the treaty. We are simply saying: Leave the treaty alone as we approved it. It is the administration, Mr. President, not any Members of this body at least on this side of the aisle, that are trying to change the treaty.

In a related matter, I would say, Mr. President, for the information of my colleagues, that the $4.5 billion authorization for the strategic defense initiative would not have been set at $4.5 billion, but something considerably less, I suggest, had not we known that we were going to try and prevent extensive outside-the-laboratory testing for the strategic defense initiative.

So, if the figure below $4.5 billion that most of us would like to see—and I might add, Mr. President, those of us who have supported the SDI from its inception—there are those of us who feel that if a significant portion of that amount over what we think is reasonable and proper, given the budget constraints—that if that money in excess of what we think is in order, probably in this Senator's opinion in the $3.6 to $3.8 billion range, if we are going to end up spending $500 to $800 million for outside-of-laboratory testing in violation of what we think was the solemn treaty obligations of the United States of America, we are against it. And I think we are patriots for so doing.

I simply want to say there are those on the other side of the aisle for whom I have great respect who do not agree with me on this. But when are we ever going to get to the position where the U.S. Senate allows its hawkish committee—and some of its nonhawkish committees—to express its will by even bringing up a bill for debate on the floor of the U.S. Senate and then allow the U.S. Senate as a whole, that was elected by the people of these United States—and as far as I know, there are no leftwing Communists among us—when are we going to allow the processed in the U.S. Senate through its elected officials to work its will?

It is long past that time, Mr. President. I hope that before the August recess takes place we are able to at least bring this bill up on the floor, have a thorough debate, and let the Senate work its will.

I yield the floor.

Mr. JOHNSTON. Mr. President, twice in the debate in the last few moments we have heard allusions to the fact that the treaty in Geneva would be undermined and affected by the approach on SDI. Mr. President, you need only read the newspaper to know that is demonstrably clearly not true. But if you do not trust your newspapers, and a lot of people do not, let me say that I had the privilege of being one of the observers to the Geneva group. I can tell and assure as clearly and as totally convincingly as I know of anything in my realm of experience, that SDI has nothing to do with the INF Treaty.

To briefly explain, in Geneva we have three separate negotiations going on. There is the INF Treaty, with one negotiator; there is a defense in space, with another negotiator; and there is a START Treaty, or Strategic Arms Reduction Treaty, going on in still another arena.

There is some relationship, of course, between all three. Max Kampelman is the main negotiator for all three and also heads up the defense in space compartment.

However, Mr. President, the INF Treaty is separate from star wars because star wars is connected to the START Treaty. The Soviet Union has made clear, and as you read in your morning paper, that they have now accepted the so-called zero-zero option, which we propose. The only thing standing in the way, and this was clear when I was there last month and I think it is equally clear now, the only thing standing in the way of that treaty, that the Soviets say stands in the way, are the 72 Pershing 1-A missiles located in Germany, the warheads to which we control.

Mr. Veronstov, their chief negotiator, said, while we were in Geneva, and again as reported in the morning paper, that a zero-zero option ought to be zero on both sides, and their view is that our 72 Pershing 1-A warheads located in Germany prevents that from being symmetrical.

I mention that not to say that that is going to prevent the treaty from coming into operation. I frankly think we are going to get an intermediate-range treaty. But the Soviets are not asking and we are not offering, and there is no discussion in the INF treaty, about what we are going to do to limit strategic defense initiative.

The thing that the Soviets are concerned about is the short flight time of intermediate range missiles so that what is called in the trade we could execute a decapitation of the Soviet command control located in Moscow. They are very concerned about the survival of their hardware. They have huge tunnels all under the Kremlin that can go out as far as 30 miles away and with a little notice of say 30 minutes, which is the flight time of most long-range missiles, they can get safely out of range.

They were afraid of these Pershing missiles because with the flight time of 10 minutes you could blow them all up in the Kremlin and destroy the leadership, which is their principal concern.

Star wars or the strategic defense initiative is very much an issue in the START Treaty. In my view we are a long, long way from getting a START Treaty because the Soviets want effectively to prevent testing and deployment in space of any SDI as a condition to going down to a 50-percent START limitation or 50 percent of the warheads. We say we want 7 years in which we can test and thereafter we may deploy.

So the United States' position is really on the other side of what most of us regard as the present treaty position. Most of us regard the treaty position as being the so-called restricting interpretation of the treaty, but they would go beyond even the liberal interpretation of the treaty and, in fact, not allow any test for 7 years and deployment thereafter.

Whether or not we ever get together on a START Treaty, and in my view it will not be under this administration, that has nothing to do whatsoever with intermediate-range negotiations. In my view, we will get or not get the intermediate-range treaty based upon what happens to the 72 Pershing 1-A missiles. I think I can see the outlines of that treaty now, which is the probability that the Germans will be able to keep their 72 Pershing 1-A's under a promise that the number not be increased or that they not be upgraded.

Whether that happens or not is beside the point. What is the point is that it is not a matter of contention, SDI is not a matter of contention, or a bargaining chip or undermining the President for the intermediate-range treaty.

Mr. GRAMM. Mr. President, I am sure we all appreciate the information that the United States and Germany are holding up the INF Treaty because of the Pershing 1-A's. If our negotiators were here, we could ask them what happened that brought the Russians back to the bargaining table. Over and over the Soviets said, "You either stop SDI or we stop talking."

What brought them back to the bargaining table is that they fear American technology and fear our ability to develop a viable and workable defense for the United States of America. That is what brought them back to the bargaining table. There is no real debate about that.

People might ask themselves, why do we have people like the distinguished Senator from California, the distinguished Senator from South Carolina, the distinguished Senator from Idaho, the distinguished Senator from Indiana, all of whom are among the strongest supporters of defense in this Senate? In fact, if you were able to put out some index of who over the years has done more to support defense, there is no way that each of those Members would not be rated in the top 10, no matter how you put it together.

I suggest that we should ask ourselves, in fact the Nation should ask, if these people are not allowing the defense authorization bill to come to the floor of the Senate, what is wrong with it? There are a lot of delicate ways you can say what is wrong with it, but you can say it in very simple terms that everybody understands.

What is wrong with it is that it has a provision that has nothing to do with defense in it. It has a provision that gives the Russians what they cannot win at the bargaining table. That is the issue here. That is the issue that is holding up the consideration of the armed services authorization bill.

There seems to be some confusion. We have different committees with different jurisdictions. It is not the jurisdiction of the Armed Services Committee to try to tame the Russian bear or to negotiate with him or to teach him manners. It is the responsibility of the Armed Services Committee to keep the bear from the gate.

We are an armament committee, not a disarmament committee. That jurisdiction belongs to another committee, the Foreign Relations Committee. That is where we ought to be debating shackling the President, if in fact that is what the majority in this Congress wants to do. I do not want to do it. I do not believe the American people want to do it. I for one, as much as I want to authorize the armed services of this Nation, as much as I want to preserve the jurisdiction of a committee that I fought to win membership on, am not going to vote to bring up a provision that I believe undercuts and destroys the effectiveness of the President at the bargaining table in Geneva.

That is what this issue is about. We cannot be conducting two foreign policies. We cannot have 536 Presidents. We have one President. And when that President is bargaining with the Soviets, when we are making progress, when the Soviets have been brought back to the bargaining table because of our ability to develop SDI, I for one am not going to support shackling the President, limiting our ability to move ahead with SDI and give the Russians what they cannot win at the bargaining table.

That is the issue. That is why we are here. That is why the armed services authorization is not here. And to the extent that I have anything to do about it, until this provision comes off

this bill, we are not going to have a defense authorization bill.

I yield the floor.

Mr. THURMOND addressed the Chair.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Let us be clear what the issue is. We have heard a lot this afternoon about the language on the DOD bill, shackling the President, unsurping the authority of the President, nothing to do with defense. We have heard all kinds of arguments about this language this afternoon. None of it relates to the issue before the Senate. The issue before the Senate is whether the majority will be able to vote on whether this language should stay in this bill or be stricken from this bill. That is the issue. Now, there are some people who feel very——

Mr. SYMMS. Will the Senator yield for a question?

Mr. LEVIN. In a minute. There are some people who feel very strongly on both sides of this issue. There are some people who feel that the President has a unilateral right to spend the SDI money which we authorize and appropriate to him any way he wants; that we do not have a right to place restrictions on it; that we should write him the check for the $3 billion or $4 billion for SDI and then say, "Here, you spend it." And then we have no right to put limitations on it.

Now, that is what some of us feel. They hold that view strongly. They have a right to hold that view strongly. There are others who feel different; that the Congress, using its power of the purse, has a right to say not only how much money will be authorized and appropriated but how that money will be spent. Some of us feel very strongly on that issue. We had a vote on this in the Armed Services Committee. It happened to be a bipartisan majority of the Armed Services Committee that voted that this language should go in the bill, and it is in the bill.

But now we are told by some people that they will not let this bill come to the floor of the Senate to test their theories. They surely have a right to hold to these theories, to believe deeply in their approach, and I respect that. But it seems to me that is a very different issue from what they are presenting to us. The proposition that they are laying before the Senate is that they do not believe enough in their theories to let a majority of us vote as to whether or not we agree with them.

Are we shackling the President? Let the majority of the Senate decide. Are we undermining our negotiators in Geneva? Let the majority of the Senate decide. Are we usurping the authority of the President? Let the majority of the Senate decide.

Mr. SYMMS. Will the Senator yield for a question?

Mr. LEVIN. I will be happy to yield.

Mr. SYMMS. I thank my good friend for yielding. It was just stated here earlier on the floor by the distinguished majority leader and others on the floor that we were happy to bring these amendments up as a freestanding resolution, or on the State Department authorization bill where it belongs, and let the Senate work its will. But do not interfere with the armed services bill, which is so important to the security of the country. I think the Republicans are willing to debate this as a freestanding resolution, but we are not willing to have the defense of the Nation tied up in a piece of legislation so important as the Department of Defense authorization bill. If we take the amendment as a freestanding resolution, I do not think there would be any problem, and so I do not think the Senator's statement is absolutly correct. I agree with Senator HELMS, Senator DOLE, and others, that we should put it on the State Department authorization bill, and not interfer with the authorization of equipment for the men and women of the armed services.

Mr. LEVIN. What is the question?

Mr. SYMMS. That is the question. Were you aware that is the offer?

Mr. LEVIN. I am very aware of the offer. What it comes down to is exactly the same thing that you are saying—unless we do it your way you are not going to let the majority will work on this armed services bill. You ask me the question and that is the answer. You are saying that a few of us here are saying we will not let this bill that contains this language come to the floor and move to strike it. Why not move to strike this language? Why not let it come to the floor and seek to amend the bill? Just say I move to strike the language which you find so offensive. If you find that this language shackles the President, move to strike it.

Mr. SYMMS. May I ask a question?

Mr. LEVIN. I would be happy to yield for a question.

Mr. SYMMS. I thank the Senator for yielding so I might answer that question and just say simply the reason we do not want to move to strike the provision is because we have the Americans negotiating with the Soviets in Geneva right now and you are talking about stabbing them in the back. It is poor timing.

Mr. LEVIN. You use pretty strong language when you say stabbing in the back, and I am not going to respond to it as emotionally as you present it. I am simply going to say this. If this language stabs anyone in the back, if this language usurps the authority of the President, if this language does anything other than exercise the traditional power of the purse, test your theory. If you hold it so strongly, put it up to a majority vote of the Senate on this bill. It is on the bill.

This is no longer an amendment. It is part of this bill. This bill has come to the floor as a result of a majority vote of the Armed Services Committee of the Senate. You feel strongly it stabs the President in the back. Obviously, a majority of the Armed Services Committee disagrees with you. But you have a right to hold those views strongly, and I respect you for holding them strongly. The difficulty is that you apparently do not believe you can persuade the majority of this Senate to strike this language, and that is where your theory falls. You are not willing to put this to a test of the U.S. Senate. We are. And by the way, I am not sure how it will come out. Let me tell you, I am not sure what the outcome will be of that debate. It will be a very strong debate involving whether or not this is appropriate language under the appropriation-authorization process, over the power of the purse, over the authority to interpret treaties, over the ABM Treaty, over a whole lot of things.

We ought to have that debate, but that is not the issue now. The issue now is whether or not a few of us ought to hold hostage this bill and say unless you do it our way, unless you strip language from that bill that is on it, we are not going to let this bill come to the floor. That is the issue now.

Mr. SYMMS. Mr. President, the majority party has a right to bring it to the floor as a freestanding resolution.

Mr. LEVIN. We have a right to bring it to the floor in the bill in which it now sits, on this calendar. The bill is on the calendar. That is what we have a right to do, unless it is filibustered, which it is. On the last vote we had on this, there were 59 Senators—59 Senators—who said, "Bring this bill to the floor." So do not argue the issue as to whether or not this usurps the right of the President. We should debate that at the right time. This is not the time to debate that. This is the time to debate whether we can get this bill to the floor so we can debate it. We cannot even get this bill to the floor. And then test your theory. And you know what, you may win. I hope you will not because I think you are wrong. But you may win. You may be able to persuade a majority, if your theories are right, that this undercuts the President; that "this is going to let Ivan come through the gates," as our friend from Texas puts it; that this undercuts the President; that this shackles the President.

Those are pretty serious claims. I think you are wrong on all of them but there are serious arguments that ought to be made, and if you are right I think you will persuade a majority of

the Senate. If you are wrong, you are going to lose. But you will not take that risk. You will not take the risk that a majority of the Senate will disagree with those theories. That is the issue we are facing right now. That is the risk you will not take.

I yield the floor.

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

Mr. LEVIN. Either way.

Mr. EXON. I ask this question of the Senator from Michigan because I think it is important—as I tried to do in my earlier remarks—to put this in the honest perspective, which is the way I think we should look at it.

Those on that side who are blocking this from coming up absolutely refuse to mention and, as near as I can tell, in their debate never mentioned that this tied in directly with the funding for the strategic defense initiative. It is directly tied in, is it not?

Mr. LEVIN. Absolutely.

Mr. EXON. Let me ask a followup question: Is it not true that those of us on this side who think the defense authorization bill is critically important—and there are those of us who, as correctly stated by the Senator from Ohio, do not agree with our colleagues over there, but we certainly agree with their right to bring it up. The point the Senator from Ohio made was a good one: Let us debate it and let the Senators make that determination.

I ask the question: In the interest of compromise, was it not true that we agreed that if we put this over on some other bill, as the appeal has been made over and over again on that side of the aisle, we would agree to let them do that, so long as the funding amount for the strategic defense initiative goes up? Did we not make that offer?

Mr. LEVIN. That offer was made, indeed.

Mr. EXON. Can the Senator from Ohio tell me why—or can someone on that side tell me why—that was not accepted, if this is something that they think should be discussed on some other bill?

Mr. LEVIN. I think the Senator from Ohio or the Senator from Michigan can probably answer that question. There is a longstanding football rivalry between Ohio and Michigan, and where you come from, that confusion is very serious.

Mr. EXON. Ohio and Michigan, it so happens, are in the minor league, so far as Nebraska is concerned. [Laugther.]

But I am glad you know you have football teams in Ohio and Michigan.

Mr. LEVIN. I wish the Senator from Oklahoma were here, to hear what you just said.

This is a limitation which the Armed Services Committee placed on SDI spending. We have traditionally placed limitations on the spending for weapons. We placed spending limitations on the MX missile, for instance. The Armed Services Committee put those limitations on.

So this is not an unusual thing to do, to say here is some money, but we are placing some limitations on it—in this case, I think a very reasonable limitation; because in this case we are saying, "If you are going to apply a new approach to the ABM Treaty, before you do it, come back and get approval." We are not saying, "Don't do it."

Without getting into the merits of the whole thing, this is a limit on SDI spending—the Senator is correct—and that is why Senator NUNN made the offer with respect to SDI being connected with this and it could be removed and debated elsewhere. To remove this would be to give the President a blank check.

Mr. EXON. That offer was turned down for what reason?

Mr. LEVIN. I cannot speak for the people who turned the offer down.

Mr. EXON. I thank the Senator.

Mr. LEVIN. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina was seeking recognition.

Mr. BYRD. Mr. President, will the distinguished Senator yield to me?

Mr. THURMOND. I yield.

Mr. BYRD. Mr. President, I believe the period for morning business was to end now.

The PRESIDING OFFICER. The time for morning business has not expired.

Mr. BYRD. Mr. President, I ask unanimous consent that morning business may continue.

I inquire of the distinguished Senator from South Carolina how much time he would like?

Mr. THURMOND. Not more than 5 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent to extend the period for morning business for 10 minutes and that Senators may speak therein not to exceed 5 minutes each.

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

The Senator from South Carolina.

Mr. THURMOND. Mr. President, in the Armed Services Committee, every Republican but one voted against placing the Levin amendment on this authorization bill. This amendment does not properly belong on this bill.

The Armed Services Committee authorizes funds for guns, planes, weapons, and other things, to meet the requirements of the armed services. This amendment goes into foreign affairs. This amendment concerns matters that could even go into peace treaties. For that reason, we opposed it. We opposed it then; we oppose it now.

It is a matter that should go into the State Department authorization bill. The distinguished ranking member of the Foreign Relations Committee is here, and he can speak for himself on this, but that is the committee to handle it. It would usurp the rights of that committee to put it in this committee, where it has no business being.

Mr. President, something was said about their being willing to put it on an independent bill to carry the SDI funding with it. The SDI is a defensive weapon. SDI does not kill anybody. It does not destroy any property. SDI merely knocks down missiles that would kill people or destroy property.

Mr. Gorbachev is afraid of it. I went to Russia 2 years ago with several other Senators, and we spent 3½ hours with him, and that is all he talked about: demilitarize space. That simply means you could not build SDI, because you have to test it in space.

I want to tell you now: Mr. Gorbachev is afraid of our technology. He is afraid we will develop this weapon first and can knock down their missiles in case a war comes, and he cannot knock down ours. That is the whole juice in the coconut.

When I got back, I told President Reagan by all means to hold out for SDI, and I am glad he has done it. That means protection for the American people. There would not be any harm if any country had SDI.

SDI funding should not go with this amendment. That is a matter for the Armed Services Committee, to determine what money, if any, should go for a particular weapon, and that is what we did. Therefore, that should stay with the Armed Services Committee.

The only thing that needs to be done is remove the Levin amendment from this authorization bill, and then we can go forward.

I want to say, further, that by putting this amendment on the authorization bill, we are usurping the rights of the President. The President of the United States has to determine those matters concerning treaties and concerning matters of testing. This particular bill will hamper the President of the United States. It is hampering him today. Here he is at Geneva, working hard to get a better agreement, at this moment. This is a critical time in the negotiations. Why should we hamper him at this time in trying to get the best agreement he can?

This amendment is a killer amendment. It will help to kill his negotiations. It will help to kill his efforts to do what he thinks is best for this country.

I hope this amendment will be taken off. I urge and beseech those who want to keep it on there to take it off and let us go ahead. Put it where it really belongs—on the State Depart-

ment authorization bill, or put it in an independent bill and vote on it. It will get a vote. But do not kill the whole authorization bill for the Defense Department, which is essential to the welfare of our country.

Mr. President, I am convinced that we ought to go forward with this armed services bill. We ought to act on it, get through with it, but in doing so, do not take any steps that are going to hurt the President or hamper the President in getting the best treaty he can with Mr. Gorbachev.

Only yesterday, I believe, or day before, Mr. Gorbachev made another concession. By the President holding out for a better treaty Mr. Gorbachev has come across now and said he would even take out the nuclear weapons in Africa as well as those in Europe.

Those are in our favor. That is in the favor of our allies and we are making progress.

Why should we hamper his efforts to continue to go forward and get an even better treaty?

Mr. President, I hope those who are taking that position, which we think is an arbitrary position, will withdraw that and let us go forward and pass the Senate authorization bill.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I appreciate the comments of my senior colleague from South Carolina on the committee, Senator THURMOND, and I think that not only is Senator THURMOND correct in his interpretation of what is happening, but history shows us that Secretary Laird and six or seven of our Secretaries of Defense have interpreted it to be the broad interpretation and if in fact we are going to stand by the narrow interpretation of the ABM Treaty, it will cost us at least $3 billion more for the deployment of the first phase of the strategic defense initiative.

I would like to review just a little bit of history, and I know Senator THURMOND lived through World War II as a soldier.

When President Roosevelt told the scientists to do the Manhattan Project, he ordered them to move forward and build the bomb. He did not tell them to go do research and see if you can do it. He said build it, and that bomb probably saved millions of young Americans and Japanese. We did not have every politician in the United States of America in the House and Senate playing politics with something of that strategic import to the country.

In 1961, when President Kennedy said in the Chamber across the hall that we were to go put a man on the Moon, he did not say we want to do research to see if we can put a man on the Moon. He said we are going to put a man on the Moon by the end of that decade.

There are people that I ascertain from their actions, the way they vote and the way things happen, that would lead this Senator to believe that maybe they really do not want the strategic defense initiative. They really do not want a defense that would protect Americans and defend America from incoming missiles from the Soviet Union. What they want is to continue the mutual assured destruction [MAD] policy. That is what this is leading to.

The strategic defense initiative is a new concept of defense. And, it is hard for the institutional bureaucracy of our system to accept anything new that the Government deals. But, this is a new concept based on saving lives and preventing war rather than a policy based on retaliating with the massive mutual assured destruction of both sides of the equation.

Mr. President, we should stop the political bickering and pass the Department of Defense authorization bill without this limiting provision which gives the Soviets everything they want without having a treaty with us. We should also think about one other thing. The strategic defense initiative has been totally misnamed. It really should be called the strategic defense response because while we are arguing politics, our adversaries, the Soviet Union, are in the process of building and working toward deployment of their own space shield to protect them from missiles from our country. The Soviets already have taken the initiative.

I cannot for the life of me understand the logic of the majority party who insist on putting an amendment on the Armed Services Committee bill that all the Republicans would support unanimously. But, we must hold this good bill up because of this one crucial amendment.

It would make so much more sense to bring it up as a freestanding resolution and get a vote on it. Everybody that wants to vote for it may go ahead and vote for it, letting it go down to the President. He can either veto it or sign it. But not tie up the bill.

There are many parts of this bill that I am interested in. Overall, the bill would improve the defenses of the country if we passed it. But we cannot accept an undercutting of America's foreign policy by the political bickering here.

I will just say to my colleagues again that if Franklin Roosevelt would have had this kind of support in World War II, he could not have been successful; if John F. Kennedy would have the kind of support from the Congress in putting the man on the Moon that President Reagan received on the strategic defense initiative, we would still be researching whether or not to put someone on the Moon and debating how the best way to go about doing it was.

The PRESIDING OFFICER. The time for morning business has expired.

Mr. BYRD. Did the distinguished Senator need some additional time?

Mr. SYMMS. I thank the distinguished majority leader.

Mr. BYRD. I thank the Senator.

CALENDAR

Mr. BYRD. Mr. President, I would like to inquire of the distinguished acting Republican leader, Mr. HELMS, if Calendar Order Nos. 251, 252, and 253 have been cleared for action on that side of the aisle?

Mr. HELMS. Mr. President, I say to my friend from West Virginia they have.

Mr. BYRD. Mr. President, I thank the acting leader.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 251, 252, 253 seriatim.

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

GRATUITY TO PATRICIA A. McLAUGHLIN

The resolution (S. Res. 251) to pay a gratuity to Patricia A. McLaughlin, was considered, and agreed to; as follows:

S. RES. 251

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Patricia A. McLaughlin, widow of Samuel B. McLaughlin, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

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

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

The motion to lay on the on the table was agreed to.

GRATUITY TO NAVARRO A. HARROD

The resolution (S. Res. 252) to pay a gratuity to Navarro A. Harrod, was considered, and agreed to; as follows:

S. RES. 252

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Navarro A. Harrod, widower of Shirley E. Harrod, an employee of the Senate at the time of her death, a sum equal to ten and one-half months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

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

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

The motion to lay on the table was agreed to.

GRATUITY TO DEEDE S. WYATT, DEBRA VANDER VOORT, AND STEVEN M. SCHMIDT

The resolution (S. Res. 253) to pay a gratuity to Deede S. Wyatt, Debra Vander Voort, and Steven M. Schmidt, was considered, and agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. RES. 253

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Deede S. Wyatt and Debra Vander Voort and Steven M. Schmidt, children of Dorothy Schmidt, an employee of the Senate at the time of her death, a sum to each equal to one-third of six months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

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

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

The motion to lay on the table was agreed to.

RETIREE BENEFITS SECURITY

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 246.

The PRESIDING OFFICER. The bill be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 548) to amend title 11, United States Code, the Bankruptcy Code, regarding benefits of certain retired employees.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

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

TITLE I—RETIREE INSURANCE

SEC. 101. (a) Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end thereof the following new section:

"§ 1114. Payment of insurance benefits to retired employees

"(a) For purposes of this section, the term 'retiree benefits' means payments to any entity or person for the purpose of providing or reimbursing payments for retired employees and their spouses and dependents, for medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, or death under any plan, fund, or program (through the purchase of insurance or otherwise) maintained or established in whole or in part by the debtor prior to filing a petition commencing a case under this title.

"(b)(1) For purposes of this section, the term 'authorized representative' means the authorized representative designated pursuant to subsection (c) for persons receiving any retiree benefits covered by a collective bargaining agreement or subsection (d) in the case of persons receiving retiree benefits not covered by such an agreement.

"(2) Committees of retired employees appointed by the court pursuant to this section shall have the same rights, powers, and duties as committees appointed under sections 1102 and 1103 of this title for the purpose of carrying out the purposes of sections 1114 and 1129(a)(12) and, as permitted by the court, shall have the power to enforce the rights of persons under this title as they relate to retiree benefits.

"(c)(1) A labor organization shall be, for purposes of this section, the authorized representative of those persons receiving any retiree benefits covered by any collective bargaining agreement to which that labor organization is signatory, unless (A) such labor organization elects not to serve as the authorized representative of such persons, or (B) the court, upon a motion by any party in interest, after notice and hearing, determines that different representation of such persons is appropriate.

"(2) In cases where the labor organization referred to in subparagraph (1) elects not to serve as the authorized representative of those persons receiving any retiree benefits covered by any collective bargaining agreement to which that labor organization is signatory, or in cases where the court, pursuant to subparagraph (1) finds different representation of such persons appropriate, the court, upon a motion by any party in interest, and after notice and a hearing, shall appoint a committee of retired employees if the debtor seeks to modify or not pay the retiree benefits or if the court otherwise determines that it is appropriate, from among such persons, to serve as the authorized representative of such persons under this section.

"(d) The court, upon a motion by any party in interest, and after notice and a hearing, shall appoint a committee of retired employees if the debtor seeks to modify or not pay the retiree benefits or if the court otherwise determines that it is appropriate, to serve as the authorized representative, under this section, of those persons receiving any retiree benefits not covered by a collective bargaining agreement.

"(e)(1) Notwithstanding any other provision of this title, the debtor in possession, or the trustee if one has been appointed under the provisions of this chapter (hereinafter in this section 'trustee' shall include a debtor in possession), shall timely pay and shall not modify any retiree benefits, except that—

"(A) the court, on motion of the trustee or authorized representative, and after notice and a hearing, may order modification of such payments, pursuant to the provisions of subsections (g) and (h) of this section, or

"(B) the trustee and the authorized representative of the recipients of those benefits may agree to modification of such payments,

after which such benefits as modified shall continue to be paid by the trustee.

"(2) Any payment for retiree benefits required to be made before a plan confirmed under section 1129 of this title is effective has the status of an allowed administrative expense as provided in section 503 of this title.

"(f)(1) Subsequent to filing a petition and prior to filing an application seeking modification of the retiree benefits, the trustee shall—

"(A) make a proposal to the authorized representative of the retirees, based on the most complete and reliable information available at the time of such proposal, which provides for those necessary modifications in the retiree benefits that are necessary to permit the reorganization of the debtor and assures that all creditors, the debtor and all of the affected parties are treated fairly and equitably; and

"(B) provide, subject to subsection (k)(3), the representative of the retirees with such relevant information as is necessary to evaluate the proposal.

"(2) During the period beginning on the date of the making of a proposal provided for in paragraph (1), and ending on the date of the hearing provided for in subsection (k)(1), the trustee shall meet, at reasonable times, with the authorized representative to confer in good faith in attempting to reach mutually satisfactory modifications of such retiree benefits.

"(g) The court shall enter an order providing for modification in the payment of retiree benefits if the court finds that—

"(1) the trustee has, prior to the hearing, made a proposal that fulfills the requirements of subsection (f);

"(2) the authorized representative of the retirees has refused to accept such proposal without good cause; and

"(3) such modification is necessary to permit the reorganization of the debtor and assures that all creditors, the debtor, and all of the affected parties are treated fairly and equitably, and is clearly favored by the balance of the equities,

except that in no case shall the court enter an order providing for such modification which provides for a modification to a level lower than that proposed by the trustee in the proposal found by the court to have complied with the requirements of this subsection and subsection (f): Provided, however, That at any time after an order is entered providing for modification in the payment of retiree benefits, or at any time after an agreement modifying such benefits is made between the trustee and the authorized representative of the recipients of such benefits, the authorized representative may apply to the court for an order increasing those benefits which order shall be granted if the increase in retiree benefits sought is consistent with the standard set forth in paragraph (3); and: Provided further, That neither the trustee nor the authorized representative is precluded from making more than one motion for a modification order governed by this subsection.

"(h)(1) Prior to a court issuing a final order under subsection (g) of this section, if essential to the continuation of the debtor's business, or in order to avoid irreparable damage to the estate, the court, after notice and a hearing, may authorize the trustee to implement interim modifications in retiree benefits.

"(2) Any hearing under this subsection shall be scheduled in accordance with the needs of the trustee.

"(3) The implementation of such interim changes does not render the motion for modification moot.

"(i) No retiree benefits paid between the filing of the petition and the time of a plan confirmed under section 1129 of this title becomes effective shall be deducted or offset from the amounts allowed as claims for any benefits which remain unpaid, or from the amounts to be paid under the plan with respect to such claims for unpaid benefits, whether such claims for unpaid benefits are based upon or arise from a right to future unpaid benefits or from any benefits not paid as a result of modifications allowed pursuant to this section.

"(j) No claim for retiree benefits shall be limited by section 502(b)(7) of this title.

"(k)(1) Upon the filing of an application for modifying retiree benefits, the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application. All interested parties may appear and be heard at such hearing. Adequate notice shall be provided to such parties at least ten days before the date of such hearing. The court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interests of justice require such extension, or for additional periods of time to which the trustee and the authorized representative agree.

"(2) The court shall rule on such application for modification within 90 days after the date of the commencement of the hearing. In the interests of justice, the court may extend such time for ruling for such additional period as the trustee and the authorized representative may agree to. If the court does not rule on such application within 90 days after the date of the commencement of the hearing, or within such additional time as the trustee and the authorized representative may agree to, the trustee may implement the proposed modifications pending the ruling of the court on such application.

"(3) The court may enter such protective orders, consistent with the need of the authorized representative of the retirees to evaluate the trustee's proposal and the application for modification, as may be necessary to prevent disclosure of information provided to such representative where such disclosure could compromise the position of the debtor with respect to its competitors in the industry in which it is engaged.

"(l) This section shall not apply to any retiree, or the spouse or dependents of such retiree, if such retiree's gross income for the 12 months proceding the filing of the bankruptcy petition equals or exceeds $1,000,000, unless such retiree can demonstrate to the satisfaction of the court that he is unable to obtain health, medical, life, and disability coverage for himself, his spouse, and his dependents who would otherwise be covered by the employer's insurance plan, comparable to the coverage provided by the employer on the day before the filing of a petition under this title.".

(b) Section 1129 of title 11, United States Code, is amended by adding at the end of subsection (a) thereof the following:

"(12) The plan provides for the continuation after its effective date of payment of all retiree benefits, as that term is defined in section 1114 of this title, at the level established pursuant to subsection (e)(1)(B) or (g) of section 1114 of this title, at any time prior to confirmation of the plan, for the duration of the period the debtor has obligated itself to provide such benefits.".

(c) The table of sections for subchapter I of chapter 11, title 11, United States Code, is amended by adding at the end thereof the following new item:

"1114. Payment of insurance benefits to retired employees.".

(d) This title and the amendments made by this title shall become effective on the date of enactment of this Act and shall be effective with respect to cases commenced under chapter 11 of title 11, United States Code, in which a plan for reorganization was not confirmed by the court as of June 23, 1987, and in which any retiree benefits, as defined in section 1114 of title 11, United States Code, was still being paid on October 2, 1986 or thereafter, and in cases that become subject to chapter 11, title 11, United States Code, after October 2, 1986.

TITLE II—EXPANDED APPLICATION OF CERTAIN BANKRUPTCY AMENDMENTS RELATING TO FAMILY FARMERS

SEC. 201. (a) Section 302(c) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554) is amended—

(1) by repealing paragraph (1), and

(2) by redesignating paragraphs (2), and (3) as paragraphs (1) and (2), respectively.

(b) The amendments made by subtitle B of title II of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554) shall apply to—

(1) cases that are pending under title 11 of the United States Code, or

(2) cases under title 11 of the United States Code that are reviewable on appeal,

after the date of the enactment of this Act, without regard to whether such cases were commenced before November 26, 1986.

TITLE III—NONDISCHARGEABILITY OF CERTAIN DEBTS FOR RESTITUTION

SEC. 301. Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking out "or" at the end thereof;

(2) by redesignating paragraph (10) as paragraph (11); and

(3) by inserting after such paragraph (9) the following:

"(10) to the extent that such debt arises from a violation by the debtor of a civil or criminal law enforceable by an action by a government unit to recover restitution, damages, civil penalties, attorney fees, costs or any other relief, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit; or".

SEC. 302. Section 1328(a)(2) of title 11, United States Code, is amended by striking out "section 523(a)(5)" and inserting in lieu thereof "paragraphs (5) and (10) of section 523(a)".

SEC. 303. The amendments made by this title shall apply to cases that become subject to title 11, United States Code, after June 23, 1987.

The PRESIDING OFFICER. Are there amendments to be proposed?

AMENDMENT NO. 633

(Purpose: To lower income cap under section 1114(l) in order to exclude persons with high incomes from the special treatment under section 1114)

Mr. HELMS. Mr. President, on behalf of Senator THURMOND, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] for Mr. THURMOND, proposes an amendment numbered 633.

Mr. HELMS. 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:

In section 1114(l): Delete the third "e" in "preceding";

Delete the words "one million", and insert in lieu thereof the following: "two hundred and fifty thousand".

Mr. THURMOND. Mr. President, S. 548 will create a new section of the Bankruptcy Code to provide special protections for retirees, who are unsecured creditors. Of course, any time we change the code to give special treatment to one group of unsecured creditors, we necessarily decrease the amount of money available for the remaining unsecured creditors, such as small businesses and trade creditors. Therefore, we must be extremely careful in creating special classes in the code.

When we decide it is necessary to elevate the position of certain creditors, we must be very selective in granting this special treatment. The current draft of S. 548 does limit its protections to any retiree whose gross income is less than $1 million for the 12-month period preceding the bankruptcy filing. This amendment lowers that cap to $250,000 of gross income during that time period. This amendment will help ensure that the special protection of section 1114 is not extended to the wealthy, at the expense of other creditors. I would personally support a lower cap than this, but this amount has been arrived at by compromise, as has this entire bill. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. If there be no further debate on the amendment, the question is on agreeing to the amendment.

The amendment (No. 633) was agreed to.

AMENDMENT NO. 634

(Purpose: To provide for an additional bankruptcy judge for the judicial district of Colorado)

Mr. BYRD. Mr. President, I send to the desk an amendment on behalf of Messrs. WIRTH and ARMSTRONG.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], on behalf of Messrs. WIRTH and ARMSTRONG, proposes an amendment numbered 634.

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

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

The amendment is as follows:

At the appropriate place, add the following:

SEC. . (a) There shall be appointed, pursuant to section 152(a)(1) of title 28, United States Code, an additional bankruptcy judge for the judicial district of Colorado.

(b) To reflect the change made by this section, section 152(a)(2) of title 28, United States Code, is amended by striking out the following:

"Colorado ..... 4";

and inserting in lieu thereof the following:

"Colorado ..... 5".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 634) was agreed to.

AMENDMENT NO. 635

(Purpose: To clarify the treatment of certain education loans in bankruptcy proceedings)

Mr. HELMS. Mr. President, I send an amendment to the desk on behalf of Senator STAFFORD and Senator PELL.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], on behalf of Messrs. STAFFORD and PELL, proposes an amendment numbered 635.

At the end of the substitute amendment add the following:

TITLE IV—STUDENT LOANS

SEC. 401. This title may be cited as the "Student Loan Bankruptcy Prevention Act".

SEC. 402. (a) Section 1328(a)(2) of title II, United States Code, is amended by striking out "section 523(a)(5)" and inserting in lieu thereof "paragraph (5) or (8) of section 523(a)".

(b) The amendment made by subsection (a) shall not apply to any case under title II, United States Code, commenced before the date of the enactment of this title.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 635) was agreed to.

AMENDMENT NO. 636

(Purpose: To provide for an additional bankruptcy judge for the judicial district of Arizona)

Mr. BYRD. Mr. President, on behalf of Mr. DECONCINI, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] on behalf of Mr. DECONCINI and Mr. MCCAIN, proposes an amendment numbered 636.

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

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

The amendment is as follows:

At the appropriate place, add the following:

SEC. . (a) There shall be appointed, pursuant to section 152(a)(1) of title 28, United States Code, an additional bankruptcy judge for the judicial district of Arizona.

(b) To reflect the change made by this section, section 152(a)(2) of title 28, United States Code, is amended by striking out the following:

"Arizona ..... 4";

and inserting in lieu thereof the following:

"Arizona ..... 5".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 636) was agreed to.

The PRESIDING OFFICER. Are there further amendments? If not, the question is on the committee substitute.

The committee substitute was agreed to.

Mr. METZENBAUM. Mr. President, S. 548, the Retiree Insurance Benefits Security Act of 1987, is a congressional response to LTV's claim that the law mandates the immediate termination of retiree insurance benefits upon filing for bankruptcy. This bill not only rejects that contention, it requires every company filing for bankruptcy to continue retiree benefit payments without interruption unless a modification is necessary to avert liquidation.

This bill is the first Federal effort to protect retiree health and life insurance benefits. It is a major victory for the thousands and thousands of retirees, both union and nonunion, who rely on employer promises to provide insurance protection.

While this measure still will permit some companies to modify retiree benefit payments, I believe that it goes nearly as far as possible, in the context of the bankruptcy code, to protect these benefits. In fact, it affords at least as much protection to health and life insurance benefits for retirees as is accorded active workers. Having said that, I believe that the appropriate committees of Congress must develop legislation to protect retiree benefits when companies are not in bankruptcy or when a modification of benefits occurs under the provisions of this bill.

S. 548 adds a new section to the bankruptcy code requiring companies which file for bankruptcy to continue their retiree insurance arrangements. It provides that these payments be treated as administrative expenses, which means that they come ahead of the other unsecured creditors.

If a company believes a reduction in retiree health insurance benefits is necessary, the bill requires the company to make a proposal for modification and to bargain in good faith with representatives of the retirees to attempt to reach an agreement. This obligation to confer in good faith includes the obligation to meet, at reasonable times, with the authorized representative of the retirees. Expenses incurred by the retirees for professional services, such as attorney fees, actuaries, benefit consultants, and the like, are paid by the company. And the company must share financial information with the retirees' representatives in order to give them an opportunity to evaluate the fairness of the proposed modifications.

The proposal made by the company must meet three requirements.

First, it must be based on the most complete and reliable financial information available at the time of the proposal.

Second, the proposal must provide "for necessary modifications in the payment of retiree benefits that are necessary to permit reorganization of the debtor * * *." This is the same standard Congress enacted in 1984 to govern the rejection of collective bargaining agreements. I believe that the third circuit properly interpreted this standard in the case of *In Re Wheeling Pittsburgh Steel Corporation*, 791 F. 2d 1074 (3d Cir. 1986). There the court held that a labor contract rejection is "necessary to permit reorganization" when essential to the "goal of preventing the debtor's liquidation." 791 F. 2d 1074, at 1089. The committee heard testimony from witnesses who expressed concern with the interpretation of the "necessary" standard by the second circuit in the case of *In Re Carey Transportation*, 816 F. 2d 82 (2d Cir. 1987). I believe that the second circuit decision would not afford retirees the full protections intended by this measure. Unless necessary to avoid liquidation, modifications should not be ordered by a court.

Third, the proposal must assure that "all creditors, the debtor and all of the affected parties are treated fairly and equitably." This language is also identical to the 1984 bankruptcy amendments covering collective bargaining agreements. It is intended to assure that retirees are never forced to accept a disproportionate burden of the sacrifices necessary to permit a reorganization. In weighing whether particular modifications in retiree benefits are fair and equitable, a court should consider the uniquely vulnerable position of retirees compared to other creditors in the bankruptcy. Courts should not lose sight of the fact that retirees differ radically from other creditors in their ability to absorb and cover their financial losses. It is this difference

that has led the committee to conclude that retiree insurance benefits deserve a higher preference than claims of other unsecured creditors.

Under the bill, if good faith attempts fail to produce an agreement, the company can seek court approval to modify the benefits. Before ordering a change in the benefit program the court, after notice and a hearing, must find that: First, the company made a proposal for modification satisfying the requirements described above; second, he retirees' representative rejected the proposal without good cause; and third, the modification is necessary to permit reorganization and assures that all the affected parties are treated fairly and equitably, and is clearly favored by the balance of the equities. If each of these requirements is met, a court may enter an order permitting modification in benefit payments. However, the modification cannot be lower than the level offered by the company in its proposal.

Even if a modification is agreed upon, or is ordered by the court, retirees will have an opportunity to seek a subsequent increase in the benefit level. This provision makes it clear that a benefit reduction need not be a once-and-forever reduction in benefit payments for retirees with no hope of recovery.

This provision is crucial to the purposes of this legislation. Companies should not be free to enter bankruptcy, modify payments of retiree benefits, capitalize on the modification to return to profitability, and then deprive retirees of any opportunity to share in the fruits of the company's recovery. While retirees may be asked to make sacrifices necessary for reorganization, so too they must be allowed to recover those sacrifices to the extent they are no longer necessary, fair, and equitable. This provision gives retirees a stake—something to gain—in a successful reorganization.

Mr. President, there is nothing more frightening to a senior citizen than the sudden cut off of health and life insurance coverage. I hope that this bill will prevent a reoccurrence of the nightmare experienced by the 78,000 LTV retirees. Retirees have earned the special treatment afforded by this measure, they deserve no less.

During committee consideration of this measure, two titles were added to S. 548.

The first addresses farm bankruptcies. It provides that bankruptcy cases which were pending when Congress enacted the 1986 amendments regarding family farm bankruptcies can benefit from the 1986 law. This provision is intended to clarify the intent of Congress in enacting these important protections in 1986. The ability to convert existing cases into chapter 12 is vitally important to many family farmers who are struggling to reorganize their financial affairs.

The second title added in committee prevents bankruptcy courts from ignoring State court judgments requiring defendants to make restitution as a result of violating a law. This title will close a loophole which has allowed consumer fraud defendants who are ordered to pay restitution to avoid the judgment by using the bankruptcy system. This provision will also be important in the environmental protection area.

I strongly support these additions to the bill.

Mr. President, this bill represents a great deal of effort by a number of Senators and their staffs. The ranking member of the committee, Senator THURMOND, the chairman of the Subcommittee on Courts, Senator HEFLIN, and the ranking member of the subcommittee, Mr. GRASSLEY, have all worked to achieve a strong bill. I want to especially thank Dennis Shedd, Karen Kremer, Sam Gerdano, Ed Baxter, and Cindy Lebow. Their efforts have helped strengthen and improve the bill.

This bill has wide bipartisan support. And the administration has endorsed its passage.

Mr. President, I ask unanious consent that a letter from Labor Secretary Brock be inserted in the RECORD at this point.

Mr. President, I urge the Senate to adopt S. 548 as reported.

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

U.S. DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, DC, July 24, 1987.

Hon. HOWARD METZENBAUM,
U.S. Senate,
Washington, DC.

DEAR HOWARD: I am writing to express my support for S. 548, the "Retiree Insurance Benefits Security Act of 1987," which was reported by the full Senate Judiciary Committee on July 17. While we have some clarifications to the bill which we will work with the Congress to have adopted, we feel that S. 548 is appropriate and necessary and represents a positive step in addressing the rights of retired workers and employers in bankruptcy with respect to retired workers' health benefits. We believe such an approach strikes a reasonable balance between the interests of participants and retirees and the financial interests of the employer and its creditors.

The bill would provide a measure of security for retired workers by prohibiting a bankruptcy trustee (or debtor in possession) from unilaterally terminating payments for their health insurance coverage. At the same time, the bill would provide more certainty for employers as to their rights and obligations to retired workers in bankruptcy.

The bill would establish a new section 1114 of the Bankruptcy Code under which employer obligations to provide retiree health benefits could be modified, but only by complying with new procedures. No modification of the status quo could be made by the trustee without the consent of either the retirees' representative or the court. Thus, the bill would also give retirees a voice in the ultimate treatment of their benefits.

These new procedures provide an expedited judicial process to determine the obligations of employers for retiree health benefits. The bill would help to reduce uncertainty and delay in determining which benefits must be provided. The bill would not, however, create any new contractual obligations for the employer. These procedures also recognize that it is inequitable for an employer to unilaterally reduce retiree health benefits.

Finally, these procedures would permit a bankruptcy court to authorize interim changes to the employer's obligation to pay for benefits if such changes are essential to the continuation of the debtor's business or to avoid irreparable damage to the estate.

It is important that the bill allow the courts sufficient discretion to consider all relevant factors in making their judgments regarding an employer's obligations. We should also be aware of the implications of the continued payment of retiree health benefits in bankruptcy. For instance, to the extent these benefits continue to be paid, the assets available to other creditors, including the Federal government, are dissipated.

However, the equitable concerns are of paramount importance. Retirees depend on their employer-provided benefits, particularly health insurance. They have often given years of service to the employer with the expectation of receiving these benefits. Any unreasonable delay in payment for retiree benefits could result in irreparable harm to those least able to afford alternative arrangements.

For these reasons, the Administration supports S. 548 as modified.

The Office of Management and Budget advises that there is no objection to the presentation of this report to the Congress from the standpoint of the Administration's program.

Very truly yours,

WILLIAM E. BROCK.

Mr. HEINZ. Mr. President, a year ago this week, Senator METZENBAUM and I first brought up a bill to stop LTV Corp.'s threatened termination of health benefits for 78,000 retirees. LTV's move to terminate their retiree health plan underscored just how insecure these benefits are for the 7 million retired Americans who depend on them. An Aging Committee hearing I chaired the following week on "Retiree Health: The Fair-Weather Promise" brought it home. When companies go into bankruptcy, retirees are sent to the back of the bus.

The problem is that chapter 11 may work for the troubled companies—and it may work for the major and secured creditors—but it has not worked for the retirees. Retirees have an unusual and vulnerable position in bankruptcy. That can't afford to have their health coverage stripped away, be left exposed to catastrophic health costs, and wait 2 years to get a cash settlement from the company. They need their health coverage on a daily basis.

It has taken us a year, but today we have a bill before us that will solve this problem. I commend Senator METZENBAUM who has kept up the pressure on this issue over the last year, and steered this bill through committee. It has been a pleasure to work with him on this problem. I also commend the Judiciary Committee—Senator THURMOND, Senator HEFLIN, Senator BIDEN, and the other members who worked quickly to mark up and report out this legislation.

S. 548 is going to make one important change: It is going to move retirees up with the rest of the creditors on the bankruptcy bus. When companies go into bankruptcy, they will have to maintain the health plan. If any modifications are needed in the health plan to keep the company going, retirees will be an equal party in the deliberations. When the company comes out of chapter 11, not only the banks and the other creditors will get fair treatment, the retirees will get fair treatment as well.

Mr. President, I am pleased that the Judiciary Committee was able to agree on a sound bill to protect retirees without upsetting the structure of chapter 11. I hope that it will meet with the approval of all of my colleagues in the Senate.

Mr. THURMOND. Mr. President, this bill, S. 548, represents a consensus effort to protect the health and medical insurance of retirees of companies which have filed bankruptcy under chapter 11 of the Bankruptcy Code. In my opinion, S. 548 is proof that a nonpartisan, concerted effort can produce throughtful legislation to address a critical issue.

S. 548, as approved by the Judiciary Committee, serves the purpose which was intended when I first joined with Senator METZENBAUM last fall to prevent retirees health benefits from being unilaterally terminated by the debtor in bankruptcy. This narrow purpose is effected by this consensus bill.

No one can really criticize the desire to protect retirees health benefits, but the difficult problem is balancing the interests of these retirees, who are unsecured creditors, against the interests of other unsecured creditors. This is a concern because whenever an asset is given to any one unsecured creditor, it necessarily decreases the total assets available for the rest of the unsecured creditors, such as small businesses.

The solution embodied in S. 548 is a very precise amendment to the Bankruptcy Code to prevent unilateral termination of these benefits by the debtor, while leaving these retirees in the general class of unsecured creditors. Some would have us do much more; some would have us do nothing, but we have taken a compromise course to protect these retirees from any diminution of their benefits unless the court orders such a modification or unless the retirees agree to modification. Also, Mr. President, this bill equalizes treatment of union and nonunion retirees. Under S. 548, both groups will be protected to the same extent.

Under section 1114(e) certain prepetition claims are treated as administrative expenses. These prepetition claims refer to payments made by health plan administrators before the bankruptcy petition is filed. There is some disagreement over how these claims should be treated, and I would oppose a bill which provides unnecessary relief for insurance companies. However, I have been informed that in the circumstances addressed by section 1114(e), ultimately retirees may be unfairly forced to shoulder the cost of these prepetition health services if this provision is not included in the bill. My office has had long discussions with representatives of Blue Cross-Blue Shield of Ohio, and these officials have indicated, that absent this provision, they will indeed begin the process of reversing charges in these cases. Mr. President, I ask unanimous consent that a letter indicating this fact be included in the RECORD at this point.

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

BLUE CROSS AND
BLUE SHIELD OF OHIO,
2060 E. 9th St.
Cleveland, OH, July 17, 1987.

Re S. 548, the Retirees Benefits Act of 1987.

Hon. STROM THURMOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR: We would like to express our appreciation to you for your role in the progress made to date on S. 548, The Retirees Benefits Act of 1987. That legislation, when enacted, will represent an historic step in the protection of retiree benefits in bankruptcy situations. Particularly, we applaud the decision of the Committee to address the "claims pipeline" problem which exists for self-insured arrangements.

In the case of the LTV bankruptcy, in which Blue Cross & Blue Shield of Northern Ohio was the third party administrator of LTV's self-insured health plan, the failure to include these important amendments would have forced Blue Cross & Blue Shield of Northern Ohio to reverse charges against various entities in the "claims pipeline." Our status as a mutual insurance company with a responsibility to our numerous subscribers requires such action. Upon exercise of such rights, I can only assume that the health care providers involved would turn to the retiree patients for payment. The retiree patients would be legally obligated to repay these reversed charges to the provider based upon the contract providers require patients to sign before receiving services. This contract makes the patient personally responsible for any amounts not covered by insurance or, in the case of self-insured plans, the employer.

Addressing this "claims pipeline" issue is the only way to insure the retirees under self-insured plans are accorded the same protections as retirees under insured plans. Given the fact that 60% of health benefits are currently provided through self-insurance, we believe that addressing this "claims pipeline" issue represents an essential step in perfecting this important legislation.

We appreciate the willingness of you and your staff to work with us on this important matter. If we can be of any further assistance please do not hesitate to let me know.

Sincerely,

KENT W. CLAPP,
Executive Vice President
of Finance and Treasurer.

Mr. THURMOND. Because I am unwilling to put retirees at jeopardy in these types of situations, I am not going to offer an amendment to change this provision in the bill.

Because this is a consensus bill, in the long tradition of the Judiciary Committee, the report on this legislation has been especially carefully crafted and is the guide to what this legislation means. It is fair to say that without our agreement on both the language now in S. 548, and the accompanying report, there would be no bill under consideration by the full Senate.

Whenever there is a compromise on such important issues that leads to a consensus bill, many people have contributed to the final result. The chairman of the committee, Senator BIDEN, was instrumental in helping craft the compromise bill, which so carefully balances the rights of these retirees with the rights of other unsecured creditors. Senator METZENBAUM provided the language which served as the genesis of the current bill. Senator HEFLIN, who chairs the Subcommittee on Courts and Administrative Practice, and Senator GRASSLEY, who is ranking on that subcommittee, were vital to our negotiations and final bill.

At the staff level, Cindy Lebow, with Senator BIDEN's staff, served as the mediator and drafter of this compromise bill. David Starr, with Senator METZENBAUM, has been, and continues to be, a critically important staffer from the day this issue first arose last fall. Karen Kremer with Senator HEFLIN and Sam Gerdano, with Senator GRASSLEY, made invaluable contributions. On my staff, Mike Regan and Dennis Shedd have worked diligently on this issue. Also, Ron Orr and Ken Klee, private attorneys who are knowledgeable on bankruptcy law, provided indispensable assistance. I commend all of these people for their determined and successful efforts.

Mr. HEFLIN. Mr. President, as a joint sponsor of Senate bill 548, I rise in strong support of this legislation. Senate bill 548 consists of three separate bankruptcy titles: The first deals with retiree benefits, the second with farm bankruptcy, and the third with dischargeability of restitution orders.

The core of this bill, title I, was introduced on February 19, 1987, and it has been cosponsored by Senators

HEINZ, GLENN, SPECTER, BYRD, LUGAR, RIEGLE, DURENBERGER, SIMON, ROCKEFELLER, LEVIN, BOSCHWITZ, SHELBY, BUMPERS, SARBANES, INOUYE, MIKULSKI, and BIDEN. This legislation was introduced in response to actions taken by LTV to terminate all retiree health and life insurance benefits when LTV filed for chapter 11 reorganization under the Bankruptcy Code. Many of my fellow Alabamians were hurt by LTV's actions. Health and life insurance benefits are not frivolus luxuries for these individuals, but a necessity.

This bill was given top priority in the Subcommittee on Courts and Administrative Practice of which I am chairman. Due to the complex and technical nature of bankruptcy law and the potential impact this law could have, we held 2 days of hearings on April 1 and April 24, 1987. During those 2 days we heard from bankruptcy experts on the technical aspects of the bill, from secured and unsecured creditors who would be affected by the bill, and from the retirees themselves—those that have been most directly affected by the unilateral termination of health and life insurance benefits.

In response to concerns raised at those hearings and expressed by members of the subcommittee, a compromise bill was reported out of the subcommittee, a compromise bill was reported out of the subcommittee on May 27, 1987, and was considered by the full Judiciary Committee on June 23, 1987. The Senate Judiciary Committee adopted a Metzenbaum substitute for the retiree benefits provisions and an amendment offered by Senator THURMOND, and ordered the bill reported to the full Senate.

The negotiation process has been arduous with give and take on both sides. I am gratified that my colleagues have been so willing to work together to reach a consensus. This is not a perfect bill, but it does accomplish the two goals with which we began: First, protecting the medical and health benefits of retired employees; and second, doing so in a manner that retains the integrity of the Bankruptcy Code.

This legislation amends chapter 11 of the Bankruptcy Code by enacting a new section 1114 entitled "Payment of Insurance Benefits to Retired Employees." These benefits include medical, surgical, and hospital care benefits which are payable to a retired employee, their spouse, or dependents in the event of sickness, accident, death, or disability.

This legislation requires a company filing chapter 11 bankruptcy to continue to pay retiree benefits until or unless a modification of those benefits is agreed to by the parties or is ordered by the court. This legislation protects retired employees who are covered by a collective bargaining agreement, as well as those where no collective bargaining agreement is in effect.

When a trustee attempts to modify retiree benefits or when the court otherwise finds it appropriate, the bill provides for the appointment of an "authorized representative." Labor organizations which have signed a collective bargaining agreement covering retiree benefits will serve as the authorized representative unless the labor organization elects not to serve in such a capacity or the court determines that separate representation is appropriate. For nonunion retirees the court shall appoint a committee of such retirees to serve as the authorized representative.

Modifications to retiree benefits will be allowed in the absence of a negotiated settlement only if the court finds that the modifications sought are necessary to permit the reorganization of the debtor, are clearly favored by a balance of the equities, and all affected parties are treated fairly and equitably.

Section 1114 makes it clear that when a chapter 11 petition is filed, retiree benefit payments must be continued without change until or unless a modification is agreed to by the parties or ordered by the court. The bill also provides that all retiree benefit payments shall have the status of an allowed administrative expense under section 503 of title 11 of the United States Code.

In attempting to formulate legislation dealing with retiree benefits under the Bankruptcy Code, we recognize the inherent conflict between the interest of retired employees and all other unsecured and secured creditors in chapter 11 proceedings. The decision to address the problems of retired employees was based on their unique position. These individuals, who have in many cases dedicated a lifetime to a company, are dependent upon health and life insurance benefits. The treatment accorded retiree benefit payments was based in large part on the hardship suffered by retired employees if these benefits are terminated. Unlike other unsecured creditors, retirees cannot absorb the loss of their medical care or life insurance coverage by restructuring their debts or finding replacement coverage. They are not able to demand better terms or collateral with a threat of withholding future goods or services, nor can they wait for their promised benefits. At the same time, we as lawmakers, also have a responsibility to protect the integrity of the Bankruptcy Code and the delicate balance that makes chapter 11 such a success. It is my belief that we have accomplished these goals in this legislation.

Let me speak briefly to titles II and III of the legislation. Title II would amend the Bankruptcy Code so that chapter 11 and 13 cases which were commenced before November 26, 1986, and are presently pending or reviewable could be converted to chapter 12. This situation arose because of report language accompanying the 1986 legislation that created chapter 12 bankruptcy for farmers. The legislation history accompanying this legislation clearly stated that Congress intended pending cases to be converted to chapter 12 on a case-by-case basis. However, language in the bill itself contradicted this intent. The resulting inconsistent court decisions have caused substantial hardship to otherwise eligible chapter 12 debtors. In this legislation we answer the question once and for all, and provide the relief of chapter 12 to our farmers if they are otherwise eligible for chapter 12 bankruptcy.

Title III would make nondischargeable any debt arising from a judgment or consent decree requiring an individual debtor to make restitution as a result of violation of a State law. Under current law, law enforcement authorities are often forced to do battle on two fronts in order to obtain restitution for victims—first in State court and then in Bankruptcy Court.

This bill represents countless hours of negotiation and compromise on the part of members of the Subcommittee on Courts and Administrative Practice and the Senate Judiciary Committee. I want to commend the efforts of Senator METZENBAUM, the original sponsor of this legislation and the leadership provided by the chairman of the Judiciary Committee, Senator BIDEN and by the ranking member of the committee, Senator THURMOND. I also want to commend the efforts of Senator DECONCINI and Senator GRASSLEY. This is truly a combined effort. It does not meet everyone's concerns on every issue but it is our best attempt to get the job done.

In addition, I would like to thank the following staff of the Judiciary Committee for their countless hours of hard work, their tenacity, and their attention to detail: Cindy Lebow of Senator BIDEN's staff, David Star of Senator METZENBAUM's staff, Sam Gerdano of Senator GRASSLEY's staff, Ed Baxter of Senator DECONCINI's staff, and Dennis Shedd of Senator THURMOND's staff. I would also like to thank Jan Wilson of Legislative Council for her assistance in drafting this legislation. I particularly want to thank Karen Kremer of my staff who has literally spent weeks guiding this legislation through the committee and then through the full Senate.

In urging my colleagues to vote for this important bankruptcy legislation, I would like to remind them that time is of the essence. The House must still act on this legislation before the stopgap measure requiring companies to

continue to pay retirees their health and insurance benefits expires on September 15, 1987. Congressman RODINO, chairman of the House Judiciary Committee, has introduced legislation on this issue, but we must move ahead with all deliberate speed. I am glad to have been part of an effort that will provide my fellow Alabamians and other retirees with a greater sense of security that our Nation's tremendous health care resources will be available to them in times of need.

Thank you, Mr. President.

Mr. GRASSLEY. Mr. President, I am pleased to support this consensus committee bill, which makes needed changes in the Federal bankruptcy laws to protect the rights of our retirees when their former employer files for bankruptcy.

As you know, in the 1984 Bildisco case, the U.S. Supreme Court permitted a corporate debtor, immediately upon filing for bankruptcy, to unilaterally modify the terms of its collective bargaining agreement. That same year, Congress responded by creating a new section of the code—section 1113. That section requires that, before the collective bargaining agreement is modified or rejected, the debtor must have, first, attempted to negotiate with the union or representative of the employees in good faith; second, proposed modifications of the employees' benefits that are "necessary to permit the reorganization"; and third, shown that the balance of the equities clearly favors rejection.

The compromise proposal that we pass today is an explicit extension of the secion 1113 process to protect the insurance benefits of retirees, their spouses, and dependents.

This bill was carefully crafted by many members of the Judiciary Committee. Specifically, without the cooperation and hard work of Senators THURMOND, METZENBAUM, BIDEN, and HEFLIN, we would not be ready to pass this consensus bill today. We owe thanks to these members and their hard-working staffs. Similarly, the committee report that accompanies the bill represents the joint work product of all the members of the committee. I expect that courts interpreting new section 1114 of the code will be guided solely by the language of the bill and the report.

I urge its passage and hope that the House will move with dispatch to adopt it, without amendment, as well.

Mr. WIRTH. Mr. President, over the past 2 years, the number of bankruptcies per 10,000 businesses in Colorado has soared from a rate within the mean of the United States in 1985, to a rate 50 percent higher than that of any other State in 1986. As a result, the dockets of the four bankruptcy courts in the District of Colorado have become increasingly overloaded and unworkable. Cases per Colorado bankruptcy judge rose from 1,753 in 1985 to 3,012 in 1986—an increase of 72 percent. By contrast, the Administrative Office of the U.S. Courts estimates that the ideal number of cases per judge is between 1,800 and 2,000.

Colorado's elevated bankruptcy rate is expected to continue in future years; it is estimated that there will be 14,500 bankruptcy filings in 1988, resulting in a caseload of over 3,600 cases per judge if Congress does not approve a fifth judgeship for the State. The Administrative Office has determined that these increased filings in the State are matched by a proportionate increase in difficult cases; for instance, each judge received an average of 115 new chapter 11 filings during the year ending October 31, 1986.

In 1985, Colorado experienced 8,280 Chapter 7, Chapter 11 and Chapter 13 bankruptcy filings. Within 1 year, the number had increased to 12,851.

Twenty-nine percent of the filings in Colorado last year were business filings. The State has the highest number of business filings per judge in the country at 844 per year. This number is 25 percent higher than the next highest number of business filings per judge—693—which is in the State of Iowa.

For these reasons, the Administrative Office of the United States Courts has established that Colorado's situation is such that the need for an additional bankruptcy judge there is markedly greater than in any other State. Further, the Judicial Conference has approved only Colorado's request for a new judge.

The quality and quantity of time committed to each bankruptcy filing has necessarily decreased because of the tremendous backlog currently experienced in the Colorado bankruptcy courts. For this reason, it is essential that the request by the District of Colorado for a fifth judge be statutorily approved as soon as possible.

I appreciate Senator ARMSTRONG's cosponsorship of this amendment and encourage our colleagues to give it their full support. I also want to express my great appreciation to Chairman BIDEN of the Judiciary Committee, Senator THURMOND, ranking member of the Judiciary Committee, Senator HEFLIN, chairman of the Subcommittee on the Courts and Majority Leader BYRD for their cooperation and assistance in moving this amendment to the floor.

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

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 548) was passed, as follows:

The title was amended so as to read "A bill to amend title 11, United States Code, the Bankruptcy Code, regarding benefits of certain retired employees, and for other purposes".

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

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

The motion to lay on the table was agreed to.

THE EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader if the following nominations on the Executive Calendar have been cleared: Calendar Order No. 268, on page 3; Calendar Order No. 269, on page 3; and Calendar Order No. 270, on page 3.

Mr. HELMS. Mr. President, I say to the distinguished majority leader that these have been approved on this side.

Mr. BYRD. Mr. President, I thank the distinguished acting leader.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider Calendar Orders Nos. 268, 269, and 270.

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

FEDERAL ELECTION COMMISSION

The PRESIDING OFFICER. The clerk will report the first nomination.

The assistant legislative clerk read the nomination of Lee Ann Elliott, of Illinois, to be a member of the Federal Election Commission.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will now report the second nomination.

The assistant legislative clerk read the nomination of Danny Lee McDonald, of Oklahoma, to be a member of the Federal Election Commission.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

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

The motion to lay on the table was agreed to.

LIBRARY OF CONGRESS

The PRESIDING OFFICER. The clerk will report the next nomination.

The assistant legislative clerk read the nomination of James H. Billington, of the District of Columbia, to be Librarian of Congress.

Mr. BRADLEY. We are very fortunate to have before us the nomination of James Billington to serve as Librarian of Congress.

The Library of Congress was established in 1800. Its mission then was to purchase "such books as may be necessary for the use of Congress." Today, the Library is not only a basic research tool of Congress, it is chronicler of American culture and history and is a major resource for academic research.

I have known Jim Billington for many years. He is a man of great intellect and integrity. He is dedicated to the search for knowledge. I can think of no one better qualified to lead this important institution and I am delighted to urge my colleagues to endorse his appointment today.

Mr. PELL. Mr. President, I am delighted that the Senate has moved promptly to confirm the nomination of James H. Billington to be the new Librarian of Congress.

I was pleased to chair the hearing on the nomination before the Committee on Rules and Administration, at the kind invitation of Senator FORD, and I was struck by the unanimity of support and approval for the nominee from all quarters. Dr. Billington is uniquely qualified for this important post and the President is to be commended for nominating him.

As I noted at the hearing, the title of this position is not wholly descriptive of the responsibilities entailed. The position is, of course, first and foremost a librarianship in the traditional sense of managing bibliographic collections. But this Library is the largest library in the world, with a staff of over 5,000, with a worldwide acquisition program, with special responsibility for information support for the Congress, with unique collections of nonbibliographic materials and with special problems and challenges in the still emerging field of information sciences.

Some of those challenges are clamoring for early attention: The urgent problems of book preservation and reproduction of disintegrating volumes; the disposition of the card catalog, pending modernization of the computer system; and the resolution of grievances of minority employees—to name only a few.

The Librarian's job is thus a supermanagement post in a technical sense, but that is not the whole of it either. The fact is that it has become a position of such influence in the world of scholarship and letters that it requires a special breadth of vision and intellect, without which technical competence along simply would not suffice.

It is noteworthy, I believe, that the 12 men who have presided over the Library of Congress since its beginning came from very diverse backgrounds. Two were trained as lawyers and one as a medical doctor. Among the others were an editor, a journalist, a poet, a political scientist and a historian. One was a professional library administrator and three had prior library experience, at the Library of Congress or elsewhere. They stayed in office for terms ranging from 2 to 40 years and most of them—including the distinguished retiring Librarian, Dr. Boorstin—left a distinct imprint on the Library as an institution.

Now, the 13th Librarian, Dr. Billington, brings a broad range of superlative credentials to the job. He is an experienced administrator whose successful tenure at the Woodrow Wilson Center has involved close familiarity with the Library of Congress. He is a scholar and author whose work has earned the respect of the scholarly community which is such an important part of the Library's constituency. And perhaps most important, his primary field of scholarly endeavor is Russian history and culture, the understanding of which is of paramount importance to our national interest at this point in history.

In my capacity as chairman of the Joint Committee on the Library, I look forward to working closely with Dr. Billington in the months ahead. I wish him all success in his new post.

NOMINATING JAMES H. BILLINGTON

Mr. FORD. Mr. President, when the Committee on Rules and Administration held its own hearing on July 14 on the nomination of Dr. James H. Billington to be Librarian of Congress, every person who sought to be a witness was permitted to testify and those who came as well as those who submitted statements for the record constituted a very impressive list of organizations and scholars interested in the world of libraries.

The degree of unanimity among them, as well as among Members of Congress expressing an opinion, was remarkable indeed, and when the committee considered the nomination on July 23, it was immediately ordered reported to the Senate recommending his confirmation.

As I stated to the committee at the hearing, because of my own pressing schedule that day and because of my good friend and colleague Senator PELL's strong interest in the Library over many years, I asked him to conduct the hearing, and I am grateful to him for doing so.

It was clear from the hearing record that Dr. Billington's extraordinary record makes him uniquely well qualified for this vitally important position. I ask unanimous consent that a brief biography of Dr. Billington be inserted in the RECORD at the end of my remarks.

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

(See Exhibit 1.)

Mr. FORD. Mr. President, I feel we are fortunate indeed to have the services of Dr. Billington as leader of the Library of Congress, the national library, the world's greatest library, as a worthy successor to the incumbent, Dr. Daniel J. Boorstin, whose excellent dozen years of service there was recognized when on July 23 the Senate sent to the President for his signature S. 1020, naming him as the Library's first Librarian Emeritus. Mr. President, I hope the nomination will be approved today.

[Exhibit 1]

BIOGRAPHY OF JAMES H. BILLINGTON, DIRECTOR, WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

Dr. Billington is a 1946 graduate of Lower Merion High School, where he was valedictorian and school president, and he holds a B.A. degree from Princeton, where the was valedictorian of the class of 1950. In 1953, he earned a D.Phil. from Oxford, where he was a Rhodes scholar at Balliol College. He served in the U.S. Army, 1953-6 (from Private to First Lieutenant), became a history instructor at Harvard in 1957, and an assistant professor of history and research fellow at the Russian Research Center in 1958. In 1961, he went to Princeton and was professor of history from 1964 to 1973. Dr. Billington has been a Guggenheim Fellow; a McCosh Faculty Fellow of Princeton University; visiting professorial lecturer at Tel-Aviv University, the University of Leningrad, the University of Puerto Rico, and leading universities in Western and Eastern Europe and East Asia; and visiting research professor at the Institute of History of the Academy of Sciences of the U.S.S.R. in Moscow; the University of Helsinki; and the Ecole des Hautes Egudes en Sciences Sociales, Paris.

A Phi Beta Kappa, Dr. Billington has been a longtime member of the editorial advisory board of Foreign Affairs and a director of the Association of American Oxonians. He is a past director of the American Association for the Advancement of Slavic Studies, and a former member of the editorial advisory board of Theology Today. He is the author of Mikhailovsky and Russian Populism (1958), The Icon and the Axe: An Interpretive History of Russian Culture (1966), The Arts of Russia (1970), and Fire in the Minds of Men: Origins of the Revolutionary Faith (1980). He has written widely in Life, Foreign Affairs, and other professional and popular jounals. In 1973 he scripted and hosted the Humanities Film Forum, a series of 14 scholarly discussions involving 28 scholars on nationwide educational television. He has also been guest commentator and/or historian-consultant for all three major television networks, and

was special consultant to the Chase Manhattan Bank on East-West matters, 1971–3.

From 1071–6, he was a member of the Board of Foreign Scholarships, which has executive authority over academic exchanges with 110 countries under the Fulbright-Hays Act. He was elected and served as Chairman of the Board from 1971–3; initiated the new series of Lincoln Lectureships set up to commemorate the 25th anniversary of the program; and was convocation chairman of the international Bicentennial Conference in May 1976, commemorating the 30th anniversary of the Fulbright Program.

Since September 1973, he has been director of the Woodrow Wilson International Center for Scholars, Washington, D.C.: the congressionally-created national memorial to Woodrow Wilson, located in the original red "Castle" building of the Smithsonian Institution. Under his directorship, eight programs were established at The Wilson Center, beginning with the Kennan Institute for Advanced Russian Studies in 1974. The number of meetings grew to more than 250 a year, including about 20 multi-day international conferences a year. The *Wilson Quarterly,* which he founded at the Center in 1976, reaches 110,000 paid subscribers; and 12 detailed scholars' guides to the resources of Washington have been published.

Dr. Billington has been a consultant to several international scholarly institutes, and served on academic visting committees for a number of departments and programs in many American universities (currently the graduate program of the Georgetown School of Foreign Service and the Humanities Division at MIT). He is a past vice chairman of the Board of Trustees of St. Albans School, and a past member of the Roundtable organized by the Presiding Bishop of the Episcopal Church of the U.S.

He accompanied to the U.S.S.R. the official leadership delegations of the U.S. House of Representatives to the Supreme Soviet of the U.S.S.R. in April 1979 and July 1983 and of the U.S. Senate to the Supreme Soviet in August 1983. He is vice chairman of the Atlantic Council's Working Group on the Successor Generation. He was a member of the delegation of the Episcopal Church to the Russian Orthodox Church that visited the U.S.S.R. in October 1986.

His last two books (*The Icon and the Axe* and *Fire in the Minds of Men*) were both nominated for National Book Awards. He has received honorary doctoral degrees from Lafayette College, Rhode Island College, Le Moyne College, The Catholic University of America, and Furman University. He is a member of the American Academy of Arts and Sciences and a Chevalier of the Order of Arts and Letters of France.

He is married to Marjorie Anne (Brennan) who is a graduate of Tower Hill School, Wilmington, Delawere, and the University of Delaware. She was formerly personal secretary to Senator J. Allen Frear of Delaware. They have four children: Susan Billington Harper, born 1958, a 1980 graduate of Yale University, and a 1983 graduate of Oxford University, where she was a Rhodes Scholar at Balliol College; Anne Billington Fischer, born 1960, a 1983 graduate of Princeton University; James Hadley Billington, Jr., born 1961, a 1984 graduate of Harvard University, currently at the Harvard Business School; and Thomas Keator Billington, born 1964, a 1986 graduate of Brown University, currently writing for the *Reader's Digest.*

PUBLICATIONS OF JAMES H. BILLINGTON

Books

Mikhailovsky and Russian Populism, Oxford University (Clarendon) Press, 1958, 217 pp.

The Icon and the Axe, An Interpretive History of Russian Culture, New York (Knopf, Inc.), 1966, 849 pp.; paperback, 1970.

Fire in the Minds of Men: Origins of the Revolutionary Faith, New York (Basic Books), 1980, 677 pp.; paperback, 1982.

"Finland," chapter on Finnish Communism in C. Black and T. Thornton, eds., Communism and Revolution, Princeton University Press, 1964, pp. 117–144.

"The Intellectuals," in Allen Kassof, ed., Prospects for Soviet Society, New York (Praeger), 1968, pp. 449–472.

"The Spirit of Russian Art," introduction to The Arts of Russia, New York (Horizon), 1970.

"Neglected Figures and Features in the Rise of the Raskol," in Andrew Blane, ed., The Religious World of Russian Culture, The Hague/Paris (Mouton), 1975.

"Reflections on the Nonmaterial Aspects of National Interests," in Prosser Gifford, ed., The National Interests of the United States in Foreign Policy, Washington (Woodrow Wilson International Center for Scholars), 1981, pp. 180–183.

"Rival Revolutionary Ideals" in Totalitarian Democracy and After; (International Colloquium in Memory of Jacob L. Talmon), Jerusalem, (Israel Academy of Science and Humanities), 1984, pp. 56–69.

"Three Views of Revolution," in And He Loved Big Brother—Man, State and Society in Question, (contributions to the George Orwell Colloquium, 1984, Council of Europe, Strasbourg), London, 1985, pp. 13–24; also in Reflections on America, 1984, An Orwell Symposium, ed. Robert Mulvihill, University of Georgia Press, 1986, pp. 202–214.

Con il Fuoco nella Mente: Le Origini della Fede Rivoluzionaria, Bologna, (Il Mulino), 1986, 731 pp. (Italian translation of Fire in the Minds of Men: Origins of the Revolutionary Faith.)

"Education and Culture: Beyond 'Lifestyles'," in Virtue—Public & Private. Richard John Neuhaus, ed., Wm. B. Eerdmans Publishing Co. in cooperation with The Rockford Institute Center on Religion & Society, Grand Rapids, Mich., 1986, pp. 1–7.

"American Foreign Policy and the New Isolationism," in Richard F. Staar, ed., Public Diplomacy: USA Versus USSR, Hoover Press Publication (Hoover Institution at Stanford University), 1986, pp. 3–18.

"Socio-Cultural Imperatives for a New Containment Policy," in Terry L. Deibel and John Lewis Gaddis, eds., "Containment—Concept and Policy," National Defense University Press, Washington, DC, 1986, Vol. 2, pp. 597–613.

Booklets

The Humanities Film Forum, Los Angeles, 1973 (brochure).

The Adventure of Liberal Education, Syracuse, 1982

Articles

"Thoughts on America and the Cold War," Freedom and Union, 1952, Autumn.

"The Bolshevik Debt to Russian Populism," Occidente, 1956, No. 4.

"The Renaissance of the Russian Intelligentsia," Foreign Affairs, 1957, April.

"Nikita Krushchev and 'Doctor Zhivago,'" New York Times Sunday Magazine, 1958, November 9, lead article.

"The Intelligentsia and the Religion of Humanity," American Historical Review, 1960, July.

"Five Clues to the Khrushchev Riddle," New York Times Sunday Magazine, 1961, October 29, lead article.

"Images of Muscovy," Slavic Review, 1962, March.

"Science in Russian Culture," American Scientist, 1964, June.

"Soviet Youth Is Getting Out of (Party) Line," University: A Princeton Quarterly, 1965–66, Winter (No. 27).

"Six Views of the Russian Revolution," World Politics, 1966, April.

Articles on Russia in Life, 1967, September 22 and November 10.

Two articles on the Czech Crisis in Life, 1968, August 2, and September 6.

"The Humanistic Heartbeat Has Failed," Life, 1968, May 24.

"Force and Counterforce in Eastern Europe," Foreign Affairs, 1968, October.

"A Ferment of Intellectuals," Life, 1969, January 10.

"Address to the Rhodes Scholar Sailing Party, 1969," American Oxonian, 1970, April.

"Purpose in the University," Theology Today, 1971, January.

"Fulbright Success Story," New York Times Op-Ed page, 1971, December 13.

"The Strange Death of Liberal Education," Furman Magazine, 1972, Fall.

"The Gun Within," Newsweek, 1975, October 6.

"The Crisis of Legitimacy," Theology Today, 1976, July.

"Fire in the Minds of Men," Wilson Quarterly, 1980, Summer.

"Christianity in the USSR," Theology Today, 1980, July.

"The World's Fight: 17. An Innovation in International Scholarship," American Oxonian, 1981, Spring (No. 2).

"Revolution and Its Discontents: The Revolutionary Faith in the Modern World," Syracuse Scholar, 1981, Fall (No. 2).

"Russia After Brezhnev: A Nation in Search of a New Identity," Washington Post, 1982, November 14.

"The Essentials: Goodness, Beauty, Truth," Envoy (The Catholic University of America), 1983, Fall.

"With Russia: After 50 Years. A Time of Danger, an Opening for Dialogue," Washington Post, 1983, November 20.

"Liberty, Equality, Fraternity—Old Ideals, New Revolutions," Jubilee, 1984, Summer, pp. 7–12.

"Der Generationswechsel: Die Suche nach einer nachstalinistischen Identitat," Wohin entwickelt sich die Sowjetunion? Zur aussenpolitischen Relevanz innerpolitischer Entwicklungen, edited by Hans-Joachim Veen. Melle: Knoth, 1984 (Third German-American Conference, Social Science Research Institute, Konrad-Adenauer-Stiftung, Sankt Augustin bei Bonn). pp. 180–183.

"Realism and Vision in American Foreign Policy," Foreign Affairs—1987, February.

"Soviet Power and the Unity of the Industrial Democracies," The Atlantic Community Quarterly, winter 1986–87, vol. 24, No. 4 pp. 374–379 (adaptation of address given at symposium—"The Critical Triangle—Japan, the USA and the USSR," sponsored by the Asahi Shimbun, Tokyo, April 21, 1986.)

A number of the above articles have been reprinted in anthologies and/or translated into foreign languages.

Not included are a number of columns on Communist affairs and politics in New York

Journal American; and many book reviews on historical and educational subjects in New York Times Book Review, Book World, Life, Times Literary Supplement, etc.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

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

The motion to lay on the table was agreed to.

DEPARTMENT OF STATE

Mr. BYRD. Mr. President, while the Senate is in executive session, I ask unanimous consent that the Senate proceed to the consideration of the nomination of Melissa Wells.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object, and I shall not object, the distinguished majority leader and I discussed this earlier. I am perfectly willing for this nomination to be considered this afternoon. I will not have done anything to require a rollcall vote on the motion to proceed, so I have no objection.

Mr. BYRD. Mr. President, I thank the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read the nomination of Melissa Foelsch Wells, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of American to the People's Republic of Mozambique.

The Senate proceeded to consider the nomination.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

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

Let me allude for a moment to a story that appeared in the Washington Post which was clearly intended as a lobbying effort in connection with this Senator's effort and similar efforts by 27 other Members of the Senate, Democrat and Republican, to cause the U.S. State Department at least to consult with both sides in the strife going on in Mozambique.

The State Department, not surprisingly, is adamant. As is the case in so many other instances, the State Department enjoys dealing with Communist governments, but up to now the State Department has refused even to consult with the freedom fighters in Mozambique.

So the story this morning purported to address some violence in Mozambique and to put the blame on Renamo, the freedom fighters. Now, bear in mind Mozambique is a Communist government. And I shall hereafter refer to that Communist government by the name of the Communist Party of Mozambique which is Frelimo, Renamo is the name for the freedom fighters.

Now, the massacre is reported to have occurred at a place called Homoine, which is near Inhambane, a town located on the coast in Frelimo territory.

Now let me emphasize that Frelimo is the Communist side. Frelimo controls all of that territory where the massacre is reported to have occurred. Renamo, on the other hand, operates in the interior. It has no control over the very place where this massacre occurred.

Now, I was struck by the fact that the Washington Post story this morning confined its quotes, at least identified quotes, to Communists.

For all practical purposes, the Washington Post simply turned itself over as a form for the Communist to make charges against Renamo.

This report was carried in the Washington Post, and perhaps other papers served by the Washington Post. And I heard on the radio driving to the Capitol this morning a report which was obviously just picked up from the Washington Post, without any question whatsoever.

In any case, this entire journalism episode may qualify for the Janet Cooke award of 1987. It is extraordinarily well timed from the standpoint of Mozambican Communists, Felimo. And I think it should be noted that the reports first came exclusively from the Communist news agency of Frelimo which goes by the initials AIM.

Then there were second reports which we have this morning from Western journalists who, according to the Communist technique down through the years, were brought in, and given the Communist version. You will note that the Post reporter did not go to Homoine. He was not taken by the Communists to the scene of the killings. They said it was too dangerous. The Post reporter went only to the nearby town to interview handpicked survivors.

No journalists whatsoever were present at the time of the violence. None.

So, what we have in this story are news people reporting on charges made by the Communist spokesmen for Frelimo. What kind of honest journalism is that?

It should also be remembered that Communists all over the world are ruthless in obtaining their aims without any regard to truth. Any Senator can cite chapter and verse on that sort of thing.

We even know there have been countless cases of Communist massacres perpetrated on the innocent by Communists for the purpose of blaming the other side.

I was not there. I do not know of my own knowledge what happened. But neither does anybody from the Washington Post.

Not one single source in the article is an objective observer. We are told that it is "by the Mozambican Government's account."

Well, the Mozambican Government is Communist.

Then, the Washington Post said: "Mozambican officials said." Then it quotes, "The Mozambican Prime Minister told visiting journalists."

It is interesting, Mr. President, that not once in this story from the Washington Post this morning is it even mentioned that the Mozambican Government is Communist. Nor is it surprising, Mr. President, that the interpretation which the Washington Post put on this affair is taken verbatim from the Communist Prime Minister of Mozambique.

Referring to the Senator from North Carolina and the distinguished Republican leader, Mr. DOLE, this so-called Prime Minister says:

> I can't understand why they insist to back murderers, without heart, without feelings, without any human feelings. If you are able to kill a pregnant woman in a hospital bed, I think something is not going right in your mind.

Mr. President, that is a slur on the minority leader of the U.S. Senate. I am used to Communists talking that way about me, so it does not bother me. But I resent the Washington Post printing such a statement from a Communist about BOB DOLE. Because it is a lie, a boldface lie.

What the distinguished Republican leader and I and 26 other Senators have been urging is very simple and that is that the United States should be talking to both sides.

I have never told the State Department that it should recognize Renamo as a government—as an organization fighting for freedom, but not as a government. I have never suggested to the State Department that it should agree with Renamo. I have simply said to the State Department, and specifically to the Secretary of State: Sit down at one time or other with both sides. How can you know what is on Renamo's mind, the anti-Communist freedom fighters, Renamo, if you do not at least talk with them?

I might add parenthetically——

Mr. SYMMS. Will the Senator yield for a question?

What I want to know is what explanation does the State Department give to the good Senator from North Carolina of why it is that they will not talk to the Renamo but they will talk with the necklacing crowd of the ANC, which is nothing more than a Communist front organization?

Mr. HELMS. Thank you for asking the question. That is precisely the point. Secretary Shultz was before the Foreign Relations Committee a few weeks ago. I asked him about his contacts with, his visits with, his consultations with the African National Congress—the nice little people, do you not know, in South Africa, who fill tires with gasoline, hang them around the necks of black people with whom they disagree who would not go along with this Communist-orchestrated organization; and then they set a match to it.

Secretary Shultz's reply was immediate. He says: Senator, we will talk with anybody.

Well, of course we will talk with anybody. The point is, will they talk with Renamo as a group? As a key player in achieving peace. He said we will talk with anybody.

And yet the State Department refuses to have any contact with the freedom fighters in Mozambique on any official level. The only contact that has been made was at my behest and that was by a desk officer.

An insulting contact was made a demeaning contact. Of course Renamo is paying no attention to that. But there have been something like 59 or more contacts with the African National Congress. As a matter of fact, if the Senate is interested in a historical chronology of State Department meetings with the African National Congress—and this is according to Nancy Morgan, the Director of Public Affairs at the African Bureau down in Foggy Bottom—from 1982 to 1986 the State Department has been holding and is continuing to hold regular meetings—I say to the distinguished Senator from Idaho—regular meetings with the African National Congress, the way she put it, at least once a month in Lusaka and Zambia.

In July 1986, Paul Hare, the American Ambassador to Lusaka, Zambia, met with the ANC. In September of 1986, the Assistant Secretary of State for Africa, Chester Crocker, met with Oliver Tambo, president of the African National Congress, ANC, in London.

You see, Mr. President, there is no end to how far the State Department will go to meet with a Communist crowd. And that is my objection to the U.S. State Department.

Mr. SYMMS. Will the Senator yield again?

Mr. HELMS. Yes.

Mr. SYMMS. Is it not true that the Reagan doctrine is to expand the borders of freedom and roll back the borders of communism? That is what the President said?

Mr. HELMS. Exactly.

Mr. SYMMS. Does it not appear to the Senator from North Carolina, as it does the Senator from Idaho, that oftentimes one of the biggest obstacles to the successful implementation of the Reagan doctrine is the policies that come right out of the State Department.

Mr. HELMS. The Senator is absolutely correct. The point is this: You change administrations. You change Secretaries of State. But that infrastructure down a couple of levels below the Secretary, it runs the foreign policy show. It does not care who is President. It does not care who is Secretary. It says they know best. And this Senator says they do not know best, and we could go back to Cuba where the State Department infrastructure encouraged the rise of Fidel Castro.

Mr. SYMMS. They encourage the rise of the Communist Sandinistas.

Mr. HELMS. Quite right.

Mr. SYMMS. The fact is when President Reagan was former Governor, he had a heyday with the foreign policies of former Ambassador Andrew Young.

Mr. HELMS. That is absolutely correct.

Mr. SYMMS. And then his own State Department—and the Senator and I are two of the strong advocates of the policy President Reagan campaigned on—the President's own State Department now is trying to appoint to a very important job in a Communist country in Africa a person who was then Ambassador Young's top deputy or one of them, is that not correct?

Mr. HELMS. That is correct.

Mr. SYMMS. The record is replete with just every kind of a bipartisan sellout of America's interests. I have heard the Senator say many times that all he asks is just one little question: Please, when will we get an American desk in our State Department?

Mr. HELMS. The Senator has it exactly right.

And do not forget the Panama Canal giveaway. That was orchestrated by the State Department. That was the beginning of the difficulties in Central America because that sent a signal, I say to my friend from Idaho, to the Marxists everywhere that we really are not going to defend this hemisphere. That is the reason you have the conflict you have right now in Central America.

If I may continue with the list of meetings by the State Department—and I am talking about fairly top level officials, including the Secretary of State, I might add, with the African National Congress—bear in mind these are the people being orchestrated by the Communists in South Africa, who get the old automobile tires, fill them with gasoline, hang them around the people who dare oppose them and set a match to them.

They even did it to a child with a bicycle tire, because the little boy happend to be the son of a black man who was opposed to the African National Congress.

The State Department deals with these people, but they will not even meet with Renamo.

In December 1986 the Under Secretary of State Michael Armacost met with the ANC. In September of 1986 through January 1987, Paul Hare, I referred to him earlier, the American Ambassador to Zambia met with the ANC at least six times. Probably more than that but at least six documented times.

On January 29, 1987, this year, the Secretary of State, Mr. Shultz, met with Oliver Tambo, the president of the African National Congress, right here in Washington.

In February of this year, Gibson Lanpher, director of South African Affairs, and Ambassador Paul Hare met with the ANC at the African American Institute's annual conference, met with them for 3 days in Botswana.

Since February of this year Ambassador Hare has continued to meet on a regular basis with the African National Congress, five or six times at a minimum, in Zambia.

Mr. President, I made all sorts of propositions to the State Department.

Much has been made by the Washington Post and other media that I have unreasonably questioned the nomination of Mrs. Wells, who is a very charming lady. But she follows the same department line. She says that she will not meet under any circumstances with Renamo as an organization. I told her in my office, and we met for an hour and a half, I might add, that unless the State Department changes that policy "which you feel obliged to follow, I am going to have a problem with your nomination."

And I have told the Secretary of State in my office, I have told John Whitehead, the number two man at the State Department: "Just say that you will meet with Renamo and hear what they have to say."

They say, "No, no way, José."

Therefore, Mr. President, I say, "No way, José" to the U.S. State Department in every effort made to bring up this nomination. Until the State Department takes a look at its own dumb policy we are going to have the problem with this nomination.

I would like nothing better than for Mrs. Wells to be in a position where she could tell me and the 27 other Senators, including the minority leader, "Sure, we will treat Renamo like we treat with everybody else in the world. We will meet. We will try to find out what the facts are. We will deal with them."

I cannot speak for the lady, but her superiors at the State Department at the behest of this underbelly of careerists say, "No, you are going to defeat HELMS and DOLE and the 26

other Senators who object to this foolish policy of the U.S. State Department with respect to Mozambique."

Mr. SYMMS. Will the Senator yield on that point?

Mr. HELMS. I would be delighted to yield.

Mr. SYMMS. I apologize. I do not mean to interrupt the Senator but this is pertinent to his point. I think it should be known to our colleagues, all Americans, and to President Reagan. I hope he will pay attention to what the good Senator from North Carolina is trying to do.

You are almost too kind and too generous, in my view, because you made such a generous offer to the administration. I will quote from a letter dated June 18, 1987, from the Honorable JESSE HELMS to the Honorable John Whitehead.

The question is about Secretary Shultz saying he would meet with the ANC.

I am asking one simple question: Will the State Department instruct Ambassador-designee Wells to meet with the Renamo as an organization?

If you will send me a one-word response—yes—I will be willing to urge the leadership to expedite her confirmation.

Then they send back a long answer. If the Senator has not done so, I think this should be part of the RECORD.

Mr. President, I ask unanimous consent that both Senator HELMS' letter of June 18 to John Whitehead and John Whitehead's letter of June 17 be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, June 18, 1987.

Hon. JOHN C. WHITEHEAD,
Deputy Secretary of State, Department of State, Washington, DC.

DEAR JOHN: While I appreciate your frank and candid letter of June 17 regarding Melissa Wells, I am obliged to say that I find it puzzling. In all sincerity, I am asking one simple question: Will the State Department instruct Ambassador-designate Wells to meet with RENAMO as an organization? (I would remind you that Secretary Shultz, in an appearance before the Foreign Relations Committee, unhesitatingly stated that he would meet with the African National Congress, the violent organization in South Africa that engages in such activities as "necklacing.")

If you will send me a one-word response—Yes—I will be willing to urge the leadership to expedite her confirmation.

Unfortunately, I simply cannot accept the premises of your argument. The contacts with RENAMO during the period of the negotiation of the Nkomati Accord were to pressure RENAMO into giving up their hard-won advantages in the hope of achieving the nebulous peace envisioned by Nkomati. From the information I was given at the time, the role of the State Department was entirely to the disadvantage of RENAMO and the cause of freedom; the advantages were all on the side of the Communists.

My position is that RENAMO stands for the cause of freedom and pro-western values, while Maputo represents a repressive one-party Communist state. I do not see why the United States should join in a condominium with the Soviet Union to impose Communism on the people of Mozambique for the benefit of a few, amoral Western multinational corporations. Our policy in Mozambique is unintelligible and unsupportable.

In some areas of the world, the problems are extremely complex; but here it is simple. We either support Communism, or we support freedom.

Sincerely,

JESSE.

DEPARTMENT OF STATE,
Washington, DC, June 17, 1987.

Hon. JESSE HELMS,
U.S. Senate.

DEAR JESSE: Thank you for your letter of June 9 regarding the President's nomination of Melissa Wells as Ambassador to Mozambique. I readily agree that if the United States is to make a positive contribution toward peace and the alleviation of suffering in Mozambique, we must deal with the situation as it truly is. As the Administration sees it, that involves working with the Government of Mozambique to deepen its evolving relationship with the West and to continue loosening its ties to the Soviet Union and its allies. It involves working with the international community, especially nonpolitical organizations like the International Committee of the Red Cross, to see that food reaches all those in need.

On the question you posed to Ambassador-designate Wells on June 4, the Administration's position is as Secretary Shultz described it in his letter to you of June 6. A consistent objective of the United States in Mozambique has been the restoration of peace in that war-torn country. We have in the past, when circumstances were propitious for doing so, promoted contact between the government of Mozambique and RENAMO. For example, we did so in connection with the negotiations between them that accompanies the conclusion of Mozambique's 1984 accord with South Africa at Nkomati. Should the occasion arise for us to play a similar role in ending hostilities between the government and the insurgents in Mozambique, we would not hesitate to undertake that role. We remain alert to opportunities to do so.

I realize there are differences between the Administration's position and your own. Nevertheless, I hope you will work to expedite Senate confirmation of President Reagan's nomination of Ambassador-designate Wells without further delay.

Sincerely,

JOHN C. WHITEHEAD.

Mr. SYMMS. Then I will ask if anyone in the White House paid any attention to what was going on if they had handed that response to the President. Maybe if he started bossing the State Department a little bit we would get some response from the headman down there.

Mr. HELMS. Mr. President, at this particular time, with all the problems the President has, he has no choice, and no other occupant of the White House has any choice, but to try to depend on his advisers. Unfortunately, his advisers are not in tune with the President's own views.

This is the same crowd, I reiterate, that orchestrated the giveaway of the Panama Canal, that orchestrated the takeover by Fidel Castro in Cuba, and they are making this policy.

I have talked to Howard Baker about it, and Howard has his plate full. So I have simply taken a position of sooner or later we will get their attention. In the meantime, I am going to continue what I have been doing.

Mr. SYMMS. I thank the Senator for doing what he has been doing and I think there are a lot of other people who thank him, too.

Mr. HELMS. I thank my friend from Idaho.

I want to finish, and then I would like to yield the floor to the distinguished Senator from Idaho. I want to get back to the slur by the Washington Post this morning against Senator BOB DOLE. Now, all that Senator DOLE and I and the 26 other Senators have been urging is that the United States should be talking to both sides. It is not just the Washington Post that is talking only to the Communists and giving the Communist line. Our Government has an official policy of not talking to both sides. The State Department has had official talks, as I said earlier, with the African National Congress over 59 times, including a meeting, as I said earlier, with Secretary of State Shultz himself.

Now, back to the massacre which was reported in the Post. And I suggested earlier that article be nominated for the Janet Cooke Award of 1987. I went to the trouble to make my own inquiries about it. For the State Department's information, it is not hard to find Renamo. I contacted Renamo's local representative here in Washington. His name Dr. Luis Serapio, and he has been a distinguished professor at Howard University for a number of years. He told me Renamo issued a statement yesterday. It arrived to me in Portuguese, and I must say to my distinguished friend who is presiding over the Senate at the moment that my Portuguese is a little weak, so I had to have it translated. In the meantime, I have been provided with a summary in English. First, let me remind everybody that there has been no evidence whatsoever presented that Renamo was even in the area of the massacre.

Mr. President, at this point I ask unanimous consent that the summary of the Renamo communique of July 23 be printed in the RECORD at the conclusion of my remarks along with the Washington Post article of July 24.

[See exhibit 1.]

Now, admittedly this is Renamo's side of it and I think Renamo is entitled to have its side presented. Good luck to Renamo as far as the Washing-

ton Post is concerned over. Renamo's version is that the village was filled with Frelimo's regular troops and the Frelimo militia.

Now, just for the purpose of emphasis, let me reiterate that Frelimo is the Communist group over there, the Communist government. Now, as is well known, the militia is poorly equipped, poorly paid, while the regular Mozambican troops are well fed and well clothed. And of course there is a lot of animosity between the Communist militia and the Communist regular troops. And they have a lot of fights among themselves. They engage in violence among themselves.

According to Renamo, a dispute broke out between these two factions, both of them were armed and they began shooting at each other, and the civilians were caught in the middle. Now, of course, I do not pretend to have any independent confirmation of this version, but neither does the Washington Post have one scintilla of confirmation of that story they ran this morning. There may be other information forthcoming that will not be helpful to Frelimo, it may not even be helpful to Renamo—who knows—but the point is this government ought to be talking to both sides so that we can find out what the truth is, whatever it is. But the U.S. State Department says, "No way, Jose. We are not going to talk to Renamo; we are going to take the word of Frelimo," the Communist crowd.

If my colleagues will get a map of that area, they will see that the village of Homoine is near the major town of Inhambane, which is on the east coast of Mozambique. Now, if there is anything we know about the situation in Mozambique, it is that RENAMO operates only in the interior, not on the coast anywhere. Frelimo, on the other hand, is in control of the urban areas on the coast, so just simple logic indicates that it makes more sense for Frelimo to have been in the area than RENAMO. If the State Department doubts this, why do they not check? Why do they not go there?

Now, I have put these facts forward to show that there is another version to this massacre, and one that seems to me to fit better with what we know about Communist history and what we know about freedom fighters historically. The State Department and the news media have long joined in a conspiracy to blacken the reputation of anti-Communists all over the world. I recall all of these stories that the Washington Post and others have published saying as a fact that the contras, the freedom fighters in Nicaragua were dealing in drugs. Well, I cannot go into classified information, but we have had witness after witness before the Foreign Relations Committee, meeting in closed session, people who have no reason to lie about it, and not one of them has said that the freedom fighters ever enaged in drug trafficking. But it is known, on the other hand, and it is soft pedaled by the major news media, that such people as Noriega in Panama and Castro in Cuba are dealing regularly in drug trafficking.

But I guess the State Department regards leftwing crimes as sort of a boys-will-be-boys operation. We do not get into that. But the Communists are up to their ears in drug trafficking.

Now, what we need in Mozambique are a cease-fire and negotiations and free elections under a multiparty system. A week or two ago I wrote identical letters to the Communist President of Mozambique and to the head of the RENAMOS, the anti-Communist freedom fighters, the same letter to both. And let me read this letter. We have not heard from either one because RENAMO is hard to reach, being away from communication, but I am advised that we are going to have a response in agreement with the four requests that I made, and Senator DOLE made essentially the same request. Incidentally, I passed copies of these letters out to the news media thinking that since they had written so much about the Mellissa Wells nomination and assigned such dark motivation to Senator DOLE and to me about this nomination, perhaps they would be willing to print a few words or broadcast a few words about the kind of offer that was made by Senator DOLE and me.

I asked four questions of Joaquin Chissano, the President of the People's Republic of Mozambique, and Afonso Dhlakama, President of Renamo. When I finish reading the questions, Mr. President, I am going to ask unanimous consent that the letters be printed in the RECORD, but I will not do that yet. The first question:

Will you agree to a temporary cease-fire to allow a Red Cross plane to enter the airspace controlled by your forces for the purpose of completing the evacuation of Ms. Bryan?

Ms. Bryan being the nurse who the news media says had been kidnapped by Renamo. It is not so but anyway I say that by way of identification.

The second question:

If you will not agree to a Red Cross plane for the purpose mentioned above, will you agree to a cease-fire to allow a U.S. Government plane to evacuate Ms. Bryan?

(3) Will you agree that Ms. Bryan should be returned unharmed directly to Red Cross or U.S. Government authorities?

(4) Will you agree to a longer-range cease-fire for the purpose of negotiations relating to national reconciliation, free elections with international observers, and peace?

Mr. President, I ask unanimous consent that these two letters, which are identical except for the persons to whom they are addressed, be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, July 14, 1987.

Mr. JOAQUIM CHISSANO,
President, People's Republic of Mozambique, Maputo, Mozambique.

DEAR MR. PRESIDENT: The conflict in Mozambique is one which deeply affects the American people. This morning, I met with the Senate Republican Leader, Senator Robert Dole, and the Secretary of State, Mr. George Shultz, to discuss ways whereby the United States could use its good offices to ease the suffering of the Mozambican people.

In particular, we are distressed to learn that a U.S. citizen and nurse, Ms. Kindra Bryan, is caught up in the conflict between the two parties. Ms. Bryan was evacuated from a military fire zone for her safety by the RENAMO forces, and we understand the two parties have been unable to arrange a safe-conduct for a suitable humanitarian organization, such as the International Red Cross, to remove her from the war area.

In a humanitarian spirit, therefore, I am addressing the same inquiry both to the Government of Mozambique and to the insurgent forces organized under RENAMO, and I await the replies of both sides to these identical questions:

(1) Will you agree to a temporary cease-fire to allow a Red Cross plane to enter the airspace controlled by your forces for the purpose mentioned above, will you agree to a cease-fire to allow a U.S. government plane to evacuate Ms. Bryan?

(3) Will you agree that Ms. Bryan should be returned unharmed directly to Red Cross or U.S. Government authorities?

(4) Will you agree to a longer-range cease-fire for the purpose of negotiations relating to national reconciliation, free elections with international observers, and peace?

I await your immediate reply.

Sincerely,

JESSE HELMS.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, July 14, 1987.

Mr. ALFONSO DHLAKAMA,
President, RENAMO
Gorongosa, Mozambique.

DEAR MR. PRESIDENT: The conflict in Mozambique is one which deeply affects the American people. This morning, I met with the Senate Republican Leader, Senator Robert Dole, and the Secretary of State, Mr. George Shultz, to discuss ways whereby the United States could use its good offices to ease the sufferng of the Mozambican people.

In particular, we are distressed to learn that a U.S. citizen and nurse, Ms. Kindra Bryan, is caught up in the conflict between the two parties. Ms. Bryan was evacuated from a military fire zone for her safety by the RENAMO forces, and we understand that the two parties have been unable to arrange a safe-conduct for a suitable humanitarian organization, such as the International Red Cross, to remove her from the war area.

In a humanitarian spirit, therefore, I am addressing the same inquiry both to the Government of Mozambique and to the insurgent forces organized under RENAMO, and I await the replies of both sides to these identical questions:

(1) Will you agree to a temporary ceasefire to allow a Red Cross plane to enter the airspace controlled by your forces for the purpose of completing the evacuation of Ms. Bryan?

(2) If you will not agree to a Red Cross plane for the purpose mentioned above, will you agree to a cease-fire to allow a U.S. government plane to evacuate Ms. Bryan?

(3) Will you agree that Ms. Bryan should be returned unharmed directly to Red Cross or U.S. Government authorities?

(4) Will you agree to a longer-range ceasefire for the purpose of negotiations relating to national reconciliaton, free elections with international observers, and peace?

I await your immediate reply.

Sincerely,

JESSE HELMS.

Mr. HELMS. Mr. President, the distinguished Senator from Idaho has been very patient, awaiting an opportunity to speak on this. I ask unanimous consent that I be able to yield to him without my resumption being considered a second speech.

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

The Senator from Idaho is recognized on that basis.

Mr. HELMS. I thank the Chair. I yield to my friend from Idaho.

Mr. SYMMS. Mr. President, I thank the distinguished Senator from North Carolina for his remarks and for his valiant effort in what I know he believes to be—and I happen to share that belief with him—in the cause of the expansion of freedom and the cause of the Reagan doctrine, which says that it is hereby the United States foreign policy that we are going to roll back the borders of communism and expand the borders of freedom and make the Brezhnev doctrine null and void.

That is a doctrine that most Americans agree with, but I must say to my friend from North Carolina that the U.S. State Department policies, under both parties over the years, has consistently supported a no-win policy; has consistently supported a Communist government in Mozambique; and has refused to recognize the resistance forces that represent the implementation and the sinew to make the Reagan doctrine become a reality.

It leads one to believe that one of the biggest obstacles to having the Reagan doctrine be successful is the State Department itself.

The administration has to take some of the responsibility for that because, after all, the President does appoint the people who are running it. I think they are failing to live up to their responsibilities when they come up with nominations like the one before us now.

I regret that I must oppose this nomination of Melissa Wells to be the U.S. Ambassador to Mozambique. I say that I regret it, because I hold no personal grudge against Mrs. Wells, and I never find it comfortable to oppose a nomination by a President of my own party, or of any party.

I urge President Reagan to withdraw the Wells nomination and return to the Senate the name of a person with a clear understanding of what is happening in Mozambique.

Mr. DOMENICI. Mr. President, I wonder if the distinguished Senator will yield 5 minutes, as in legislative session, to the Senator from New Mexico, to engage in a colloquy with the chairman of the Budget Committee, Mr. CHILES.

Mr. SYMMS. I am happy to yield. I ask unanimous consent that my statement show no interruption.

Mr. DOMENICI. I ask unanimous consent that our remarks not interrupt those of the distinguished Senator from Idaho.

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

DEBT LIMIT EXTENSION

Mr. DOMENICI. Mr. President, I yield at this time to the distinguished Senator from Florida [Mr. CHILES], the chairman of the Budget Committee.

Mr. CHILES. I thank the Senator from New Mexico.

Mr. President, we want to engage for a couple of moments in a colloquy. We find ourselves on Friday afternoon, after a session yesterday in which nothing too positive was accomplished so far as a result in trying to amend an automatic sequester on the debt ceiling is concerned.

Finding ourselves faced with the existing debt ceiling running out on Tuesday, we want to inform the body that we have participated in a meeting today and look forward to getting together again on Tuesday. I do not think that at this stage we come forward to say that we have any great plan of salvation that has been adopted. But I thank the Senator from New Mexico for the meeting. I think we met in good spirit, and we have some ideas on the table. I hope those can ripen somewhat over the weekend and that we will have a chance to get together on Tuesday.

I yield to the Senator from New Mexico.

Mr. DOMENICI. I thank the chairman.

Yesterday was a difficult day, and obviously nothing was resolved. The distinguished chairman of the Budget Committee—at his earliest convenience today, I assume—called me and asked if we could talk. I was pleased to do that. Just a few moments ago, we had a chance to discuss the stalemate that exists. The distinguished chairman asked if we would negotiate, if we could sit down at the earliest possible time and see if there are some mutual grounds we could use upon which to build a consensus among him and me and some of the principals who work with both of us. Of course, my response was, as it must be, that I am willing to do that.

However, I must tell the Senate—and that is the reason why I thought we should come here—that we are just beginning that process. The Senate knows that I am not going to be here more than another 30 or 40 minutes today, which is my own New Mexico business, and that I could not possibly come up with anything positive, nor do I think my friend from Florida could, in that timeframe.

We have indicated to each other that the first thing Tuesday, after looking over some general concepts while we are away for the weekend, we will sit down once again and hopefully come up with some solutions. I say "hopefully" because that is my real desire. But I am not telling the Senate that we are certain that we can do that, nor do I believe that the distinguished chairman, the Senator from Florida, is saying that. Surely, we will try, and we will keep the leadership informed and keep those who have been the principal participants in this rather monumental job advised from time to time, starting Tuesday, early in the morning, upon our arrival back in Washington. We will report to them at regular intervals.

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

Mr. DOMENICI. I yield.

Mr. BYRD. Mr. President, I thank Senator CHILES and Senator DOMENICI for their good-faith efforts this afternoon.

I believe that on Tuesday, when they resume their work, we can hope for continued progress.

A journey of a thousand miles has to begin with a single step, and they are both working together and making headway, I have to say. They are talking, and they are doing it in good faith.

As I said earlier today, they are men of good will and reasonable men can overcome almost every obstacle. I have my faith in both these men. I thank them.

Mr. DOMENICI. I say to the distinguished majority leader that I am fully aware of how difficult this situation is for him and the distinguished minority leader, with a debt limit pending which could cause a disaster and a catastrophe for our country.

On the other hand, I think the majority leader knows better than this Senator that we are not going anywhere very quickly on that long-term debt limit until some of this gets resolved or total frustration occurs where we cannot do anything.

It is in that spirit that we will start Tuesday.

We have not accomplished a great deal today, but I think it is fair to say

that in sitting down and saying we will try, the Senator has properly assessed the situation. That is better than we were at 7 o'clock last night. So at least that is the first step in that journey the Senator speaks of. I am not sure we will make that full journey, but we will try.

I thank the majority leader.

Mr. CHILES. I thank the majority leader for his kind words and patience with us, and we will certainly try.

Mr. BYRD. Mr. President, I thank both Senators. I will be hoping we can be helpful.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

THE MELISSA FOELSCH WELLS NOMINATION

Mr. SYMMS. Mr. President, when discussing with the Senate Foreign Relations staff her understanding of Renamo, Mrs. Wells likened these freedom fighters to the Red Brigade in Italy, and thereby showed she lacked understanding of the Reagan doctrine. Moreover, when providing written answers to questions submitted by the ranking Republican member of the Foreign Relations Committee, Senator HELMS, she compounded the problem by stating the following:

* * * [T]he South-African supported insurgent movement RENAMO is operating in a manner that can only have as its objective destabilization of the country. Judged by its action and not by its claims, the actions of RENAMO are not those of a nationalist movement. It has not demonstrated a capacity to take, hold and govern territory. RENAMO is politically fragmented, it has no political program and has not shown evidence of a structure, other than military, that could be called a permanent presence in the country.* * *

Notwithstanding Mrs. Wells denigrating characterization of Renamo, I firmly believe they are the ones whom the United States Government should be supporting in Mozambique, not the Marxist-Leninist Frelimo government. The United States should not be sending a U.S. Ambassador who believes and propounds the party line of Frelimo—a party whose strongman, Samora Machel, in 1977 stated—and this is a very important statement. This is Machel's own words:

Our struggle is to destroy all vestiges of feudalism and colonialism, but fundamentally to crush capitalism, which is the most advanced form of exploitation of man by man.

Mr. President, that really says a lot right there. I was in the other body when this happened and we were trying at that time in neighboring Angola to get support for Jonas Savimbi, who is one of the greatest men living in the world today, and one of the greatest proponents of freedom and opportunity. Yet, here we have a person whose goal is to crush capitalism and that is who our State Department is supporting.

I have said many times if we are going to send pro Socialists around the world, to represent the U.S. Government, we would be better off to call them all home and just take an airplane and once a week fly over the country and drop out the J.C. Penney and Sears catalogs and say, "We have this over in America. If you want a little capitalism, call us and we will tell you about it."

Instead we have a constant push from the State Department to try to push outdated, bankrupt, economic policies of socialism and immoral policies of communism that our State Department tries to be playing and working with.

How can the United States play any real part in achieving a democratic solution to the civil war in Mozambique through negotiations which include RENAMO if our Ambassador looks upon those freedom fighters as bandits? How can the Reagan doctrine in Mozambique, in fact all of southern Africa, be advanced by a U.S. representative who tries to deflect charges that Frelimo is a Marxist-Leninist regime by saying that, unlike classic Marxist-Leninism, there is no dictatorship of the proletariate?

Come on, Mr. President, how can they be that naive. Where have they been in the last 30, 40, 50 years? Where have they been when millions of people have been slaughtered and murdered by the expansionist Soviet empire. Moreover, how could the administration, specifically the State Department, have sent a nominee to the Senate who espouses the views put forth by Mrs. Wells?

I just think it is high time that some people do get a little bit righteously indignant about it. I am happy that the distinguished Senator from North Carolina is raising a ruckus about it on the Foreign Relations Committee, as he should. It is unfortunate because I know of the strong affection and admiration and respect that the Senator from North Carolina holds for our President. I know that personally. I have heard him express time and time again his devotion to the principles of our Constitution, his devotion to the principles that allow people to operate freely in the market. But, I am utterly dismayed at the process by which Ambassadors are chosen, and after all, we have a Reagan administration that has been in power for some 6½ years now, and I would think that in that period of time they might take a little interest in who is getting appointed and exert their influence. After all, the American people elected this President by massive landslides. It was brought to my attention that this President has carried some 93 States in this country in running in the 50-State election 2 times, that he carried 93 of the 100 States in his elections. So he obviously has the support of the American people with respect to his foreign policy.

Yet the bureaucracy of Foggy Bottom grinds right on along the way it always has and they certainly keep sending up these nominations.

This certainly is not the first nomination received by the Senate that has provoked individual Republican Senators to request that the administration withdraw a nomination.

Unfortunately, I doubt that this will be the last one either after the revelations that were made yesterday by the distinguished Secretary of State. The Senate has fought constantly with the State Department in their selection of Ambassadors. It is inconceivable to this Senator why President Reagan has approved the nomination of Melissa Wells who believes the United States should attempt to buy Mozambique away from the Soviet Union—and, at the same time, turn our backs on the RENAMO freedom fighters who, despite the prevailing view in our State Department, are winning the war in Mozambique.

They are winning the war in Mozambique and our State Department is trying to drag defeat out of the jaws of victory. That is exactly what they are trying to do. They are trying to stop them from winning. It is as though the biggest obstacle to freedom prevailing in southern Africa—as big an obstacle as the Communists themselves—is the policymakers in the U.S. State Department who are setting this policy who refuse to support the resistance movement in Mozambique.

The State Department argues Frelimo is leaning toward the West. I ask my colleagues, has the Frelimo government requested the withdrawal of all foreign troops from Mozambique soil? Have the Soviet, Cuban, and East German military advisers left Mozambique? The answer to both questions is no. This, Mr. President, is what Frelimo has done: They have reached an agreement with the Soviet Union for more military aid; they have seized virtually all private property and nationalized almost every enterprise in the country; and they have established a number of ministeries to control the people and direct the economy. In fact, the Foreign Broadcast Information Service reports that on Mozambique's Hero's Day, Mozambique's President Jouquin Chissano, stated on public radio:

Some may think that because we are having negotiations with Western institutions, that we are having doubts about the socialist option. That is not the case. We choose socialism and combined it with the scientific teachings of Marxism-Leninism.

Does this sound like any directional change on the part of Frelimo? In my opinion it does not.

And I would venture to say if you took it to Main Street America and to Ronald Reagan himself, that he would not agree with it either.

I would refer my colleagues to a recent article last Thursday in the Wall Street Journal, written by a Colonel Ochoa of the Salvadoran Army who recently resigned. I had the privilege in 1982 and again in 1983 to visit him in the field with his troops and in the operation he was in El Salvador. He was the finest officer that I saw in the Salvadoran Army. He wrote a very interesting article in the Wall Street Journal last Thursday after he had resigned from that army talking about the fact that unfortunately in El Salvador, one of the biggest problems they have in stopping communism is the State Department supporting the government in El Salvador, that imposed land reform upon the people. Their idea of land reform is you go in and confiscate the land, take it away from the person who owns it, give them no money back for it, and then call that land reform.

What that amounts to sounds like what has happened in Mozambique where they have seized virtually all private property, and nationalized almost every enterprise in the country.

The State Department thinks they can suck and blow in the same breath. And I say to my friend from North Carolina, it cannot be done. He knows it cannot be done. But, somehow, our State Department thinks that they can have it both ways and they cannot do it. And it is causing a great deal of problems. Then, to come up with this kind of a nomination, we should oppose it.

The State Department blames most of Mozambique's problems on the anti-Communist resistance movement. But how can the State Department believe the virtues of freedom and democracy will flourish without removing the one-party system that currently exists in Mozambique? They have a one-party system. Moreover, how can we believe the Reagan doctrine can ever be implemented in southern Africa, when the administration sends the Senate a nominee to be Ambassador to Mozambique who has no knowledge of this doctrine and prefers the Frelimo regime?

Mr. President, the person worthy of this nomination should at a minimum: exhibit the desire to demand the withdrawal of all foreign forces from Mozambique such as the Soviet Union, Cuba, East Germany, North Korea, Zimbabwe, Zambia, and Tanzania.

Our Ambassador should be someone who believes that is what should happen.

They should stress the need to strengthen our contacts with RENAMO. At this time, no high-level U.S. policymaker has ever met with a RENAMO representative.

I think it is outrageous, personally, that Secretary Shultz, who is supposed to be President Reagan's representative of the Reagan doctrine, has met with the necklacing, Communist front organization, the ANC, and given them all that credibility in southern Africa, but refuses to meet with the freedom fighters from Mozambique who we should be brothers-in-arms with in helping them to maintain and gain their own freedom. It is an absolute outrage.

The next thing we should have our Ambassador do would be to push for national reconciliation and negotiations between Frelimo and RENAMO.

Fourth, she should consider recommending Reagan doctrine assistance to RENAMO if the current Communist regime refuses to negotiate with RENAMO.

In my view, we ought to be supporting them now. We have a fight over whether to spend $299 billion on our defenses, Mr. President. That is a lot of money. That money could be used for a lot of other things. For a small part of that, if we had the foresight to support those resistance movements in countries like Angola, Mozambique, Nicaragua, Cuba—yes, Cuba, itself—in Poland, and in Afghanistan. We should be supporting these people so they can manage to gain their freedom, not support them just so they can fight for some kind of a stalemate.

Our goal should be victory or communism. And until we recognize we are in world war III, and that it has been going on since 1945, we are going to continue to have a sellout crowd in the State Department that sells off one more slice of salami hoping the alligator will eat them last.

President Reagan came on the scene with a great deal of hope when he said we are going to break the Brezhnev doctrine. The Brezhnev doctrine was that in no place that the Soviet Union went would they ever retreat and back out. Once a country goes Communist, it stays Communist. President Reagan was elected and said that now the doctrine is we are going to roll back the borders of communism and expand the borders of freedom. It is a nice thought. I know he believes it. But he has not got the support of the State Department to put it into effect.

Therefore, Mr. President, it is imperative that the Senate debate this nomination.

As I said, I regret that a personality has to suffer in this case, because I am positive, as Senator HELMS has said, that Mrs. Wells is a very charming person. But we are talking about an ideology. We are talking about freedom versus totalitarianism. And if we cannot see the difference and if America's representatives in the U.S. State Department cannot voice that difference around the world, then we have no chance to succeed. I believe success and victory is what we should be looking for always with our foreign policy. We could save billions of dollars on our defense appropriations bills if we had an offensive ideological front that spread the word that capitalism is a humanitarian system and offers the most hope for the most people.

But, no, we do not do that. We are supporting a Socialist government here. We have stood by and watched the Soviets and the Cubans violate the Kennedy-Khrushchev agreements for some 25, almost 30 years now. We watch them violate it and we have not had the guts, Mr. President, to say we will no longer honor it. We should allow people to go in and start the effort to liberate Cuba so our fellow Americans on Cuba could be free again like they once were. But, no, our foreign policy is a gutless wonder.

Mr. President, I believe the foreign policy in southern Africa is in complete disarray as we impose economic sanctions on the anti-Communist Government of South Africa, supply arms and support to the UNITA freedom fighters, and then at the same time our Secretary of State adds credibility worldwide to the Communist-dominated ANC by meeting with them.

The Wells nomination would simply add to that inconsistency that there is no direction to our foreign policy. It is in a state of disarray. I would urge the administration to withdraw the name of Melissa Wells to be the Ambassador to the People's Republic of Mozambique.

Mr. HELMS. Mr. President, before the Senator yields the floor, let me thank him for an eloquent statement and a completely logical assessment of the foreign nonpolicy of the U.S. State Department with respect to Africa and other places. The Senator from Idaho has been a leader in trying to redirect some of the policies.

I recall, for example, that it was he who offered the legislation to repeal the notorious Clark amendment. Now, I do not know how much recognition the Senator received for that, but the people who understand freedom, who understand communism, are so grateful to the Senator from Idaho for his taking a lead in that. I was honored to be a cosponsor of this legislation.

Mr. SYMMS. Mr. President, I thank the Senator from North Carolina very much for those comments.

If I can just say to the Senator that I will never forget, in January 1984, when flying across the bush country north of Namibia, to get to where I could fly up to free Angola to the base camp of the great leader Jonas Savimbi. In talking to him about the 37,000 Cuban troops in Angola, and the powerful Soviet presence in Angola, I thought that it was too bad that more Americans did not under-

stand American foreign policy as well as foreigners do.

I said to Dr. Savimbi:

What is the greatest thing that happened to give spirit to your troops in the past 2 or 3 years?

He said:

Next to the election of President Reagan was the liberation of Grenada.

He said:

The liberation of Grenada, Senator, gave spirit to our troops all through the ranks of UNITA because they thought maybe finally the sleeping giant is waking up to realize that there are those in the world who want freedom and peace, and that the Soviets want to take your freedom away from you, and that the struggle for freedom is worldwide. It goes to all countries.

The fight in Angola, the fight in Grenada, the fight in El Salvador, the fight in Nicaragua, the fight in Afghanistan, the fight in Ethiopia, Mozambique, Cambodia, and Zimbabwe, are all related, and the United States of America holds the key to whether or not freedom will prevail.

So I said to Dr. Savimbi what can I do to help you?

He said: Go back and tell your colleagues what it meant to us that the United States had the courage to liberate Grenada, to see that freedom prevailed, and that the Communists did not take Grenada back. Then, he said, repeal the pro-Marxist Clark amendment. He did not say repeal the Clark amendment. He said repeal the pro-Marxist Clark amendment that passed in the U.S. Senate and the House of Representatives. I remember the debate well. The Clark amendment passed when America didn't have the courage to stand behind our principles, and support freedom. Our courage is back today, and we must stand up for RENAMO.

Unfortunately, I say to my friend from North Carolina, in the other body some of our finest conservative Congressmen voted for the Clark amendment because of the confusion that Savimbi at an earlier time had sought help from the Red Chinese. He was seeking help from anyone he could get help from. He was fighting desperately to save Angola in the mid-seventies. It was a somewhat confusing thing, but unfortunately, even then we did not get the message to the American people so that they understood that supporting the Clark amendment meant installing another Soviet puppet regime in Mozambique. That set the battle for freedom back 10 years. And millions of people have suffered because of the Communist government in Angola. It has now spread into Mozambique.

The Soviet goal has been very clear. They want the treasure house of minerals in southern Africa. If they do not need them for themselves, at least they will deny them to the capitalist countries in the West. We will then be beholden to the Soviets, they will be able to grind our industries to a halt and therefore paralyze our ability to be strong. If we are not strong, we will not be able to maintain our freedom. It is as simple as that, Mr. President.

It is just a tragedy that we have such a wishy-washy foreign policy. One of the greatest things this President could still do, would be to shake it up and get back on the offense, and see that we liberate countries like Nicaragua before he leaves office; put the Cubans on the defensive. The way to get the Cubans out of Africa is to bomb Cuba with Sears catalogs and J.C. Penney catalogs. Stir up a little interest among the people there who would like to be free.

The Cuban people will never get the help from this State Department. Maybe we need to start a new department, squeeze this one out and stop funding this one. Start a new State Department with the American desk being first.

I thank the Senator.

Mr. HELMS. I appreciate the Senator yielding to me. I salute him.

He is a freedom fighter himself. I am grateful for the work.

Mr. President, I think the majority leader wants to turn to some other matters so I shall conclude here in just a moment or so.

The trouble with a lot of the answers coming out of the State Department is that they do not have any relevancy to the questions asked. I give as an illustration a letter written for the Secretary of State. I am sure that George Shultz did not write this letter. But it bore his signature nonetheless. It was written to BOB DOLE, dated July 6.

It is a nonanswer to the questions raised by Mozambique and about the nominee for U.S. Ambassador to Mozambique.

Let me read you one sentence. The letter written for the Secretary of State to BOB DOLE with a copy to me includes this sentence, talking about the policy regarding Mozambique. That policy being to deal lovingly with the Communist government of Mozambique and absolutely forbidding any contacts with Renamo as an organization.

Secretary Shultz' letter says, in part:

This policy, of course, precludes our having an official relationship with any insurgent group that is seeking to destabilize the Mozambique Government through guerrilla warfare.

In the first place, the "of course" is amusing because nobody said that in the first place. Second place, what we have in Mozambique is precisely what we have in Nicaragua and that is people willing to struggle and fight and die for freedom. A freedom fighter is a freedom fighter, whether he is in Mozambique or Nicaragua or where ever. But Secretary Shultz sent me a copy of his letter to Senator DOLE and he said:

JULY 6, 1987.

DEAR JESSE: I have seen the correspondence you exchanged with John Whitehead while I was away. I'd like to take the liberty of responding to your letter of June 18.

While I fear we may always have to agree to disagree over our policy toward official recognition of RENAMO as a political entity, I hope you will read carefully the enclosed letter, which I have just sent to Bob Dole. In it I stress that we share the same goals in Mozambique, and, while our tactics for reaching them may differ, I express the hope that we can get Mrs. Wells confirmed speedily.

Mr. HELMS. Well, this was in response to Senator DOLE's notice to the State Department, as well as my own, that the nomination of Mrs. Wells could be brought into consideration immediately if the State Department would simply say, "Yes, we will sit down and listen to Renamo just as we sit down and listen to the Communist Government of Mozambique."

That is all we ask. That is all we ask.

Mr. President, I ask unanimous consent that Secretary Shultz's letter to the Republican leader be inserted at this point in the RECORD.

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

THE SECRETARY OF STATE,
Washington, DC, July 6, 1987.

Hon. ROBERT J. DOLE,
U.S. Senate.

DEAR BOB: I am writing you because it has become apparent to me that there may be a serious misunderstanding in the Senate on some key questions concerning U.S. policy toward Mozambique. I believe that we share some important goals there and that it may be helpful for me to summarize our policies on a number of such issues. I hope this will assist you in urging the Senate to act on the President's nomination of Melissa Foelsch Wells as Ambassador to Mozambique. As you know, Mrs. Wells' nomination was first submitted to the Senate last October 7; despite a favorable Senate Foreign Relations Committee report in late Mach, the nomination has been blocked from a floor vote since then.

Our objectives in Mozambique are threefold: to complete the process of removing that country from the Soviet orbit by assisting its government to broaden its options and achieve genuine non-alignment; to assist the people of Mozambique to escape the disastrous impact of the Marxist/Leninist policies adopted at independence; and to alleviate the human suffering and famine brought on by civil strife and drought.

Let me expand a bit upon these three goals:

U.S. Policy Toward the Chissano Government: Mozambique's efforts to distance itself from Soviet influence have been apparent since 1985 when the late President Samora Machel made an official visit to the United States. The President feels that this positive development in Mozambique should be encouraged in order to deny the Soviets further inroads in southern Africa. At the same time, we would like to help the people of Mozambique move away from the disastrous economic policies followed since inde-

pendence, by encouraging a more market-oriented economy. For this reason, the President has directed that the U.S. Government should maintain a normal, cordial relationship with the Government of Mozambique. This policy, *of course*, precludes our having an official relationship with any insurgent group that is seeking to destabilize the Mozambique Government through guerrilla warfare.

Humanitarian Issues: The U.S. has not allowed political considerations to inhibit our response to humanitarian needs in Mozambique, for which we have committed approximately $75 million. We believe, and experience has shown, that international agencies such as the International Committee of the Red Cross are successfully reaching famine victims in conflict areas, and we continue to monitor the situation to ensure that all hungry Mozambicans are fed. To that end, an AID special assessment team which visited Mozambique in February will return to southern Africa in the near future to review developments and obtain additional information on Mozambique's food situation. Then group will travel to Zimbabwe, Zambia, and Malawi as well as to Mozambique, and is prepared to accept information from all knowledgeable relief agencies and individuals, including refugees, regardless of political affiliation.

Our policy is similar when it comes to freeing an American citizen being held hostage by RENAMO. We have been in contact with several people who claim to speak for RENAMO regarding this case, and will continue to communicate with any party, regardless of affiliation, in trying to secure the release of this hostage.

U.S. Policy Toward Ending the War in Mozambique: U.S. skepticism about RENAMO has sometimes been interpreted as apathy toward a search for peace in Mozambique. Nothing could be farther from the truth. Mozambique's pressing human and economic problems cannot be solved while the war continues, and it is our policy to use whatever influence we can, whenever and wherever we can, to encourage an end to hostilities and a peaceful solution to the country's problems. We have in the past, and we will again, if circumstances are propitious, promote contact between the Government of Mozambique and RENAMO. We played such a role after the signing of the Nkomati Accord in 1984. At that time, negotiations between the government and RENAMO seemed on the verge of success, when, in response to a mysterious overseas telephone call, which many suspect was arranged by South African and Portuguese elements opposed to an end to the fighting in Mozambique, RENAMO walked out. We are constantly alert to opportunities to bring the two sides together again, if Mozambicans believe we can be of assistance. In all of our current activities in Mozambique, such as the distribution of food, U.S. officials are taking advantage of all contacts made on the ground, including with RENAMO sympathizers and supporters, to urge a cessation of hostilities.

I hope this reiteration of our position, which is shared by the President, will make it clear that the Administration shares your objectives of bringing about the earliest possible end to the hostilities in Mozambique and in ensuring that the suffering of that country's people is alleviated in the most effective way.

Sincerely yours,

GEORGE P. SHULTZ.

Mr. HELMS. I wrote Secretary Shultz on July 9. I said:

DEAR GEORGE: I appreciate your letter of July 6 anent Mozambique, RENAMO, and the Wells nomination. A copy of your letter to Bob Dole was not enclosed, as you indicated, but he provided me a copy.

I do not recall that I have ever suggested that the State Department "recognize RENAMO as a political entity." I have asked only that you accord RENAMO precisely the same treatment that you stated flatly as your intent with respect to the African National Congress (ANC). You stated before the Foreign Relations Committee, in response to my question, that you "will meet with anybody." I find it incomprehensible that you and/or the U.S. Ambassador would refuse to meet with RENAMO as a group, precisely as you are willing to meet with the barbaric ANC which has been boastfully engaging in heinous acts of "necklacing."

Had you and/or Secretary Whitehead been willing to agree to that, the Wells nomination could have been considered by the Senate long ago.

Frankly, I do not understand what I perceive to be the double standards here. Nor do a great many other Senators. If you are unwilling to grant this one small request, there will continue to be substantial resistance to the Wells nomination when it could have been avoided from the beginning.

Mr. President, I am going to yield the floor so the distinguished Senator from Massachusetts can make his comments but let me close with a reiteration of what I said earlier. I met with Mrs. Wells for 90 minutes. It was a most enjoyable meeting. She is a charming lady. She is a bright lady. But she was following the State Department line.

She said, "I will not meet with Renamo under any circumstances," and I told her, truthfully, that that gave me serious problems and I would have to resist her nomination. I would like for her nomination to be considered quickly and disposed of by the Senate.

I say to the State Department, again, that if the State Department will simply say: Yes, one word, yes, to my request that the State Department sit down on an official basis and at least listen to Renamo, there will be no further problem about this nomination.

[Exhibit 1]

SUMMARY OF COMMUNIQUE FOR RENAMO—REPORT ON MASSACRE

On July 18th, the FRELIMO government claimed that RENAMO military forces massacred 380 people in Homoine. The truth is that FRELIMO militia forces, long dissatisfied with inequality in pay and food distribution between themselves and the regular government forces, attacked the regular government forces, in Homoine. The FRELIMO government realizing the deaths of 380 people could not remain concealed, blamed the massacre on RENAMO.

FRELIMO reports claim that 400 RENAMO soldiers were involved. However, RENAMO is known to operate in groups substantially less than 150; when RENAMO operates in groups of 150, it is only at the direct orders of the high command at Gorongoza. The Gorongoza headquarters denies any involvement in the alleged attack.

It is to FRELIMO's advantage at this time to blame the attack on RENAMO. President Chissano is in Moscow today (7/24/87) pending for more military assistance against RENAMO. Also, the Frontline States summit will meet soon in Lusaka, Zambia, where Chissano will also plead for more support.

5-HOUR MOZAMBIQUE MASSACRE LEAVES A TABLEAU OF CARNAGE—GOVERNMENT SAYS REBEL ATTACK KILLED 386

(By William Claiborne)

INHAMBANE, MOZAMBIQUE, July 23.—They came before first light, silently entering the remote town from the southwest, armed with AK47 automatic assault rifles, bayonets and machetes.

Within five hours, they had disappeared into the bush, leaving behind a tableau of carnage unprecedented in the seven-year-old civil war that has paralyzed this troubled, once-idyllic country.

By the Mozambican government's account, 386 people—most of them civilians—died Saturday in and around the village of Homoine in coastal Mozambique at the hands of anticommunist rebels who have been battling to overthrow the Marxist government of Joachim Chissano. Seventy others were seriously wounded and many more suffered lesser injuries.

Stunned survivors of the massacre said that many of the victims were women and children slain in their beds in the village hospital.

Other villagers who fled to the hospital for refuge were gunned down or hacked to death by the approximately 400 guerrillas of the Mozambican National Resistance movement, survivors interviewed here said.

Mozambican officials said that more than 3,000 people fled the Homoine area, fearing the attackers would return. The officials said the guerrillas have been active in the area for some time.

The attack comes as conservative members of Congress have launched an effort to gain American support for the rebels, known by their Portuguese acronym, Renamo.

Renamo, through its office in Lisbon, has denied involvement in the massacre, suggesting that it could have been a Mozambican government action designed to look like a rebel attack.

Immediately after visiting the stricken town of 10,000 today under a heavy Army guard, Mozambican Prime Minister Mario da Garca Machungo condemned South Africa for providing covert support for the guerrillas and expressed shock that U.S. legislators were considering aid to Renamo. South Africa denies backing the rebels.

Referring to support for such aid by Sens. Jesse Helms (R-N.C.) and Robert Dole (R-Kans.), Machungo told visiting foreign journalists, "I can't understand why they insist to back murderers, without heart, without feelings, without any human feelings. If you are able to kill a pregnant woman in a hospital bed, I think something is not going right in your mind."

The provincial hospital in this coastal city, about 18 miles from Homoine, today struggled to care for 49 of the most seriously wounded survivors.

Ringi Tiamu, an elderly man whose leg was shattered by a bullet, also groped for an explanation for the massacre.

Tiamu, who said he was sleeping in his grass hut when uniformed gunmen kicked in the door and started shooting, said, "I have no idea why. I search for the reason and don't find it."

He said three women and a baby who were sleeping in the hut were killed.

Other survivors said that when the guerrillas entered the town at about 5:30 a.m., they first attacked the police station, but were driven back in a firefight. They then went to the hospital, where they battled with the local militia and began indiscriminately killing the patients.

Officials in Maputo, the capital, said yesterday that most of the victims had been buried.

A semi-official newspaper, Noticias, published photographs today showing bodies of men, women and children lying in the streets of Homoine. "These pictures . . . tell of the terror and suffering that has plunged hundreds of Mozambican families into mourning," the paper said.

It said the photos were taken by an American agronomist, Mark Allen van Koevering, assigned to the area by the Mennonite Central Committee.

[A Mennonite spokeswoman in Akron, Pa., confirmed Thursday that van Koevering was in Mozambique working in the church's relief arm, The Associated Press reported.]

Machungo, without offering specific evidence, blamed the attack on South Africa, which long has been accused by black-ruled front-line states of supplying Renamo. The rebel force originally was formed as an intelligence unit by the former white-ruled government of Rhodesia, now Zimbabwe.

The South African government consistently had denied aiding Renamo, despite recurring allegations to the contrary. Under the 1984 Nkomati Accord between South Africa and Mozambique, South Africa agreed not to interfere in Mozambique. Mozambique in turn agreed to expel African National Congress guerrillas seeking to infiltrate across the border into South Africa.

U.S. Assistant Secretary of State Chester A. Crocker yesterday said in a television interview broadcast in Britain that the South African Army took over support of Renamo from the Rhodesians.

The official Mozambican news agency, AIM, charged that rebels who had been infiltrating into the Homoine area had recently received five parachute drops of arms and supplies from South African planes. In response, the South African Foreign Ministry said today, "The South African government has repeatedly stated that it is not providing assistance of any kind" to Renamo.

The Mozambican government, citing continuing attacks by the rebels, did not permit foreign journalists to travel to Homoine today, saying the trip would require a military convoy for protection.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I hope that the Senator from North Carolina will permit the nomination of Melissa Wells to come to a vote.

If he refuses, I hope that the majority leader will file a cloture petition to end this preposterous filibuster.

All of us who watched the Iran-Contra hearings yesterday were deeply moved by the testimony of Secretary of State George Shultz. He spoke with passion, integrity, and eloquence about his ordeal in attempting to conduct a respectable foreign policy worthy of the United States of America in this administration.

As Secretary Shultz told the Iran-Contra Committee yesterday, he has often had to wage a guerrilla war with the White House and the National Security Council. As this debate makes clear, he has also had to wage a guerrilla war with the U.S. Senate.

George Shultz is an outstanding Secretary of State and a credit to the foreign service. He deserves better than this from the Senate. Melissa Wells should be confirmed forthwith as Ambassador to Mozambique.

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

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

The legislative clerk proceeded to call the roll.

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.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business not to exceed 5 minutes and that the Senator from New Mexico may speak therein.

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

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I thank the majority leader.

OMNIBUS TRADE AND COMPETITIVENESS BILL

Mr. BINGAMAN. Mr. President, Tuesday the Senate passed the Omnibus Trade and Competitiveness Act of 1987. I would like to congratulate my colleagues on the bipartisan support shown for this important bill. I am pleased to see that, after years of neglect, the issue of America's decline in economic competitiveness is finally perceived as the serious problem it is.

This bill focuses that attention on a number of important areas including measures to open up foreign markets, improve U.S. trade law, authorize trade negotiations, strengthen trade promotion activities, increase assistance to dislocated workers, improve worker retraining activities, strengthen our education system, augment science and technology, and increase the protection of intellectual property. Over the past 3½ weeks, we debated over 150 amendments and made a number of improvements to the bill.

At the beginning of our deliberations on this measure, I stated that to judge whether this is a bill which deals with competitiveness, we must go back to the definition. Using the definition of the Young Commission—"competitiveness is the degree to which a nation can, under conditions of free and fair market conditions, produce goods and services that meet the test of international markets while simultaneously maintaining or expanding the real incomes of its citizens," I can safely say that this is truly an act to increase American competitiveness. The bill, as it has passed the Senate heightens the ability of the Nation to produce goods and services that meet the test of international markets, which means the ability of U.S. firms to compete, and moves to restore free and fair market conditions.

Mr. President, the bill contains a number of provisions important to my home State of New Mexico, some of which I had the privilege of offering on the floor of the Senate. To help workers, this bill strengthens the Job Training Partnership Act [JTPA] and Trade Adjustment Assistance [TAA], including expanding TAA coverage of oil and gas workers and to suppliers to the oil and gas industry. The bill also includes a provision to require a study of portable pensions. To help industry, the bill makes many changes to trade law, including a provision to help the copper and potash industries fight unfair subsidization by foreign competitors. Especially important to the ailing oil and gas industry, this bill repeals the windfall profit tax on oil. The bill also includes a provision encouraging trade negotiations between the United States and Mexico, which is important to our State in that we border Mexico. To help farmers and ranchers in our State, the bill contains a number of agricultural programs, including provisions to require a JTPA demonstration program for farmers and ranchers, to prevent surges of lamb quotas from disrupting the U.S. lamb market, and to increase the funding and staffing level of the Foreign Agricultural Service, which should lead to greater export promotion assistance for New Mexico farmers and ranchers. To help Native American artisans in our State, the bill contains provisions to authorize the Secretary of Commerce to make grants for the promotion of Native American arts and crafts and to require permanent markings on imported Native American-style jewelry, which is, in fact, counterfeit. There are also a number of provisions which will benefit New Mexico's educational system.

The bill also includes a number of provisions important to New Mexico's advanced technology industry: assistance to the semiconductor industry through the creation of an interagency coordinating committee to oversee and fund the Semiconductor Manufacturing Technology Institute (Sematech); strengthening the protection of intellectual property; reforming the export controls, especially of high technology products, while maintaining America's national security interests; and strengthening government efforts to aid development of new technology.

This list is but a small sampling of the positive provisions of this bill. Unfortunately, some have already labeled this bill as protectionist. They are wrong. As a whole, I believe the Trade and Competitiveness Act is good for America and good for New Mexico.

Mr. President, I am especially pleased that this bill contains three parts of the competitiveness legislation which I introduced: a study on the portability of pensions, the Council on Economic Competitiveness, and the National Trade Data Bank. I would like to take a few moments to explain one of these, the Council on Economic Competitiveness, to my colleagues.

The Council on Economic Competitiveness will serve as an external forum for the discussion of problems of economic competitiveness; as a mechanism for creating solutions to those problems through the interaction of business, labor, government, academia and public interest groups; and as a source of badly needed independent review of the competitiveness policies of the Federal Government. The Council will review and comment upon existing and proposed Federal policies and regulations including the budget and to report annually to the Congress and the President on the ability of the United States to compete internationally, on the status of major sectors of the economy, and on the effect of government policies on the ability of major sectors of the economy to compete internationally.

The Council would also supply a key component missing from the current advisory system—a forum for consensus building. The current advisory systems exists solely to channel information from the private sector to the Government; it does not, and should not, provide a forum for discussion of a competitiveness strategy. Elsewhere in this bill, we have supported the process of consensus building—in the new restructuring provisions for import relief under section 201 and in the worker assistance and retaining provisions. Creation of the Council will add an important element to this consensus building process.

During the debate, the Senate accepted by voice vote modifications to the Council on Economic Competitiveness. The modifications agreed to will ensure that the Council will have adequate resources to carry out its tasks. I would like to point out that while the Council is to be established by the President under the Federal Advisory Committees Act, it is not merely a Presidential advisory committee. Rather, the Council exists to provide advice to the President, the Congress and the American people. The modifications, which I supported, maintain this crucial independence of the Council. The modifications also give the Council a 4-year life, in which it can prove its worth and give the Congress an opportunity to determine its future.

Mr. President, as my remarks have indicated, this is a vey important bill. I was very pleased to support it. Nevertheless, much still needs to be done. The good work of our committees to focus on trade and competitiveness needs to continue. I urge my colleagues to join me in this on-going challenge. The Omnibus Trade and Competitiveness Act of 1987 is an excellent beginning and I look forward to seeing it signed into law.

IN REMEMBRANCE OF OUR WESTERN HERITAGE

Mr. SYMMS. Mr. President, we in the West take pride in our pioneer heritage and believe it is appropriate to recognize the noble efforts of our ancestors who settled that vast and spacious part of America.

Some view the West as the kind of place depicted in motion pictures, where little more happened than cowboys chasing Indians and outlaws, but that's not quite the way it was. Most were good people who worked the land and established our towns and cities, our businesses and industries.

One of the most prominent groups in the settlement of the West were the Mormon pioneers, Mr. President. Having been driven by religious persecution from Nauvoo, IL, in early 1846, the Mormons made one of history's longest treks on foot. Taking only what they could pack in a wagon or handcart or on their backs, each family walked across the Great Plains to the Great Basin.

They spent the winter of 1846 and 1847 in what is now the area of Council Bluffs, IA. Some of them died of exposure; others were left behind fatherless and widows. But the pioneer spirit brought them to the West, where they tamed the land by planting trees, harnessing mountain rivers and streams, and building cities.

The Mormons knew what it was like to be denied their freedom. The excesses of 19th-century persecution dealt them a severe blow for their religious beliefs. They moved West in search of the freedom to practice their religion without interference; and that freedom has allowed them to prosper.

I might add, Mr. President, that the current ecclesiastical leader of the Church of Jesus Christ of Latter-day Saints is Ezra Taft Benson, the former Secretary of Agriculture under President Eisenhower. He is, and always has been, a champion of liberty here and around the world.

I honor the Mormons today, Mr. President, because today is July 24, the day the Mormon pioneers officially entered the Great Basin and began to establish the States of Utah, Idaho, and Arizona. They are a good representation of the pioneer stock that it took to push back the borders of frontier, and of the pioneer spirit it will take to move ahead toward the frontiers of the future.

THE 1987 CONGRESSIONAL CALL TO CONSCIENCE FOR SOVIET JEWRY

Mr. HEINZ. Mr. President, today marks the beginning of another series of statements by Senators on behalf of those denied freedom in the Soviet Union. The Congressional Call to Conscience, organized every year since 1976 by the Union of Councils for Soviet Jews, has offered an opportunity for Members of Congress to call attention to individuals and families in the Soviet Union who seek freedom through emigration to the West.

I am honored to share with my distinguished colleague Senator CRANSTON of California the responsibility of leading this year's Congressional Call to Conscience. Senator CRANSTON has always been in the lead on the issue of human rights for Soviet Jews, and his participating in this effort adds to that honorable record.

I recently had the opportunity to view first hand some of the Soviet citizens whose plight we will bring to the world's attention in the Call to Conscience. I visited Moscow during the Memorial Day recess, and had a chance to visit with several refusenik families with special connections to Pennsylvania. These families were the Slepaks of Moscow, the Kalendariovs of Leningrad, Lev Elbert of Kiev, and Yuli Kosharovsky of Moscow.

One of my objectives in the visit was to boost the morale of the Soviets I was to meet, but they inspired me instead. I was inspired by their courage, their determination, their humor, their resourcefulness. I would like to share my impressions about these families.

Vladimir and Maria Slepak have waited 17 years for permission to emigrate. Their son Sanya lives in Philadelphia, and this past April conducted a fast on the Capitol grounds to commemorate the 17 long years his parents have been held captive in the

Soviet Union. The story is a familiar one, for those who follow the plight of Soviet Jewry. The Slepaks have seen their five grandchildren only in photos. They have suffered police harassment, exile, prison, all for pressing for the rights we all take for granted, the right to leave one's country.

The Kalendariovs have a son in Philadelphia. Their patience and quiet dignity are something of which Boris can be very proud. They know that many in the West care about their fate, and this is one of the vital things that gives them the moral and emotional resources to stand up to the all-powerful Soviet state. The Kalendariovs do not make the newspapers, either here or in the U.S.S.R. But their cause is one that does make demands on both our attention and our energy, and I have had the chance to tell them directly that we will never leave them on their own against the unfeeling system that holds them captive.

The Call to Conscience highlights the cases of Soviet Jews who seem to emigrate from the Soviet Union. Consistent with this emphasis, the Call also brings to our attention cases of Soviet Christians who suffer because of their beliefs. During my time in Moscow, I met with several Soviet Christians whose courage is no less inspirational than that of the Jewish refuseniks.

Vasiliy Barats and his wife Galina are Pentecostalists who have fought for years to emigrate from the U.S.S.R. They feel that they can only practice their religion freely outside their native country. They have had the experience shared by all who stand up for their fundamental human rights in the U.S.S.R.—prison, exile, harassment, lack of employment. I met with them and their current host in Moscow, Ivan Lupachev, in Mr. Lupachev's apartment.

The plight of the Pentecostalist refuseniks is less well known than that of Soviet Jewry. But the moral claim on us is the same in both cases. And that is why the Congressional Call to Conscience has gone on for 11 years, and will continue. As long as the Slepaks and the Barats live as prisoners in their own country, our duty to speak out will remain compelling.

I join Senator CRANSTON in calling on my colleagues to speak out on behalf of Soviet families whose cases they care about, to keep this human drama before the world's eyes. Our weapons in this struggle are limited, but our contribution is vital and we cannot remain silent.

Mr. President, I ask unanimous consent that a letter from the Union of Councils for Soviet Jews to Senator CRANSTON and me be printed in the RECORD.

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

UNION OF COUNCILS FOR SOVIET JEWS,
Washington, DC, July 1, 1985.

Hon. JOHN HEINZ and
Hon. ALAN CRANSTON,
Co-chairs, Congressional Call to Conscience, U.S. Senate, Washington, DC.

DEAR SENATORS HEINZ AND CRANSTON: May we take this opportunity to express our profound appreciation to you both for assuming the chairmanship of this year's Congressional Call to Conscience Vigil for Soviet Jews for the House of Representatives.

From the day the Union of Councils for Soviet Jews initiated the Congressional Call to Conscience in 1976, the response from Members and Senators has been predictably wonderful. In 1985, for instance, 148 Members participated in calling public attention, on the floor of the House and within the pages of the Congressional Record, to the plight of Soviet Jews, including Refuseniks and Prisoners of Conscience.

What we of the activist Soviet Jewry human rights and rescue movement seek is what you and all Americans seek: the internationally guaranteed rights of all citizens of all nations to live in peace with their neighbors, to practice their religion according to their own lights and free of government supervision or repression, and to emigrate or travel freely for personal, professional, or humanitarian reasons. Although the Soviets have signed international treaties guaranteeing these basic human rights to their own citizens, they neither practice nor believe in them. Indeed, they do not believe in their own people.

So we must continue to pressure them through economic and moral persuasion, not only because of the intrinsic merits of the cause, but because we believe that how a nation treats its own citizens, and to the extent to which it abides by its international commitments, is one way of measuring the sincerity and value of their work when it comes to economic, military and arms reduction treaties. And, for the Soviet Jewry movement, the irrefutable bottom-line measure of Soviet human rights is the attainment of a high and sustained annual immigration level for Jews and other repressed minorities.

In a different but applicable context, Elie Wiesel has noted that it is often only the knowledge that there are those outside who know and care that sustain the hope, and even the life, of the prisoner in a society of state-sponsored anti-Semitism. We know first hand that Soviet Jews, individually and collectively, depend for their safety, their lives, and their hope of rescue, on the spotlight you in the Congress give to their plight.

Your efforts in the Congressional Call to Conscience, direct interventions, legislation such as Jackson-Vanik, and collaboration with both Chicago and Seattle Action for Soviet Jews, two of our forty local Councils, all make you both an indispensible part of the activist rescue movement for Soviet Jews.

On behalf of the 100,000 members of the Union of Councils for Soviet Jews, and the 385,000 Soviet Jews who live for the day they can emigrate to freedom, and for who we speak, we thank you and commend you both and, through you, your colleagues.

Sincerely,

PAMELA B. COHEN,
National President.
MICAH H. NAFTALIN,
Washington Representative.

COLORADO RIVER—RIVERFRONT PROJECT

Mr. WIRTH. Mr. President, early this month the Grand Junction City Council committed $150,000 to the "riverfront project" to clean up mill tailings contaminating the Colorado River.

The swift action was taken in order to receive a matching grant from the local Lions Club of $100,000. This makes the project eligible for State matching funds of an additional $250,000 from the State energy impact assistance fund, giving a half-a-million-dollar shot of reality to the vision of transforming the Colorado River outside of Grand Junction into a clean, safe recreational area.

In addition to clearing the funds for the project, the council established the Grand Junction/Mesa County Riverfront Commission, which will be cochaired by former Colorado Representative Jim Robb and retired District Judge William Ela. With such people at the helm, Colorado can be sure that this commission will complete the task set before them.

I wish to commend the Grand Junction City Council, the Mesa County Board of Commissioners, Grand Junction Mayor O.F. Ragsdale, and City Manager Mark Achen for their tremendous leadership in organizing this desperately needed project. A quick, large-scale government decision such as this does not come without a great deal of motivation, organization, and just plain hard work. Also, congratulations are in order for the members appointed to the riverfront commission; they have done an outstanding job thus far. I'm sure they will continue their diligence until the project is completed.

Finally, I would like to extend special thanks to the Grand Junction Lions Club, whose matching grant proposition made the "long-awaited dream" of Mesa County a reality. Their leadership is an invaluable service to the community.

I ask unanimous consent that the two articles from the Grand Junction Daily Sentinel appear in the CONGRESSIONAL RECORD.

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

COUNCIL OK'S RIVERFRONT FUNDS

The Grand Junction City Council on Wednesday committed $150,000 toward the proposed Riverfront Project, meeting terms of the Lions Club of the recommendation of City Manager Mark Arben.

The Lions Club last month promised $100,000 toward the project proposed for the Colorado River if the city would match that with $150,000. A subcommittee of the council approved the package the same day; and at its regular meeting Wednesday night the council unanimously accepted terms of the agreement.

The idea was to come up with $250,000 to help qualify the project for a $250,000 matching grant from the state energy impact assistance fund.

The council also passed a joint resolution with the Mesa County commissioners creating an 11-member Riverfront Project commission. The council named Councilman Beford Theobold as an ex-officio, nonvoting member of the commission and Paul Nelson as an alternate.

Former Judge William M. Ela and James M. Robb will co-chair the commission. Members are: Rebecca Frank, Brian Mahoney, Helen Traylor, Chris Jouflas, Ward Scott, Harold Elam, Pat Gormley, Jane Quimby and Bill Graham.

The towns of Fruita and Palisade and the Mesa County commissioners will also name a non-voting member to the group.

Preceding the council action, Mayor O.F. Ragsdale said he views the project as a wonderful opportunity to clean up the riverfront.

"I feel this is a start, and just a start, and we had to start somewhere so that in the future we can drive across Fifth Street Bridge and look down from the mesa and see something palatable to the eye, as opposed to something that is not so palatable," he said.

In a statement attached to the commission resolution, Theobold said a unique combination of factors made the project irresistible: federal and state government funds for small tailings removal; the contribution and continuing interest from the Lions Club; support from other civic organizations and particularly from Fruita and Palisade; and the willingness of a wide variety of local, state and federal agencies, including Mesa County, to finance and otherwise encourage the "long-awaited dream."

The statement applauded the county commissioners for recognizing how vital the project is, and for eagerly joining in the endeavor. The commissioners drafted key elements of the resolution forming the commission and were first to name members of the commission.

Theobold recognized the county's lead in what he said was previously assumed to be chiefly a city project, and assured the public that the city will not bow out and let it become a county project only.

"I believe the Grand Junction City Council will make every effort to match the county's lead in this tremendous project, vote for vote and dollar for dollar." Theobold said. "We have made a commitment to the Grand Junction Lions for $150,000 in state matching funds, and we will honor that commitment.

"Further when the time comes for more money for this project, we will gladly follow the lead of the county commissioners."

Theobold said Grand Junction stands to benefit from increased tourism, recreational opportunities," economic development and a more positive self-image because of the project.

Robb commended the council "for taking this important step forward" In the development of the Grand Valley.

COLORADO RIVER TASK IS ALL RED WHITE AND BLUE

(By George Orbanek)

It's not very often that newsfolk feel compelled to utter a kind word about public officials, particularly public officials of the local variety.

At times, the word "adversarial" doesn't quite do justice to the historic relationship between the press and government officials. A word that manages to describe the historic relationship between mongoose and cobra sometimes seems more appropriate.

Consider this editorial excerpt about local officialdom from The New York Times, written way back in 1871: "We lay before our readers this morning a chapter of municipal rascality which, in any other city would bring down a storm of public indignation as would force them to a speedy accountability before the bar of a criminal court, or compel them to take refuge in flight and perpetual exile. These men are in the position of a gang of burglars, who, having stolen all your silverware and jewelry and placed them under lock and key, turn around and challenge you to identify your property."

After that, the editorial lost its sugar-coating.

Editorial critiques of a somewhat similar bent regarding elected officials have appeared occasionally in the pages of this newspaper. But not today. Maybe I'm overcome with a sense of local chauvinism related to the July 4th holiday weekend, but kind words are in order for members of the Grand Junction City Council and the Mesa County Board of Commissioners.

Leadership is not always an easy concept to define. What's clear is that leadership is impossible without vision. And last week, both City Council and the County Commission offered a vision of this valley's future to which every Mesa County resident can aspire. That's the essence of leadership.

For years, countless Mesa County residents have dreamed of a Colorado riverfront that might one day be a source of genuine valleywide pride rather than the terribly abused natural resource that it is today. In unanimously passing a joint resolution creating the Grand Junction Mesa County Riverfront Commission, council members and county commissioners took the first step in transforming those dreams into reality.

Council members and the county commissioners in a variety of ways made clear the sense of importance they attach to the riverfront project. Chief among them were the two people named to co-chair the riverfront commission—retired District Judge William Ela and former Colorado Rep. Jim Robb. Few people in Mesa County enjoy greater respect than Ela and Robb.

The nine people chosen to serve under Ela and Robb—Helen Traylor, Harold Elam, Ward Scott, Jane Quimby, Rebecca Frank, Bill Graham, Pat Gormley, Chris Jouflas and Brian Mahoney—represent a broad cross section of the Grand Valley's diverse political and demographic interests. However, the nine have one thing in common, namely, their unflagging civic-mindedness.

Creating the group under the title of a "commission" rather than a steering committee, advisory council, or task force, served to underscore the significance of the task assigned to the 11-member group.

The birth of the Grand Junction/Mesa County Riverfront Commission comes at a highly appropriate time—the 25th anniversary of Operation Foresight and the creation of Grand Junction's downtown shopping park that became a model for downtown shopping park's across the nation.

In deciding to accede to urgings to serve as the commission's co-chairman. Robb recalled his arrival in Grand Junction a quarter of a century ago, at approximately the same time Operation Foresight was completed. Robb remembered the sense of enormous community pride generated by Operation Foresight.

The Grand Junction/Mesa County riverfront project represents a similar opportunity for the rejuvenation of civic spirit, but one that extends all the way from Mesa County's boundary with Garfield County on the east, all the way to the Utah line.

Grand Junction Councilman R.T. Mantlo was quick to say as much Wednesday night when council passed the joint city-county resolution establishing the riverfront commission and authorized $150,000 to be used in conjunction with the Lion's Club $100,000 pledge to the riverfront project.

Transforming the Colorado River into the community resource that it is capable of being will not happen overnight. Mayor O.F. "Rags" Ragsdale correctly noted that creation of the riverfront commission represented the first step in an effort that can be expected to take years to complete.

Not every community in the United States is blessed with a natural resource as ineffable as a Colorado River. That the Grand Junction City Council and Mesa County Commissioners have officially recognized the importance of that resource is a cause for red, white and blue celebration this Fourth of July holiday weekend.

FIFTY YEARS OF HONEYMOON

Mr. DASCHLE. Mr. President, on June 7, 1987, a very interesting column appeared in the Sacramento Union entitled "Fifty Years of Honeymoon" under the byline of Frank van der Linden concerning our majority leader, Senator ROBERT BYRD. I think this is a very sensitive and poignant article which I ask to be included in the RECORD.

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

FIFTY YEARS OF HONEYMOON

(By Frank van der Linden)

When Sen. Robert C. Byrd was a teenaged boy, half a century ago, in a little coal mining town in the hills of West Virginia, he used to pray to the Lord to give him one of three things.

"Dear God," he would pray, "either make me the best fiddler in the country, or a man of towering strength, or give me Erma James for my wife."

"He answered my prayer," Byrd said, years later. "He gave me Erma James."

Erma's father, Fred James, a poor coal miner, taught bob to play the fiddle—oldtime favorites such as "Little Brown Jug," "Old Ninety-seven," and "She'll Be Coming Around the Mountain." The boy played in the high school orchestra and courted Erma with great fervor, but he had no money with which to buy her candy.

Fortunately, he later recalled, "there was a boy in my class named Julius Takach. His father had a grocery store, and every day Julius would bring candy and chewing gum from his Dad's store, and he would give some to me.

"I didn't eat any. When classes changed, I met my sweetheart in the hall and gave her the candy and chewing gum. That's what I call, 'Courting your girl with another boy's candy.'"

Byrd was accustomed to having no money. He grew up in grinding poverty in the West Virginia coal country. Not until he was 16 did he find out that the couple he called his parents were his uncle and aunt, and his name was really Cornelius Calvin Sale, Jr.

He was born in North Wilkesboro, N.C., Nov. 20, 1917. His mother died in the 1918 influenza epidemic, on the eve of Armistice Day, and lies buried in an unmarked grave. His father's sister and her husband, Dalton Byrd, adopted the baby boy and took him to their home in West Virginia.

"When I was in high school in the 1930s," Byrd once said. "times were very hard and my foster mother kept boarders. My foster father used to raise a dozen or more Poland China pigs for extra money.

"It was my lot to go from house to house every day after school and gather up the food garbage from the table. It would be left in a bucket on the porch at each house, and I would put it in two large buckets I carried with me. At home, I'd heat the garbage and feed it to the hogs.

"Then, when November and December came, we'd kill the hogs. I'd shoot them with a .22 rifle. The Prodigal Son didn't know about living with the hogs any more than I did."

At 19, not long out of high school, Bob Byrd and Erma James were married. It was May 29, 1937. Bob had a job as a clerk and butcher in a grocery store, earning $55 a month or less than $2 a day.

They set up housekeeping in a two-room flat upstairs in a neighbor's house, which had no indoor plumbing.

They were too poor for a wedding trip. Instead, Byrd remarked, they had "50 years of honeymoon."

Fifty years after their wedding ceremony, Senate Majority Leader Robert C. Byrd and his "Lady Byrd," Erma, strode down the marble staircase in the Grand Hall of the Library of Congress on Capitol Hill, and received a standing ovation from the members of the U.S. Senate and their wives, gathered for a gala party honoring the Byrds' golden anniversary.

Speakers recalled how "fiddling Bob" Byrd had worked his way to the top in politics, and his Erma had helped him all the way.

"It was a most memorable event in one of the most magnificient buildings in Washington," said the Senate Republican whip, Alan Simpson of Wyoming.

"It was about a most remarkable union, about modest beginnings, and the pursuit of the American dream.

"And it was about a warm and extraordinarily gentle woman, Erma Byrd, a lady of great common sense and great wisdom, and a man whom I have learned to respect and to love."

Sen. Daniel Patrick Moynihan, a New York Democrat, said "there could not be a more appropriate place than the Library of Congress" to honor "the most learned member of this body in its history and rules, and his devoted wife, who must have spent many hours of the evening wondering why that man spent such hours reading so many uncomprehensible books."

Byrd, a self-taught scholar, replied: "We thank God for His many blessings. We have two lovely, daughters, two beautiful granddaughters and four model grandsons, and a host of dear and wonderful friends. Our cup runneth over."

BICENTENNIAL MINUTE

JULY 24, 1858: LINCOLN-DOUGLAS DEBATES

Mr. DOLE. Mr. President, on July 24, 1858, 129 years ago today, Abraham Lincoln challenged Stephen Douglas to a series of debates that would highlight one of the legendary Senate races in our history. In an era when Senators were elected by State legislatures and popular campaigns were unheard of, Lincoln and Douglas traveled an astounding 10,000 miles across the State of Illinois, speaking before huge crowds complete with bands, banners, and other campaign trimmings. Their seven debates attracted national coverage, and became a forum for the discussion of slavery.

Douglas, the democratic "little giant," was a 12-year veteran of the Senate, and chairman of its powerful Committee of Territories. He was well-known for introducing the Kansas-Nebraska bill, and promoting the doctrine of popular sovereignty. The tall, awkward Lincoln had served one term in the House. As a member of the newly established Republican Party, Lincoln was among the first to articulate its position on slavery. Although not an abolitionist, he was opposed to slavery in the new territories, calling it a "moral, social and political wrong," inconsistent with Democratic principles.

In the critical debate of Freeport, Il., Lincoln cornered Douglas by asking him if people could, in any lawful way, exclude slavery prior to the formation of their State constitutions. If Douglas answered "yes" he would go against the Supreme Court's recent Dred Scott decision; if he said "no," he would contradict his own stand on popular sovereignty. Douglas evaded the question, cleverly responding that slavery could not exist anywhere without police enforcement, so territories could discourage slavery by failing to pass the necessary legislation.

Douglas won the Senate race, but his attempt at a compromise position on slavery destroyed his popularity. The debates launched Lincoln into national politics, and paved the way for his election to the Presidency in 1860.

MESSAGES FROM THE HOUSE

At 1:31 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2470. An act to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes.

MEASURE PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2470. An act to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1293. A bill to amend the Ethics in Government Act of 1978 to provide a continuing authorization for independent counsel, and for other purposes (Rept. No. 100-123).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 1542. An original bill to provide financial assistance for a program of comprehensive child development centers, and for other purposes.

● Mr. KENNEDY. Mr. President, today the Labor Committee is reporting an original bill, the Comprehensive Child Development Centers Act of 1987.

We all know that the number of severely disadvantaged children in American society is increasing rapidly. According to some recent evidence: 40 percent of the poor in America are children; 24 percent of all children live below the poverty line; nearly 60 percent of children born in 1984 will live with only one parent before age 18; the teenage birth rate in the United States is twice that of any other Western nation; and in some cities, half of the children born in 1984 will live in poverty before reaching the age of 18.

Children who grow up in poverty often spend their adult lives in poverty as well. For policymakers the choice is clear—either ameliorate the effects of poverty for those who are born into it, or deal with the consequences when they are adult.

Preschool education is an important element in any effort to break the cycle of poverty. But some children face so many problems from the day they are born that preschool alone cannot save them.

To address this problem, this bill will launch a multiyear project to encourage intensive and comprehensive support services for these children. The goal is to prevent educational failure by addressing the medical, psychological, institutional, and social needs of infants and young children.

Early intervention projects for poor children are not new. For several years the Department of Health and Human Services operated Family Resource Centers and Parent Child Centers that embodies some of the elements of this

project. A large number of private sector ventures supporting early intervention programs have also been undertaken. More recently, the Beethoven project in the Robert Taylor Homes in Chicago also provides early intervention services to disadvantaged children. Like the Beethoven initiative, the projects funded through this program will emphasize projects that begin early—with prenatal care—are continuous—until children enter kindergarten—and offer a comprehensive array of services. Those are the key words: early, continuous, and comprehensive.

The child development centers will provide a wide range of social services to very poor children. The type of services to be offered will be defined by local needs, but will include: Prenatal care, health services, infant screening, community information sharing, home visitors, health referrals, poverty education, day care, family support services, and preschool programs. The projects will provide some new services not currently available to the target population but they will also coordinate and expand existing health, nutrition, education and child care services.

Proposed projects must give evidence that they have clear and strong connections in the local community. The projects must also raise matching funds—20 percent of their budget must come from non-Federal sources.

To help local organizations prepare proposals, eligible agencies may request a planning grant.

This initiative will amend the Head Start Program and will be administered by the Head Start Bureau at the Department of Health and Human Services. In administering the program, the Department will draw on the successful features of Head Start, the Child Family Resource Centers and the Parent Child Centers.

The projects are to be thoroughly evaluated by the Secretary of Health and Human Services so that a careful assessment of the efficiency of this type of initiative may be made.

This bill was reported unanimously by the Labor Committee and I am hopeful that it will receive equally broad-based support in the full Senate.

I ask unanimous consent that Senators MATSUNAGA, SIMON, DODD, HARKIN, ADAMS, WEICKER, STAFFORD, MIKULSKI, PELL, and BINGAMAN be added as original cosponsors of this measure.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 1542

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Comprehensive Child Development Centers Act of 1987".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to provide financial assistance to projects on a multi-year basis designed to encourage intensive, comprehensive, integrated, and continuous supportive services for infants and young children from low-income families which will enhance their physical, social, emotional, and intellectual development and provide supports to their parents and other family members. Services will be targeted on infants and young children from families who have incomes below the poverty line and because of environmental, health, or other factors need intensive and comprehensive services to enhance their development.

PROGRAM AUTHORIZED

SEC. 3. The Head Start Act is amended by adding at the end thereof the following new section:

"CHILD DEVELOPMENT PROJECTS

"SEC. 658. (a)(1) The Secretary is authorized to make grants to eligible entities in rural and urban areas to pay the Federal share of the cost of projects designed to encourage intensive and comprehensive supportive services which will enhance the physical, social, emotional, and intellectual development of low-income children from birth to compulsory school age, including providing necessary support to their parents and other family members.

"(2) The Secretary shall enter into contracts, agreements, or other arrangements with at least 10 but not more than 25 eligible agencies to carry out the provisions of this section.

"(3) In carrying out the provisions of this section, the Secretary shall consider—

"(A) the capacity of the eligible agency to administer the comprehensive program for which assistance is sought;

"(B) the proximity of the agencies and facilities associated with the project to the infants, young children, parents, and other family members, to be served by the project, or the ability of the agency to provide offsite services;

"(C) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for education, health and mental health services, social services, child care, nutrition, income assistance, and other relevant services), with appropriate nonprofit private organizations involved in the delivery of eligible support services, and with the appropriate local educational agency;

"(D) the management and accounting skills of the eligible agency;

"(E) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the project; and

"(F) the organization's involvement of project participants and community representatives in the planning and operation of the project.

"(b)(1)(A) The Secretary may make planning grants to eligible agencies to pay the Federal share of the cost of planning for projects funded under this section.

"(B)(i) No planning grant may be for a period longer than 1 year.

"(ii) Not more than 30 planning grants may be made under this subsection.

"(2) Each eligible agency desiring to receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(A) describe the capacity of the eligible agency to provide or ensure the availability of the intensive and comprehensive supportive services pursuant to the purposes of this subsection;

"(B) describe the eligible infants, young children, parents, and other family members to be served by the project, including the number to be served and information on the population and geographic location to be served;

"(C) describe how the needs of such children will be met by the program;

"(D) describe the intensive and comprehensive supportive services that program planners intend to address in the development of the plan;

"(E) describe the manner in which the project will be operated together with the involvement of other community groups and public agencies;

"(F) specify the agencies that the organization intends to contact and coordinate activities with during the planning phase;

"(G) identify a planning phase advisory board which includes prospective project participants, representatives of the community in which the project will be located, and individuals with expertise in the services to be offered; and

"(H) describe the capacity of the eligible agency to raise the non-Federal share of the costs of the program and such other information as the Secretary may reasonably require.

"(c)(1)(A) The Secretary shall make grants to eligible agencies selected in accordance with this section to pay the Federal share of the cost of carrying out projects for intensive and comprehensive supportive services for low-income infants, young children, parents, and other family members.

"(B) The Secretary shall ensure that there will be projects receiving grants under this section in rural areas.

"(2)(A) Each eligible agency desiring to receive an operating grant under this section shall—

"(i) have a planning grant application approved under subsection (b) on file with the Secretary or have experience in conducting projects similar to the projects authorized by this section; and

"(ii) submit an application at such time in such manner and containing or accompanied by such information as the Secretary may reasonably require.

"(B) Each such application shall—

"(i) identify the population and geographic location to be served by the project;

"(ii) provide assurances that services are closely related to the identifiable needs of the target population;

"(iii) provide assurances that each project will provide directly or arrange for—

"(I) services for infants and young children designed to enhance the physical, social, emotional, and intellectual development of such infants and children and which include, but are not limited to, infant and child health services, including screening and referral; child care; early childhood development programs; early intervention services for children with, or at-risk of developmental delays, and nutritional services; and

"(II) services for parents and other family members designed to better enable parents and other family members to contribute to their child's healthy development and that

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include, but are not limited to, prenatal care; education in infant and child development, health, nutrition, and parenting; and referral for education, employment counseling and training; assistance in securing adequate income support, health care, nutritional assistance, and housing;

"(iv) identify the referral providers, agencies, and organizations that the program will use;

"(v) provide assurances that the eligible intensive and comprehensive supportive services will be furnished to parents beginning with prenatal care and will be furnished on a continuous basis to the infants and young children so eligible, as well as to their parents and other family members;

"(vi) describe how services will be furnished at offsite locations, if appropriate;

"(vii) describe the extent to which the eligible agency, through its project, will coordinate and expand existing services as well as provide services not available in the area to be served by the project;

"(viii) describe how the project will relate to the local educational agency as well as State and local agencies providing health, nutritional, education, social, and income maintenance services;

"(ix) provide assurances that the eligible agency will pay the non-Federal share of the cost of the application for which assistance is sought from non-Federal sources;

"(x) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and treated, and such other information as the Secretary requires;

"(xi) provide for an advisory committee consisting of—

"(I) participants in the program,

"(II) individuals with expertise in furnishing services the program offers and in other aspects of child health and child development, and

"(III) representatives of the community in which the program will be located;

"(xii) describe plans for evaluating the impact of the project; and

"(xiii) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require.

"(d)(1)(A) The Secretary shall pay to eligible agencies having applications approved under subsections (b) and (c) the Federal share of the cost of the activities described in the application.

"(B) The Federal share shall be 80 percent for each fiscal year.

"(C) The non-Federal share of payments under this section may be in cash or in kind fairly evaluated, including equipment or services.

"(D) Payments under this section may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"(2) No planning grant to a single eligible agency may exceed $35,000.

"(e)(1) The Secretary shall, based on the projects assisted under this section, conduct or provide for, an evaluation of the success of projects authorized by this section.

"(2) Each eligible agency receiving a grant under this section shall furnish information requested by evaluators in order to carry out this section.

"(f) The Secretary shall prepare and submit to the Congress a report on the evaluation required by this subsection not later than October 1, 1992, together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

"(g)(1) There are authorized to be appropriated $25,000,000 for fiscal year 1988 and for each fiscal year ending prior to October 1, 1993, to carry out the provisions of this section (other than subsection (f)).

"(2) There are authorized to be appropriated $1,000,000 for the period beginning October 1, 1991, and ending September 30, 1993, to carry out the provisions of subsection (f).

"(3) Funds appropriated pursuant to subsection (a) of this section shall remain available for obligation and expenditure for one fiscal year succeeding the fiscal year for which the funds were appropriated.

"(h) As used in this section—

"(1) the term 'early intervention services' has the same meaning given that term by section 672(2) of the Education of the Handicapped Act;

"(2) the term 'eligible agency' means a Head Start agency, any community-based organization, and in addition includes an institution of higher education, a public hospital, a community development corporation, and any other public or private nonprofit agency or organization specializing in delivering social services to young children;

"(3) the term 'intensive and comprehensive supportive services' means—

"(A) in the case of infants and young children, services designed to enhance the physical, social, emotional, and intellectual development of such infants and children and which includes, but is not limited to, infant and child health services, including screening and referral; child care; early childhood development programs; early intervention services for children with, or at-risk of developmental delays, and nutritional services; and

"(B) in the case of parents and other family members, services designed to better enable parents and other family members to contribute to their child's healthy development and which includes, but is not limited to, prenatal care; education in infant and child development, health, nutrition, and parenting; referral to education, employment counseling and training as appropriate; and assistance in securing adequate income support, health care, nutritional assistance, and housing;

"(4) the term 'low income' means persons who are from families having incomes below the poverty line as determined in accordance with section 673(2) of the Community Services Block Grant Act;

"(5) the term 'local educational agency' has the same meaning given that term by section 198(a)(7) of the Elementary and Secondary Education Act of 1965; and

"(6) the term 'institution of higher education' has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965.".●

By Mr. GLENN, from the Committee on Governmental Affairs:

Report to accompany the bill (S. 345) to amend the Contract Disputes Act of 1978 to require that a competitive examination process be used for the selection of members of boards of contract appeals of Federal Government agencies; and to provide that the members of such boards shall be treated in the same manner as administrative law judges of the Federal Government for certain administrative purposes (Rept. No. 100-124).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 921. A bill to require the Secretary of the Interior to conduct a study to determine the appropriate minimum altitude for aircraft flying over national park system units (Rept. No. 100-125).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

The following-named brigadier generals of the Marine Corps for promotion to the permanent grade of major general, under title 10, United States Code, section 624:

Edmund P. Looney, Jr.
Orlo K. Steele.
Hollis E. Davison.
Robert F. Milligan.
Gene A. Deegan.
Joseph P. Hoar.
Royal N. Moore, Jr.
Donald E.P. Miller.
(Exec. Rept. 100-3.)

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. WEICKER (for himself, Mr. HARKIN, and Mr. STAFFORD):

S. 1540. A bill to amend the Civil Rights of Institutionalized Persons Act to provide certain authority for protection and advocacy systems, and for other purposes; to the Committee on the Judiciary.

By Mr. REID:

S. 1541. A bill to provide veterans' benefits to persons who served as seamen in the U.S. merchant marine during World War II; to the Committee on Veterans' Affairs.

By Mr. KENNEDY from the Committee on Labor and Human Resources:

S. 1542. An original bill to provide financial assistance for a program of comprehensive child development centers, and for other purposes; placed on the calendar.

By Mr. ROTH:

S. 1543. A bill to amend the Immigration and Nationality Act to provide for the exclusion or deportation from the United States of aliens who possessed or used certain controlled substances, and for other purposes; to the Committee on the Judiciary.

By Mr. METZENBAUM (for himself, Mr. BINGAMAN, Mr. FOWLER, Mr. LEVIN, and Mr. JOHNSTON):

S. 1544. A bill to amend the National Trails System Act to provide for cooperation with State and local governments for the improved management of certain Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. STEVENS:

S. 1545. A bill to amend title 5, United States Code, to establish a simplified management system for Federal employees, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BUMPERS (for himself, Mr. HATFIELD, Mr. ADAMS, and Mr. MURKOWSKI):

S. 1546. A bill to provide for the termination of the reregistration of certain Kuwaiti-owned vessels under the flag of the United States; to the Committee on Foreign Relations.

By Mr. WALLOP:

S. 1547. A bill to amend the Internal Revenue Code of 1986 to provide that amounts in gross income under section 78 of such Code shall not be taken into account in allocating deductions to source within and without the United States; to the Committee on Finance.

By Mr. LUGAR (for himself, Mr. RIEGLE, Mr. QUAYLE, Mr. DURENBERGER, Mr. HELMS, Mr. KASTEN, Mr. HEFLIN, Mr. SHELBY, Mr. LEVIN, Mr. PROXMIRE, Mr. D'AMATO, Mr. GRAHAM, Mr. HEINZ, Mr. GLENN, Mr. SANFORD, Mr. THURMOND, Mr. WARNER, Mr. DANFORTH, Mr. DOLE, and Mrs. KASSEBAUM):

S. 1548. A bill to amend section 1886 of the Social Security Act to require that certain hospitals be classified as being located in an urban area for purposes of determining payments under the Medicare Program for inpatient hospital services furnished by such hospitals, and to require that certain hospitals be treated in the same manner as a hospital located within a particular geographic area for purposes of making such determination; to the Committee on Finance.

By Mr. WIRTH (for himself and Mr. ARMSTRONG):

S. 1549. A bill to increase the authorization ceiling for the Closed Basin Division, San Luis Valley Project, Colorado; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN:

S. 1550. A bill to complete the Federal Triangle in the District of Columbia, to construct a public building to provide Federal office space and space for an international cultural and trade center, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ROTH (for himself and Ms. MIKULSKI):

S. 1551. A bill to grant the consent of Congress to the Appalachian States Low-Level Radioactive Waste Compact; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, Mr. BUMPERS, Mr. GORE, Mr. SIMON, Mr. MITCHELL, Mr. NUNN, Mr. KERRY, and Mr. STAFFORD):

S.J. Res. 179. Joint resolution to establish a National Economic Commission; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. McCAIN (for himself, Mr. NUNN, and Mr. DURENBERGER):

S. Res. 255. Resolution expressing the sense of the Congress with regard to the forthcoming negotiations by Gen. John Vessey to resolve the fate of Americans missing in Southeast Asia, and other issues of humanitarian concern to the people of the United States and Vietnam.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WEICKER (for himself, Mr. HARKIN, and Mr. STAFFORD):

S. 1540. A bill to amend the Civil Rights of Institutionalized Persons Act to provide certain authority for protection and advocacy systems, and for other purposes; to the Committee on the Judiciary.

PROTECTION FOR INSTITUTIONALIZED DISABLED INDIVIDUALS AMENDMENTS ACT

Mr. WEICKER. Mr. President, I rise on behalf of myself, Senator HARKIN, and Senator STAFFORD to introduce the "Protection for Institutionalized Disabled Individuals Amendments Act of 1987."

This legislation will strengthen the protections provided to disabled individuals in the Nation's public institutions. Over the 10 years since Congress created a nationwide protection and advocacy system for disabled individuals, these systems have aggressively exercised their authority to pursue legal, administrative, and other remedies to ensure the protection of their clients' rights, including those in institutions. They have done much to remedy the abysmal conditions, the abuse, and the neglect to which residents of institutions have too frequently been subjected.

Nonetheless, these systems have been prevented from being able to fully represent the best interests of their institutionalized clients in situations where the U.S. Department of Justice has undertaken an investigation pursuant to its authority under the Civil Rights of Institutionalized Persons Act.

Under the act, the Attorney General can undertake an investigation of State-run institutions, including those in which disabled individuals reside, when he has reason to believe that egregious and flagrant conditions exist which deprive disabled residents of their constitutional rights. Should such an investigation determine that residents' constitutional rights are, in fact, being violated, the Justice Department then proceeds to work with the appropriate State officials to ensure steps are taken to redress those violations.

In such a situation, there are three groups that should be represented in discussions of what remedial measures are necessary and appropriate: The State, which is responsible for the operation of the institution, the Justice Department, representing the interests of the Federal Government, and the clients who live in that institution.

Let us understand that in the main what we are talking about when it comes to clients, we are talking about those who are mentally retarded, mentally ill, and those that suffer from other disabilities, whether physical and mental—persons who frequently are unable to take care of themselves or stand up for themselves. These are the persons whose lives will be dramatically affected by any agreement reached during discussions between the State and the Justice Department.

I can tell you who should be representing them: the protection and advocacy system whose responsibility it is to pursue legal, administrative, and other appropriate remedies to ensure the protection of the rights of disabled individuals.

Yet the Department of Justice has taken a position to deliberately exclude the protection and advocacy units from participating in these negotiations.

I might add as I read my comments this morning and I will suggest that my staff stop using acronyms which very frankly disguise the problems involved about which I am talking. They refer, for instance, to the Civil Rights of Institutionalized Persons Act as "CRIPA". Never mind CRIPA. Say what it is, the Civil Rights of Institutionalized Persons Act. Stop referring to "P and A", which is protection and advocacy. And "clients" are the mentally retarded and mentally ill persons in these institutions who are the victims. Probably most people in this country do not know we have a Civil Rights of Institutionalized Persons Act. They do not know that we have an act to help these people. They do not understand what we are referring to when we talk about clients, and think we are referring to clients as someone on Wall Street would refer to them.

I would like to share with my colleagues what happened in my own State of Connecticut when the protection and advocacy unit there sought to become involved in the Justice Department's negotiations with the State to resolve conditions at Southbury Training School, a State facility housing over 1,200 disabled individuals, most of whom are mentally retarded, of all ages.

After completing a 16-month investigation of Southbury, the Justice Department in September 1985, issued a scathing letter of findings to the Governor of Connecticut, citing unconstitutional conditions which included dangerous medication practices, inadequate medical care, unsafe environmental conditions, and the unreasonable use of bodily restraints.

Subsequently, the Justice Department and the State of Connecticut began negotiations with the goal of reaching a judicially enforceable consent decree to redress those violations. At this point, the Connecticut, protection and advocacy attempted to enter the negotiations. Their goal was simple: to ensure that whatever agreement was reached would be in the best

interests of the clients residing at Southbury.

Yet, despite the stated, albeit belated, willingness of Connecticut officials to include the protection and advocacy unit in these negotiations, the Department of Justice refused to allow them to participate in any manner whatsoever. To support this decision, Assistant Attorney General William Bradford Reynolds said in a letter to the director of the protection and advocacy unit, that "Involvement of independent third parties in sensitive negotiations to resolve investigations is neither practical nor necessary, nor mandated by the Civil Rights of Institutionalized Persons Act.

Here, on one hand, you have the Justice Department less than enthusiastic about protecting those in the institution, talking to the violator, the State of Connecticut, and trying to get some tidy agreement between the Federal Government and the State government—one who has little interest, and one who had violated its trust—and the protection and advocacy unit, which is the only one representing those residing in the institutions, excluded from the discussions.

Such a cavalier attitude toward the need for disabled persons themselves to be represented in these negotiations is shameful. We have a protection and advocacy system in place to protect and advocate for disabled individuals, and yet the Justice Department can essentially slam the door in the face of the one entity whose only special interest is to ensure a decent quality of life for those individuals who deserve our special care.

A Civil Rights of Institutionalized Persons Act investigation and the actions it precipitates present probably the most significant and far-reaching opportunity for a protection and advocacy system to improve the quality of life for all residents of a substandard facility—not just for today, but for years to come. This is particularly true when we have a Justice Department that refuses to accept more than the bare minimum in the way of corrections by State officials to redress constitutional violations. Such an approach only serves to undermine the efforts of the protection and advocacy units to ensure that disabled individuals receive the best we have to offer, not the least we can get away with.

So, the legislation we introduce today will amend the Civil Rights of Institutionalized Persons Act to establish a role for the protection and advocacy system in actions taken by the Justice Department with respect to institutions for the disabled.

Specifically, the legislation will do the following. First, it adds the protection and advocacy system to the list of those in the State who are notified by the Attorney General when a Civil Rights of Institutionalized Persons Act investigation commences. Second, it requires the Attorney General, subsequent to its investigation, to provide the protection and advocacy unit with a draft of its findings and proposed remedial measures, so that the protection and advocacy unit may review and comment upon its contents prior to transmittal to the Governor. Third, and most importantly, the protection and advocacy unit will be permitted to participate in negotiations between Justice and State officials leading to a resolution of the unconstitutional conditions. Fourth, if a consent decree is to be filed, the protection and advocacy unit will have the authority to review and comment upon the terms of the decree prior to filing. Fifth, once the consent decree is filed, the protection and advocacy unit will have up to 5 days to intervene in the proceeding, if it wishes to do so. Finally, the legislation requires the Justice Department, when the protection and advocacy unit has reason to believe a life-threatening situation exists in an institution and requests Justice's involvement, to begin an investigation within 48 hours.

Mr. President, this legislation will be of enormous benefit to disabled individuals who have not only the misfortune to live in the worst of our Nation's institutions, but whose voices will not be heard in the decisions that affect their very lives, until we act.

I urge my colleagues to support this legislation, and I hope that I would be able to come up with 100 cosponsors on the legislation. I look forward to working with members of the Judiciary Committee to which this measure will be referred to expedite its prompt consideration and passage.

Again, what I speak for here today are those who through no fault of their own have been denied for all intents and purposes the joy and opportunity of living in this great Nation. Because we put them behind walls does not mean that we should forget their particular plight. It is not a matter of budgets or what is most convenient or out of sight, out of mind. If we are to live up to the ideals which we profess in the United States of America, then let us assure at least under the limited circumstances which are their lot they, like us, have the opportunity to live the happiest of lives.

I yield the floor.

By Mr. REID:

S. 1541. A bill to provide veterans' benefits to persons who served as seamen in the U.S. merchant marine during World War II; to the Committee on Veterans' Affairs.

VETERANS' BENEFITS FOR WORLD WAR II MERCHANT SEAMEN

Mr. REID. Mr. President, one of the greatest pleasures we have as Members of this body is the opportunity, from time to time, to right a wrong which has been done to a Member of the body politic. Often, that chance arises because of general policy considerations. On occasion, however, we hear a story about one person, and are so affected that we decided to take action.

Today, I am introducing a bill which provides veterans benefits to sailors who served in the U.S. merchant marine in World War II. Before I tell you about the bill though, I would like to tell you why I am sponsoring it.

I have a friend in Nevada named L.J. O'Neale. He is the assistant U.S. attorney in my State, and the kind of decent, honorable, hard-working, and intelligent government employee who does credit to the entire concept of public service. He has made a career of it.

Last week, I heard the story of his father, Jack O'Neale, who now lives in Portland, OR. That saga caused me to sponsor this bill.

Jack O'Neale, you see, was one of those foot-loose young men of the 1920's who wanted to see the wide world which was opening up to international travel. He enlisted in the U.S. Navy in 1929 at the age of 16. He served for 6 years, in the China fleet, and in Central America.

After he was discharged from the U.S. Navy, he knocked around a bit and then decided late in the 1930's to join the merchant marine. At that time Europe was ablaze, and the flames already flickered in the Orient. Mr. O'Neale joined the crew of the *President Harrison*, a passenger liner in the U.S. President Lines.

In November 1941, with war looming on the horizon, the U.S. Navy took control of the ship in Manila and converted it to a troop transport. Jack O'Neale and his fellow crewmen were placed under the authority of the U.S. Coast Guard.

The ship was then ordered to China, where it successfully evacuated the 4th Marines from Shanghai. After carrying them to the Philippines, the *President Harrison* returned to China to pick up marine guards at the various American installations in that area. It arrived off Shanghai on December 8, 1941.

Suddenly, and without warning, a Japanese dive bomber appeared and the *Harrison* was ordered into port. Refusing, however, to surrender, the ship made a run for a nearby fog bank. As they approached, the fog lifted. Three Japanese destroyers lay in wait.

The crew of the *President Harrison* refused to surrender their ship to the Japanese Navy. They ran their vessel onto the rocks and scuttled her. Japanese authorities seized them, and Jack O'Neale and his shipmates spent the next 4 years in a Japanese POW camp.

Finally, Mr. President, their long ordeal ended, ended perhaps in time

only, because they literally had been in one of the worst prisons in the history of this world, the military prisons of Shanghai. In November 1945, Jack O'Neale was repatriated to the United States. He arrived to be greeted by his grateful country with an honorable discharge from the U.S. Coast Guard dated November 1945.

That discharge stated that Jack O'Neale had been honorably discharged from the service of his Nation as of December 8, 1941. Reason for discharge; "ship captured by Japanese."

His health was broken by those 4 years of imprisonment, yet Mr. O'Neale received no medical treatment from the Government. Recently Jack O'Neale, now an old man, suffered a mild stroke. On occasion, of late, he has had flashbacks, flashbacks to the prisons in Shanghai. He still thinks he is in one of those Shanghai prisons.

The doctors with the most experience in this area work, of course, work for the Veterans' Administration. They cannot treat Mr. O'Neale. He is not a war veteran, and his post traumatic stress disorder is not, therefore, a war related disability.

His situation is an injustice and reflects dishonor on the United States. The bill I am introducing today corrects that injustice.

By the best estimates, there are less than 10,000 Jack O'Neales in the United States, and they are every week becoming less and less, less than 10,000 sailors who served their Nation in the most perilous, terrifying and lonely duty imaginable; youngsters who went down to the cold, gray, lonely sea, and carried the troops, transported the weapons, formed the lifeline so that democracy could survive. We have rewarded them with callous indifference.

This act is simple enough. It provides that merchant seamen who served their Nation during the war for a minimum of 12 months, shall be treated as naval veterans. It includes in that service those who were prisoners of war as a result of enemy action against their ship. Similar legislation has been introduced in the House.

It is a simple bill. It is also simple justice, and I hope that every Member of this honorable body will join me in doing what should have been done long ago, and in righting a wrong which this Nation has done to those who served her well and faithfully.

By Mr. METZENBAUM (for himself, Mr. BINGAMAN, Mr. FOWLER, Mr. LEVIN and Mr. JOHNSTON):

S. 1544. A bill to amend the National Trails System Act to provide for cooperation with State and local governments for the improved management of certain Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL TRAILS SYSTEM IMPROVEMENT ACT

● Mr. METZENBAUM. Mr. President, I am pleased to introduce today on behalf of myself and Senators BINGAMAN, LEVIN, and FOWLER, a bill to amend the National Trails System Act to assist in the creation of new trails by State and local agencies, as well as by interested Federal agencies. It has come to be known as the rails-to-trail bill, because it will help to convert abandoned railroad corridors into recreational trails.

Trail activities have become the most important forms of outdoor recreation among Americans, as we become more aware of the benefits of physical fitness in our lives. Some of our most popular leisure activities include hiking, biking, jogging, horseback riding, and cross-country skiing. Trails allow us to enjoy these activities, and often bring us closer to nature and wildlife.

Throughout the Nation, as our society becomes increasingly urbanized, there is an ever growing need for more recreational space. The President's Commission on Americans Outdoors was appointed by the President in 1985 to look toward the future and recommend innovative ways in which America can meet these changing recreation demands, while recognizing the need to restrict Federal spending.

In its final report to the President, the Commission stated:

> More and more, outdoor recreation occurs close to home, in our near towns and cities, where 80 percent of us soon will live. City parks are wearing out. There are fewer sidewalks for a population whose favorite outdoor pastime is walking * * * we recommend that communities create a network of greenways across the country * * *

My bill will take an important step toward achieving the laudable goal, creating a working partnership between the Federal Government and local governments to establish more trails, without costing the American taxpayers. In fact, I recently received a letter of endorsement from a member of the President's Commission, Derrick A. Crandall, president of the American Recreation Coalition.

Specifically, this legislation encourages the conversion to recreational trails of abandoned railroad rights-of-way on Federal land by keeping such rights-of-way in the public domain. Those which are suitable for trail use would be so designated. Others would be sold and the proceeds invested in a newly established trails development revolving fund to provide State and local agencies and private organizations with resources to acquire and develop trails.

In my State of Ohio, many communities are attempting to purchase abandoned rail lines for trail conversions so that local residents for years to come may be able to reap the recreational benefits these trails provide. Unfortunately, local groups and governments are often unable to raise sufficient funding to purchase these rail corridors, which are instead sold to commercial interests for development.

In Medina and Richland Counties in Ohio, trail conversion efforts are currently underway, which would be aided by the passage of this bill. Last weekend, I biked 7 miles on a converted rail-trail which follows the Little Miami Scenic River, between Loveland and Morrow. I was very impressed by the trail's beauty, as well as the enthusiasm and pride of local residents who use the trail. Right here in Washington, DC, railroad corridors have been converted into popular trails. My bill will help other communities to develop their own trails.

The time is ripe for this legislation. Thousands of miles of rail line are being abandoned each year. Their locations often lend them well to trail use, following river corridors, traversing coastal plains, crossing through mountain valleys, and linking neighboring towns and cities. They often provide important wildlife habitat and prevent soil erosion.

Identical legislation has been introduced in the House of Representatives by Congresswoman BEVERLY BYRON, and already has 30 cosponsors, including the Honorable Mr. UDALL, chairman of the House Interior Committee.

I have received endorsements from hundreds of Ohioans, and many recreation groups, including the National Recreation and Park Association, the rails-to-trails conservancy, the American Recreation Coalition, the Buckeye Trail Association, the North Country Trail Association, and the American Horse Council.

This is quite simply a well thought out, low-cost means of promoting the stated goals of the National Trails System Act. It will provide Americans with increased opportunities for relaxation, exercise, and the enjoyment of nature, while restoring life to abandoned railroad corridors. This bill merits our strong support.●

By Mr. STEVENS:

S. 1545. A bill to amend title 5, United States Code, to establish a simplified management system for Federal employees, and for other purposes; to the Committee on Governmental Affairs.

CIVIL SERVICE SIMPLIFICATION ACT

● Mr. STEVENS. Mr. President, today, at the request of the administration, I am introducing the Civil Service Simplification Act of 1987. This proposal would expand the personnel systems demonstrated at the two Navy laboratories in China Lake and San Diego, CA.

We are constantly being told that the current classification and pay systems are outdated and that agencies

are not able to compete with the private sector in recruiting and keeping high quality employees. The pay comparability system has broken down. The general schedule classification system is inflexible and its administration leads to the micromanagement of the Federal work force.

In the 99th Congress and again this Congress, Members both in the Senate and House have introduced bills to address these problems. Some Members believe we should provide separate personnel systems for specialized occupations, while others want to provide higher minimum rates of pay for shortage occupations. Other Members believe, as I do, that we should test a variety of possible solutions, such as locality pay and collective bargaining.

The administration believes that the Navy experiments are a success and should now be implemented governmentwide. Last Congress, I held onsite hearings at the China Lake and San Diego facilities and while I agree that they are successful, and that the Federal classification and pay systems need updating, I am not prepared at this time to endorse the governmentwide expansion of the concepts tested in these experiments.

The demonstration authority provided in the Civil Service Reform Act has not been widely used, partially because of the time and cost involved in developing a project. There are some other projects which I believe will provide us with additional valuable information. For example, there is a sizable demonstration project at McClellan AFB, CA, which has been under development for close to 5 years and is expected to begin in January 1988. This project is unique from China Lake and San Diego in a number of ways, chief of which, in my opinion, is that it was developed with the participation of the local union representatives. This experiment will test, among other things, different concepts in group performance, gainsharing, classification, and pay banding.

I also believe that we need to see some significant experiments outside of the Department of Defense, before we expand any demonstration government-wide. Having said this, I recognize that there are also immediate situations which must be addressed. I understand that Senator PRYOR, chairman of the Federal Services, Post Office, and Civil Service Subcommittee, will be holding hearings on several bills that have been introduced and I look forward to working with him as we search for solutions to our pay and personnel problems. Mr. President, I ask that the bill and a section-by-section analysis appear in the RECORD following my remarks.

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

S. 1545

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 "Civil Service Simplification Act of 1987".

SEC. 2. (a) Title 5, United States Code, is amended by inserting after chapter 51 the following new chapter:

"CHAPTER 52—SIMPLIFIED MANAGEMENT SYSTEM

"Sec.
"5201. Purpose.
"5202. Definitions.
"5203. Implementation.
"5204. Career Paths and Pay Bands.
"5205. Pay-for-Performance Plan.
"5206. Conversion Procedures.
"5207. Evaluation and Oversight.
"5208. Regulations.

"§ 5201. Purpose

"It is the purpose of this chapter to promote better management of the Federal work force by establishing a Simplified Management System that will vest in Federal agencies the authority and responsibility to use flexibilities in assigning rates of basic pay in order to recruit, motivate, and retain a well-qualified work force. The Simplified Management System established by this chapter is an alternative to the classification and pay system established under chapter 51, subchapter III of chapter 53, and chapter 54 of this title. The Simplified Management System shall be incrementally expanded throughout the Federal work force in a controlled, measured, and budget-neutral manner.

"§ 5202. Definitions

"For the purposes of this chapter—

"(1) 'agency', 'class', 'grade', and 'position' have the same meanings as provided in section 5102(a) of this title;

"(2) 'budget-neutral' means that the aggregate costs (including administrative costs) directly and indirectly incurred under the Simplified Management System do not exceed the costs which would have been incurred had the Simplified Management System not been implemented;

"(3) 'career path' means a grouping of occupations that are determined by the Office to be sufficiently similar to warrant the assignment of the same set of pay bands;

"(4) 'employee' means an individual employed in or under an agency, but does not include—

"(A) an employee described by section 5102(c) or (d) of this title;

"(B) a member of the Senior Executive Service; or

"(C) an administrative law judge appointed under section 3105 of this title;

"(5) 'occupation' means a group of positions that are similar as to the kind of work and the kind of qualifications required;

"(6) 'Office' means the Office of Personnel Management; and

"(7) 'pay band' means a range of rates of basic pay encompassing the rates of pay for two or more grades (or, when determined appropriate by the Office in a particular situation, for a single grade) of the General Schedule under section 5332 of this title.

"§ 5203. Implementation

"(a) Subject to the requirements for approval provided in subsection (c) of this section, the head of an agency may implement the Simplified Management System for the agency, or for any component or location in the agency, or for any occupation or group of occupations within the agency, under a plan established under subsection (b) of this section. Any change in the coverage of the Simplified Management System in the agency, or in the plan, shall be subject to approval under subsection (c) of this section.

"(b) Prior to implementing the Simplified Management System, the head of an agency shall develop and submit for approval, in accordance with subsection (c) of this section, a plan for the operation of the Simplified Management System in the agency, component or location, or occupation or group of occupations affected. The plan shall set forth—

"(1) the proposed extent of coverage of the Simplified Management System under the plan;

"(2) the means by which the agency will ensure that the Simplified Management System will operate in a budget-neutral manner under the plan;

"(3) any career paths, pay bands, criteria, or qualification requirements proposed for the plan under section 5204(e) of this title;

"(4) the performance appraisal system under the plan, as required by chapter 43 of this title;

"(5) the pay-for-performance plan under section 5205 of this title;

"(6) the merit promotion plan, as required by regulations of the Office under authority of sections 3301 and 3302 of this title;

"(7) procedures for designating individuals for conversion to coverage under the plan, as required by section 5206(c) of this title; and

"(8) any other information required by the Office, including any required plans for evaluating the operation of the Simplified Management System.

"(c)(1) The President, or his designee, shall review each plan submitted by the head of an agency under subsection (b) of this section with respect to the adequacy of those provisions of the plan described in paragraph (2) of subsection (b), and shall approve the plan if he determines such provisions are adequate to ensure that the Simplified Management System will operate under the plan in a budget-neutral manner.

"(2) The Office shall review each plan submitted by the head of an agency under subsection (b) of this section with respect to the adequacy of those provisions of the plan described in paragraphs (1) and (3) through (8) of subsection (b), and shall approve the plan if the Office determines that such provisions comply with the provisions of this chapter and any regulations and criteria prescribed by the Office pursuant to this chapter, and that the Simplified Management System will operate under the plan in a manner that will accomplish the purpose of this chapter.

"(3) An agency plan for operation of the Simplified Management System must be approved under both paragraph (1) and paragraph (2) of this subsection before the agency may implement the Simplified Management System.

"(d) Notwithstanding any other provision of law, the coverage of an employee's position under the Simplified Management System shall not be subject to review or appeal, except as may be provided by the Office in its sole discretion.

"§ 5204. Career Paths and Pay Bands

"(a) The Office shall establish career paths and pay bands to be used by agencies which implement the Simplified Management System.

"(b) The Office, after consulting the agencies, shall develop and publish criteria, in such form as the Office may determine, which agencies shall follow for placing positions included in the Simplified Management System in the career paths and pay bands that are established by the Office. To accomplish the purposes of this chapter, the Office may issue criteria which are derived from standards published under chapter 51 of this title, if such criteria provide for the grouping of classes of positions into career paths, and the consolidation of grades into pay bands.

"(c) Except as provided in subsection (e)(2), each agency shall assign positions under the Simplified Management System to career paths and pay bands on the basis of the criteria issued by the Office.

"(d) Except as provided in subsection (e)(2), the determination of the basic qualifications of individuals for positions under the Simplified Management System, in each path and in each pay band, shall utilize qualification standards issued by the Office for positions under chapter 51 of this title, including subsequent changes or additions to those standards, or criteria developed and applied specifically for positions under the Simplified Management System. The determination of what standards or criteria to utilize shall be at the sole discretion of the Office.

"(e) When the Office determines that the career paths, pay bands, or criteria developed under subsection (a) or (b) of this section or the qualification requirements described in subsection (d) of this section are not appropriate to accomplish the purposes of this chapter for a particular agency, a component or location of an agency, or an occupation or group of occupations, the Office may, in its sole discretion—

"(1) develop career paths, pay bands, criteria, or qualification requirements for the agency, component or location, or occupation or group of occupations; or

"(2) authorize an agency to develop and submit to the Office for approval, proposed career paths, pay bands, criteria, or qualification requirements to accomplish the purposes of this chapter.

"(f) The minimum rate of basic pay for the Simplified Management System shall be the minimum rate for GS–1 under section 5332 of this title, and maximum rate of basic pay shall be the rate payable for GS–18 under section 5308 of this title. The range of rates of pay for any given pay band shall be equivalent to the range of rates of basic pay for one or more grade levels of the General Schedule under section 5332 of this title, and shall be adjusted to maintain such equivalency whenever the rates of pay of the General Schedule are adjusted under section 5305 of this title.

"(g) An individual shall be initially appointed as an employee under the Simplified Management System at the lowest rate in the applicable pay band that the agency determines, on the basis of the individual's qualifications and labor market conditions, is sufficient to recruit the individual.

"(h) When an agency determines that the recruitment or retention of well-qualified employees under the Simplified Management System is, or is likely to become, seriously handicapped by higher pay rates paid by Federal or non-Federal employers, or by undesirable working conditions, or a remote geographical location, the agency may—

"(1) increase pay rates within the pay band by an amount sufficient to recruit or retain such employees;

"(2) submit a request, if the maximum rate of the pay band is not sufficient to recruit or retain such employees, for approval of an increase of the pay band by an amount sufficient to recruit or retain the employees, except that—

"(i) such an increase in a pay band may not exceed twice the difference between the minimum and maximum rate of basic pay for the highest grade of the General Schedule encompassed by the pay band; and

"(ii) no pay band may exceed the maximum rate payable under section 5308 of this title; or

"(3) pay bonuses to such employees, either in lieu of establishing higher rates of pay under this subsection or in addition to such higher rates of pay, as appropriate, subject to the conditions specified in section 5303(b)(2)–(5) of this title.

The authority to approve or disapprove a request under paragraph (2) of this subsection shall be exercised by the President, or, in the event the President has authorized the Office to exercise the authority conferred on him by section 5303 of this title, by the Office.

"(i) An employee whose rate of basic pay falls below the minimum for the employee's pay band because of a failure to receive pay increases due to performance shall be placed in the next lower pay band, unless such action would place the employee in a pay band below the minimum pay band specified for the employee's career path. An employee who is placed in a lower pay band under this subsection shall not have his rate of basic pay reduced as a result of such placement.

"(j) For the purposes of section 5941 of this title, rates of basic pay fixed under this chapter shall be considered rates of basic pay fixed by statute.

"(k) The Office shall prescribe regulations to provide linkages between pay bands established under this chapter and General Schedule grade levels and rates of basic pay for purposes of administering chapter 55 of this title and any other provision of law or regulation.

"§ 5205. Pay-for-Performance Plan

"(a) Each agency which implements the Simplified Management System shall prepare a pay-for-performance plan, which shall be subject to the approval of the Office, and which shall include—

"(1) a method for determining progression within a pay band which (except as provided by section 5204(h)) shall be based on performance as determined by the performance appraisal system and which may take into account relative position in the range of rates of basic pay for the pay band;

"(2) an incentive and performance awards system which meets the requirements of chapter 45 of this title; and

"(3) a method to be used to determine the funds available to the agency for incentive awards, performance awards, and advancement of employees within the pay bands.

"(b) The Office shall prescribe regulations governing the application of a pay-for-performance plan in the case of an employee for whom a determination under section 4302 of this title for the latest appraisal period is not available.

"§ 5206. Conversion Procedures

"(a) The Office shall prescribe regulations governing the procedures to be used—

"(1) to convert individuals to coverage under the Simplified Management System;

"(2) to appoint individuals to coverage under the Simplified Management System from other Federal pay systems, or from the Simplified Management System in other components or locations of the agency or another agency; and

"(3) to terminate the Simplified Management System in an agency, or component or location thereof, or for an occupation or group of occupations in an agency, if the Simplified Management system is terminated under section 5207 of this title.

"(b) The Office may provide for restrictions on increases in rates of basic pay as appropriate for individuals who are appointed to positions under the Simiplified Management System in an agency from another Federal pay system, or from the Simplified Management System in another agency.

"(c) Each agency which implements the Simplified Management System shall specify procedures for designating individuals for conversion to coverage under the Simplified Management System. Such procedures shall provide for written notification of conversion to each individual serving in a position at the time it is identified for conversion to the Simplified Management System. A conversion to coverage under the Simplified Management System shall be accomplished with no reduction in the rate of basic pay of the individual.

"§ 5207. Evaluation and Oversight

"(a) The President, or his designee, shall review the operation of the Simplified Management System in each agency to ensure that such System is operating in a budget-neutral manner. The President, or his designee, may require the agency to modify or terminate use of the Simplified Management System if he determines that it is not so operating.

"(b)(1) In addition to the review required under subsection (a) of this section, the Office shall monitor and evaluate the operation of the Simplified Management System in each agency to ensure compliance with the requirements of this chapter and other applicable laws, rules, and regulations.

"(2) If at any time the Office determines that the Simplified Management System in an agency, or a component or location thereof, or for an occupation or group of occupations in an agency, is not operating in compliance with the provisions of this chapter, or the regulations and approved plan under this chapter, the Office may require modification or termination of the use of the Simplified Management System.

"(c) An employee may request at any time that the Office—

"(1) ascertain currently the facts as to the duties, responsibilities, and qualification requirements of the employee's position;

"(2) decide whether the employee's position is in its appropriate career path and pay band; and

"(3) change a position from one career path or pay band to another career path or pay band when the facts warrant.

A decision made by the Office on the basis of an employee's request under this subsection is binding on the employing agency and is not subject to appeal or review by any other entity.

"§ 5208. Regulations

"The Office shall prescribe regulations to carry out this chapter.".

(b) The table of chapters for part III of title 5, United States Code, is amended by adding after the item relating to chapter 51 the following new item:

"52—Simplified Management System 5201."

CONFORMING AMENDMENTS

SEC. 3. Title 5, United States Code, is further amended—

(1) in section 4302 by adding at the end thereof the following new subsection:

"(c) For the purposes of this chapter, a reduction to a lower pay band of an employee assigned to a position under the Simplified Management System under chapter 52 of this title shall be considered a reduction in grade, except as provided in section 4303(f)(4) of this chapter.";

(2) in section 4303(f)—

(A) in paragraph (2) by striking out "or" at the end thereof;

(B) in paragraph (3) by striking out the period at the end thereof and inserting in lieu thereof ", or"; and

(C) by adding at the end thereof the following new paragraph:

"(4) the reduction to a lower pay band of an employee under chapter 52 of this title who falls below the minimum rate of the pay band by failing to receive a pay increase as specified in section 5204(i) of this title.";

(3) in chapter 45—

(A) by adding the following new section after section 4507:

"§ 4508. Performance awards for employees under the Simplified Management System

"An agency may pay a performance award to an employee covered under the Simplified Management System under chapter 52 of this title, under a pay-for-performance plan approved under section 5205 of this title. Such a performance award shall be related to the employee's performance as rated under a performance appraisal system, and shall be considered a cash award for purposes of this chapter.";

(B) the analysis for chapter 45 is amended by inserting after the item relating to section 4507 the following new item:

"4508. Performance awards for employees under the Simplified Management System.";

(4) in section 5102 by adding at the end thereof the following new subsection:

"(e) This chapter does not apply to an employee who is covered under the Simplified Management System under chapter 52 of this title.";

(5) in section 5363 by adding at the end thereof the following new subsection:

"(d) For an individual covered under the Simplified Management System under chapter 52 of this title, pay retention may be provided, under regulations prescribed by the Office of Personnel Management, when an individual's rate of basic pay is reduced, and the reduction is not the result of action initiated by the individual and is not based on the conduct or unacceptable performance of the individual.";

(6) in section 5948—

(A) in subparagraph (g)(1)(H) by striking out "or" at the end thereof;

(B) in subparagraph (g)(1)(I) by striking out "and" and inserting in lieu thereof "or";

(C) in paragraph (1) by adding at the end thereof the following new paragraph:

"(J) chapter 52 of this title, relating to the Simplified Management System; and";

(7) in section 7103(a)(14)(B) by striking out "; or" at the end thereof and inserting in lieu thereof ", including the assignment of a position to a career path or pay band under chapter 52 of this title, and the method for determining progression of an employee within a pay band; or";

(8) in section 7106—

(A) in subparagraph (a)(2)(C)(ii) by striking out at the end thereof "and";

(B) in subparagraph (a)(2)(D) by striking out the period at the end thereof and inserting at the end thereof "; and";

(C) by adding at the end of paragraph (a)(2) the following new paragraph:

"(E) to place positions under the Simplified Management System or to convert employees to or from the Simplified Management System under chapter 52 of this title.";

(9) in section 7121(c)—

(A) in paragraph (4) by striking out "or" at the end thereof;

(B) in paragraph (5) by striking out the period at the end thereof and inserting in lieu thereof "; or";

(C) by adding at the end thereof the following new paragraph:

"(6) The assignment of a position to a career path or pay band under the Simplified Management System under chapter 52 of this title (unless such assignment results in the reduction to a lower pay band, or a reduction in basic pay for an employee, and the reduction is not caused by a performance deficiency as specified in section 5204(i) of this title) or the method for determining progression of an employee within a pay band.";

(10) in section 7511(a)(3) by striking out the semicolon at the end thereof and inserting in lieu thereof ", or a pay band under the Simplified Management System established under chapter 52 of this title;";

(11) in section 7512—

(A) in paragraph (4) by striking out "and" at the end thereof;

(B) in paragraph (5) by adding at the end thereof "and";

(C) by adding as a new paragraph the following:

"(6) a reduction to a lower pay band of an employee assigned to the Simplified Management System under chapter 52 of this title;";

(D) in paragraph (D) by striking out "or" at the end thereof;

(E) in paragraph (E) by striking out the period at the end thereof and inserting in lieu thereof ", or"; and

(F) by adding at the end thereof the following new paragraph:

"(F) the reduction to a lower pay band of an employee assigned to the Simplified Management System under chapter 52 of this title who falls below the minimum rate of the pay band by failure to receive a pay increase as specified in section 5204(i) of this title.".

SEC. 4(a). Section 10 of Public Law 99-574 is repealed.

(b) The project authorized by section 10 of Public Law 99-574 shall, to the extent it is determined by the Director of the Office of Personnel Management to be consistent with the Simplified Management System established under the amendments made by sections 2 and 3 of this Act, be continued as an implementation of the Simplified Management System.

SPECIAL RATES AMENDMENTS FOR GENERAL SCHEDULE EMPLOYEES

SEC. 5(a). Section 5303 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "pay rates in private enterprise for one or more occupations in one or more areas or locations are so substantially above the pay rates of statutory pay schedules as to handicap significantly the";

(B) by striking out "he may establish for the areas" and inserting in lieu thereof the following: "is, or is likely to become, significantly handicapped by higher pay rates paid by Federal or non-Federal employers, or by undesirable working conditions or the remote geographic location of such positions, he may establish, as appropriate, for one or more areas"; and

(C) in the second sentence—

(i) by striking out "maximum" and inserting in lieu thereof "minimum"; and

(ii) by adding after "level" the following: "by more than twice the amount by which the maximum rate of pay for that grade or level exceeds the minimum rate of pay for that grade or level. The President may authorize the appointment of an individual who would be covered by higher rates established under this section at a rate above the higher minimum rate so established"; and

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) When the President makes a finding under subsection (a) of this section, he may pay bonuses to individuals in positions covered by such finding, either in lieu of establishing higher rates of pay under that subsection or in addition to such higher rates of pay, as appropriate.

"(2) A bonus under this subsection may, as appropriate, be provided under a service agreement between the head of an agency and the individual, requiring the individual to complete a specified period of service in return for such bonus, but not over two years of service may be required under a single such agreement, subject to regulations prescribed by the President. An individual who does not complete the specified period of service shall repay the amount of the bonus unless—

"(A) the period of service is not completed by reason of the death or disability of the individual; or

"(B) the head of the agency determines, pursuant to regulations prescribed by the President, that such failure to complete the specified period of service is for the convenience of the Government,

"(3) A bonus paid under this subsection may not be considered as basic pay for the purposes of subchapter V, subchapter VI, or section 5595 of chapter 55, chapter 81, 83, 84, or 87 of this title, or other benefits or entitlements related to basic pay.

"(4) A bonus under this subsection may be paid in a lump sum or in two or more separate payments.

"(5) The sum of the basic pay and a bonus under this subsection paid to an individual in any 12-month period may not exceed the amount of basic pay payable to an individual in a position in level V of the Executive Schedule during the same 12-month period.

"(6) The President may authorize the exercise of the authority conferred on him by this subsection by the Office of Personnel Management or, in the case of individuals not subject to the provisions of this title governing appointment in the competitive service, by such other agency as he may designate.".

(b) Section 5333(a) of title 5, United States Code, is amended in the second sentence—

(1) by inserting after "case" the following, "(except to the extent that authority for such approval is delegated under section 1104 of this title)"; and

(2) by striking out "to a position in GS-11 or above".

SEC. 6. The amendments made by this Act shall be effective on October 1, 1987.

SECTION-BY-SECTION ANALYSIS TO ACCOMPANY A DRAFT BILL

"To amend title 5, United States Code, to establish a simplified management system for Federal employees, and for other purposes."

SECTION 1. SHORT TITLE

The first section of the bill provides a title, the "Civil Service Simplification Act of 1987."

SECTION 2. CHAPTER 52

The second section of the bill amends title 5, United States Code, by inserting a new chapter 52, "Simplified Management System."

Section 5201. Purpose

The first section of chapter 52 explains the purpose of the Simplified Management System, which is modelled on the successful personnel management demonstration projects conducted at two Navy laboratories in China Lake and San Diego, California. The Simplified Management System will be expanded Governmentwide in a controlled, measured, and budget-neutral manner.

Section 5202. Definitions

This section defines the terms used in the Simplified Management System, and specifies that the coverage of the System may include any employee whose position would otherwise be in grades GS-1 through GS-18 of the General Schedule. The System would not include members of the SES, administrative law judges, and prevailing rate employees.

Section 5203. Implementation

Subsection (a) provides authority for the head of an agency to implement the Simplified Management System and to determine coverage of the System within the agency. This subsection also provides that the Simplified Management System may only be implemented with the approval of the President, or his designee, and that, once approved, changes in coverage of the System, or in the plan implementing the System must be approved by the President or his designee.

Subsection (b) specifies the requirements of the Simplified Management System plan that must be approved before an agency may implement the System. The plan must include: the proposed extent of coverage; the means for assuring budget-neutrality; any career paths, pay bands, criteria or qualification requirements proposed under section 5204(e); the performance appraisal system; the pay-for-performance plan; the merit promotion plan; the conversion procedures; and the evaluation plan.

Subsection (c) provides that the President, or his design, shall review each Simplified Management System Plan submitted for approval and shall approve the plan if he determines that the System will operate under the plan in a budget-neutral manner. The Office of Personnel Management (OPM) shall review and approve the plan if it determines that the plan complies with the legal and regulatory provisions of the Simplified Management System and will operate in a manner that will accomplish the purposes of the System. An agency may not implement the System unless its plan is approved for budget-neutrality by the President, or his designee, and unless the other required provisions of the plan are approved by OPM.

Subsection (d) provides that coverage under the Simplified Management System may not be appealed or reviewed, unless so provided by OPM.

Section 5204. Career Paths and Pay Bands

Subsection (a) provides that the career paths and pay bands for the Simplified Management System will be established by OPM.

Subsection (b) requires OPM to publish the criteria for placing positions in the Simplified Management System into the appropriate career paths and pay bands. OPM may use standards developed under the General Schedule to define criteria for the Simplified Management System, as long as the criteria define career paths and pay bands under the Simplified Management System. This provision will allow for a quick implementation of a simplified position classification system, which is one of the key features of the Simplified Management System.

Subsection (c) provides that, with the exception specified in subsection (e)(2), agencies will determine career paths and pay bands on the basis of criteria issued by OPM.

Subsection (d) provides that, with the exception specified in subsection (e)(2), qualification determinations will be made on the basis of existing qualification standards published by OPM, including subsequent changes or additions to those standards. OPM will have sole discretion to determine whether to use existing standards, or whether to develop new ones.

Subsection (e) allows the tailoring of career paths, pay bands, criteria, or qualification requirements to specific problem areas in two situations: (1) when OPM determines that the regular Governmentwide career paths, pay bands, criteria, or qualification requirements are not accomplishing the purposes of the Simplified Management System in a given instance, it may develop individual career paths, pay bands, criteria, or qualification requirements for that situation; or (2) OPM may authorize an agency to develop proposed career paths, pay bands, criteria, or qualification requirements which must be submitted to OPM for approval.

Subsection (f) provides that the minimum and maximum rates of basic pay under the Simplified Management System will be the same as those payable under the General Schedule, and that pay bands will have the same range of basic pay as one or more grades of the General Schedule. This subsection also provides that the range of rates of pay bands shall be adjusted to maintain equivalency with the General Schedule whenever the General Schedule receives a comparability adjustment.

Subsection (g) requires agencies to initally appoint an individual to the Simplified Management System at the lowest rate in a pay band which the agency determines is necessary to recruit the individual, based on the individual's qualifications and labor market conditions.

Subsection (h) provides a "special rate" and a bonus authority under the Simplified Management System to provide additional agency flexibility in recruiting and retaining employees in hard-to-fill occupations. Paragaph (1) allows agencies to adjust pay rates within pay bands by the amount necessary to recruit or retain employees. Paragraph (2) allows agencies to request increases to the maximum rate of an approved pay band, if the range of the pay band is not sufficient to recruit or retain well-qualified employees. Such requests for special rates must be submitted to the President, or to OPM if the President's authority to set General Schedule special rates under section 5303 of title 5 is delegated to OPM, for approval. Special rates are limited to a maximum rate which does not exceed the maximum rate of the pay band by an amount equivalent to twice the range of the highest General Schedule grade encompassed by the pay band, and may not exceed the rate of basic pay payable for level V of the Executive Schedule. Paragraph (3) allows for the payment of bonuses to recruit or retain employees for hard-to-fill positions, under the same restrictions as will apply to General Schedule employees. A bonus could be paid under an agreement between the employee and the agency requiring the employee to perform a specified period of service in return for the bonus, but not over two years of service could be required under a single agreement. An employee who does not complete the specified period of service would have to repay the amount of the bonus, unless the service is not completed because of death or disability, or the head of the agency determines that an employee's failure to complete the service is for the convenience of the Government. In any 12-month period, the combination of basic pay and a bonus could not exceed the basic pay payable to an individual in a position in level V of the Executive Schedule for the same 12-month period. A bonus would not be part of basic pay for the purpose of any benefit related to basic pay.

Subsection (i) provides that an employee who fails to receive pay increases because of less than fully successful performance and who drops below the minimum rate of pay for the pay band will be placed in the next lower pay band, unless the employee is already at the minimum pay band of the career path. A reduction of a pay band under this provision will be conducted without reducing the employee's rate of basic pay.

Subsection (j) continues the existing authority for payment of a cost-of-living allowance and, if applicable, post differential to employees under the Simplified Management System stationed in areas and possessions of the United States outside the 48 coterminous States.

Subsection (k) provides the Office of Personnel Management the authority to prescribe regulations which establish linkages between pay bands and General Schedule grade levels for purposes of administering the premium pay provisions and other provisions of title 5, United States Code, and any other provisions of law or regulation which are linked to the General Schedule.

Section 5205. Pay-for-Performance Plan

Subsection (a) specifies the requirements for the pay-for-performance plan which must be submitted to OPM for approval by each agency implementing the Simplified Management System. The plan must comply with the performance appraisal requirements of chapter 43 and the incentive and performance awards provisions of chapter 45 of this title. In addition, the plan must specify the method to be used to advance employees through the pay band. The method must be based on the employee's performance and may not depend on length of service, though it may consider an employee's relative position in the range of rates of basic pay for a pay band in determining the rate of progression through the band. The plan must also specify the method the agency will use to determine the funds available to the agency for incentive awards, performance awards, and for providing pay increases to employees.

Subsection (b) requires OPM to prescribe regulations for administering the pay-for-performance plan for employees who have not received a performance rating under an approved performance appraisal system.

Section 5206. Conversion Procedures

Subsection (a) requires OPM to precribe regulations governing the procedures to be used in converting employees to the Simplified Management System; appointing employees into the Simplified Management System; and terminating the Simplified Management System.

Subsection (b) authorizes OPM to provide restrictions on pay increases for employees who are appointed into the Simplified Management System from other agencies. The purposes of this provision is to ensure that agencies do not escalate salaries when competing among themselves for valuable employees.

Subsection (c) requires agencies to specify procedures for designating employees for conversion to the Simplified Management System. These procedures must provide for written notification to employees who will be converted. Conversions to the Simplified Management System must be accomplished without a reduction of basic pay of the converted employee.

Section 5207. Evaluation and Oversight

Subsection (a) requires the President, or his designee, to review the operation of the Simplified Management System to ensure budget neutrality. The President, or his designee, may require an agency to modify or terminate use of the System if it is not operating in a budget-neutral manner.

Subsection (b) provides that OPM shall have an active responsibility for monitoring and evaluating the Simplified Management System to ensure compliance with applicable laws, rules, and regulations. It also authorizes OPM to modify or terminate any use of the Simplified Management System if it determines that the System is not being implemented in compliance with applicable laws, rules, or regulations, or is not being implemented in a manner consistent with the purposes of the Simplified Management System.

Subsection (c) establishes an administrative appeals procedures which allows an employee to request a decision from OPM as to whether the employee's career path and pay band are appropriate under the Simplified Management System. A final OPM determination under this procedure is binding on the employing agency, and may not be appealed, or reviewed by any party.

Section 5208. Regulations

This section authorizes OPM to provide regulations to carry out the Simplified Management System.

SECTION 3. CONFORMING AMENDMENTS

Paragraph (1) provides that reductions in pay bands are generally treated as reductions in grade for purposes of the performance appraisal provisions of chapter 43 of title 5, United States Code.

Paragraph (2) has the effect of excluding reductions to a lower pay band which result from poor performance from the notice requirements of 5 U.S.C. 4303(b), and also provides that such reductions are not appealable to the Merit System Protection Board.

Paragraph (3) adds a section to subchapter I of chapter 45 of title 5, United States Code, to provide a specific authority for performance awards for employees under the Simplified Management System which are linked directly to an employee's performance rating. Performance awards will be treated as cash awards for purposes of chapter 45.

Paragraph (4) excludes employees under the Simplified Management System from the General Schedule.

Paragraph (5) provides authority for pay retention, under OPM regulations, for reductions in pay of employees in the Simplified Management System. Pay retention is appropriate only for involuntary reductions which do not result from poor performance and which are not based on the conduct of the employee.

Paragraph (6) extends the physicians comparability allowances provisions under 5 U.S.C. 5948 to appropriate employees under the Simplified Management System.

Paragraph (7) excludes the assignment of a position to career path or pay band from "conditions of employment" for purposes of labor-management relations. In effect, such decisions are to be treated as classification decisions for labor-management purposes. This paragraph also provides that the method for determining progression within a pay band is not a condition of employment.

Paragraph (8) provides that the decision to place positions under the Simplified Management System or to convert employees to or from the system is a management right and may not be abridged by any labor-management provision.

Paragraph (9) provides that employees under the Simplified Management System may not pursue a grievance through a negotiated grievance procedure concerning the placement in a career path or pay band, unless the placement results in a reduction to a lower pay band or a reduction in pay and the reduction is not a result of failure to receive pay increases because of poor performance. This paragraph also provides that the method for determining progression within a pay band is also not grievable.

Paragraph (10) establishes "pay band" as an equivalent to "grade" for adverse action purposes.

Paragraph (11) provides that reductions of employees to lower pay bands are covered by the adverse action procedures of subchapter II of chapter 75 of title 5, United States Code, except that reductions of employees to lower pay bands caused by failure to receive pay increases because of poor performance are excluded from these procedures.

SECTION 4. REPEAL OF NATIONAL BUREAU OF STANDARDS DEMONSTRATION PROJECT AUTHORITY

This section repeals a provision of Public Law 99-574, the National Bureau of Standards Authorization Act for Fiscal Year 1987, that establishes in the National Bureau of Standards (NBS) a demonstration project somewhat similar to the Simplified Management System, but which is not required to be cost-neutral. Since development work on the NBS system has already begun, and since the basic framework of the system is similar to the Simplified Management System, the NBS system would be allowed to be implemented under this section, to the extent the Director of OPM determines that it is consistent with the Simplified Management System.

SECTION 5. SPECIAL RATES FOR GENERAL SCHEDULE EMPLOYEES.

This section expands flexibilities available for the recruitment and retention of employees who remain under the General Schedule or who are paid under certain other white-collar pay systems. These flexibilities will allow agencies to address critical recruitment and retention problems prior to conversion to the Simplified Management System. This section would broaden the current authority for special rates of pay when the Government experiences difficulty in recruiting or retaining well-qualified employees due to higher pay rates paid by Federal or non-Federal employers. The proposal would allow such special rates in a greater variety of circumstances, increase the available rate range for such special rates whennecessary, and permit the hiring of individuals covered by special rates at a rate above the minimum of the special rate range. In addition, the proposal would permit recruitment or retention bonsues, either in lieu of or in conjunction with special rates. Subsection (a)91) amends section 5303 of title 5, United States Code, which allows the President to establish special rates of pay for certain white-collar Federal employees when private sector pay for an occupation is so substantially above the Government's pay rates that the Government's recruitment or retention of well-qualified individuals in the occupation is significantly handicapped. The amendments broaden the authority to also allow special rates where the cause of the significant recruitment or retention problem is higher pay of Federal or non-Federal employers, undesirable working conditions of the Federal job, or the remote geographic location of the Federal job. Under the amendments, special rates could be established when any of these conditions is likely to cause a significant recruitment or retention problem, even if the problem has not yet fully materialized. In addition, the amendments increase the pay range available for fixing needed special rates. The current authority limits the special rate minimum to no more than the maximum—step 10—of the regular rate range. The amendments permit higher special rates, up to an additional width of the rate range, so that the special rate minimum may not exceed the regular step 1 by more than twice the amount by which the regular step 10 exceeds the regular step 1. Further, the amendments would allow the hiring of individuals who would be covered by a special rate range, as needed to help resolve the recruitment or retention problem.

Paragraph (2) of subsection (a) redesignates current subsections (b), (c), and (d) of section 5303 as subsections (c), (d), and (e), respectively, and inserts a new subsection (b), concerning bonuses for recruitment or retention. Under the new subsection (b), whenever the President finds that there is a significant recruitment or retention problem, he may provide for bonuses for individuals in affected positions, to be paid either instead of establishing special rates of pay or in addition to special rates of pay, as appropriate. A bonus could be paid under an agreement between the individual and the agency requiring the individual to perform a specified period of service in return for the bonus, but not over two years of service could be required under a single agreement. An individual who does not complete the specified period of service would have to repay the amount of the bonus, unless the service is not completed because of death or disability, or the head of the agency determines that an employee's failure to complete the service is for the convenience of the Government. In any 12-month period, the combination of basic pay and a bonus could not exceed the basic pay payable to an individual in a position in level V of the Ex-

ecutive Schedule for the same 12-month period. A bonus would not be a part of basic pay for the purpose of any benefit related to basic pay.

The President could delegate the responsibility for administering this new program of bonuses to the Office of Personnel Management, or to a different agency in the case of individuals not appointed in the competitive service.

Subsection (b) amends section 5333(a) of title 5, United States Code, which allows the hiring of an individual at a within-grade rate above the minimum rate of the grade based on such factors as the individual's unusually high or unique qualifications. The amendment removes the limitation of this authority under current law to only those positions at GS-11 and higher grades, so that the authority could be used at any grade level as appropriate for a qualifying individual. The amendment also makes a conforming change to reflect that the authority to approve the hiring of individuals at advanced within-grade rates may be delegated by OPM to the head of an agency under section 1104 of title 5, United States Code.

SECTION 6. EFFECTIVE DATE

This section makes the amendments to law in the bill effective on October 1, 1987.●

By Mr. BUMPERS (for himself, Mr. HATFIELD, Mr. ADAMS, and Mr. MURKOWSKI):

S. 1546. A bill to provide for the termination of the reregistration of certain Kuwaiti-owned vessels under the flag of the United States; to the Committee on Foreign Relations.

PERSIAN GULF REFLAGGING SUNSET ACT

Mr. BUMPERS. Mr. President, on behalf of Senators HATFIELD, ADAMS, and MURKOWSKI, and myself, I am introducing today a bill which would prohibit the continuation of reflagging of not only Kuwaiti ships but the ships of any nation in the Persian Gulf, any litoral nation to the Persian Gulf.

The bill provides very simply that 6 months after the enactment of this bill we will discontinue reflagging ships.

Second, it provides that 40 days prior to the expiration of that 6-month period, the President will notify Congress that if he wishes, if he does in fact wish to have those ships fly the American flag he will notify Congress 40 days prior to the expiration of the 6-month period stating that the continuation of that policy is in our national security interest, or obviously say that the discontinuation of that policy would be against our national security interest.

Congress will then have, under expedited procedures, two things required. The President must say it is in our national security interest to continue it and Congress then moves, by a joint resolution, to endorse his proposal to continue. And the bill provides for the consideration of that by the Congress under expedited procedures, with a maximum of 10 hours' debate.

Mr. President, I am not going to burden the Senate much longer except to say I really do not know, in light of the Kuwaiti tanker being hit by a mine this morning at about 2 a.m., Washington time, I do not know what that does to the politics of the issue. Most Americans seem not to have really focused on this policy, but they are likely to start focusing on it in light of what happened this morning, which demonstrates that you cannot keep American ships, or Kuwaiti tankers flying our flag, from being attacked in a very covert way where you find nobody's fingerprints on the attack. And so maybe people begin to reflect: Maybe this is not such a good idea.

If that mine had hit an American ship, a warship, and 30 or 40 American sailors had lost their lives, again I do not know exactly how the American people would have reacted to that. In the case of Vietnam, they reacted in a way that they wanted to continue getting a deeper escalation, an enhanced escalation. And I am afraid that might happen again here.

I have told you before that I never turned against the Vietnam war until my son turned 18 and I could not explain to him why he ought to fight and die in Vietnam. And I certainly would have a tough time explaining to one of my sons now why he ought to go to the Persian Gulf and lose his life for a policy which I do not understand and I do not believe very many people in this body do and I do not think the American people do. And any time you cannot explain an American policy, other than to say the Soviets have three tankers out there that they have leased to the Kuwaits, that is not enough to me. So we are trying to put this thing in the best light to cooperate with the President, if we can, to talk to the President. But this body ought not to be requested to sit idly by and do nothing until war is the only alternative and then we are asked under the Constitution to declare war. That is the purpose of this bill today.

I thank the majority leader for yielding.

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. 1546

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Persian Gulf Shipping Act of 1987".

(b) Six months after the date of enactment of this Act, the President shall terminate the reregistration under the United States flag of any vessel which had been owned as of June 1, 1987, by the Government of any country bordering the Persian Gulf or by any national of such country, except that the authority of the President to reregister such vessels under the United States flag shall be extended for an additional period of time requested by the President—

(1) if, not later than 40 days before the expiration of the six-month period, the President determines and so certifies to the Congress that the exercise of such authority for such additional period of time is vital to the national security interests of the United States; and

(2) if the Congress enacts, in accordance with subsection (c), a joint resolution authorizing the extension of such authority.

(c)(1)(A) The provisions of this subsection shall apply to the introduction and consideration in a House of Congress of a joint resolution described in subsection (b)(2).

(B) For purposes of this subsection, the term "joint resolution" means only a joint resolution introduced within 3 legislative days after the date on which the certification of the President described in subsection (b)(1) is received by Congress, the matter after the resolving clause of which is as follows: "That the authority of the President referred to in subsection (b)(2) of the Persian Gulf Shipping Act of 1987 is extended for the period of time specified in the certification required by subsection (b)(1) of such Act.".

(C) For purposes of this subsection, the term 'legislative day' means a day on which the respective House of Congress is in session.

(2) A joint resolution introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs of the House of Representatives. A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. Such a joint resolution may not be reported before the 8th legislative day after its introduction.

(3) If the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of 15 legislative days after its introduction, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the House involved.

(4)(A) When the committee to which a joint resolution is referred has reported, or has been deemed to be discharged (under paragraph (3)) from further consideration of, a joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to

limit debate is in order and not debatable. An amendment to or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the joint resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(5) If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee.

(B) With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House.

(6) This subsection is enacted by the Congress—

(A) as an exercise of rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

Mr. HATFIELD. Mr. President, this country is holding its breath. As the first Kuwaiti tankers flying the U.S. flag pass through the Persian Gulf, the stage is set for disaster.

Why?

Because this policy was created by an administration committed to flexing its military muscles, proving to the Soviets that we are the dominant superpower in the Persian Gulf.

And because this policy was created by an administration determined to embarrass Iran, to punish the ayatollah for a policy which backfired on us.

But what happens when this policy backfires too?

What happens when—as Winston Churchill said of the events leading up to World War I—the "terrible ifs" accumulate?

If Iran's Revolutionary Guard accept the implicit challenge of the reflagging arrangement and attack one of the tankers?

If they attack one of the U.S. Navy escorts?

If the Soviets accept the implicit challenge of the reflagging arrangement and double the size of their fleet in the gulf?

If they triple the size of their fleet?

If American citizens lose their lives in one of the meaningless crossfires of war?

Mr. President, last night the newly named *Bridgeton* was hit by a floating mine. The "terrible ifs" have already begun to accumulate.

The more stars and stripes we put in the gulf—and the longer they stay there—the greater the number of "terrible ifs" that will accumulate.

And as they do, our response will increasingly be dictated by circumstance rather than by calculation.

One of two things will happen—either we will have to pull out as we did in Lebanon, or we will be forced into direct military confrontation.

Either way, we will have defeated what the administration now claims is our purpose. We will have done nothing to protect freedom of navigation in the gulf and nothing to bring an end to the Iran-Iraq war.

Last week, Senator BUMPERS and Senator ADAMS and I proposed an amendment to the trade bill which would have delayed implementation of the reflagging arrangement for 90 days. It would have given us—the administration and the Congress—time to review the policy, the options and the implications. The amendment survived a tabling motion—by a margin of 56 to 42—but was ultimately killed by a filibuster.

This week, we come to the floor again. The reflagged tankers are now in the gulf, as are the U.S. naval vessels assigned the dangerous task of escorting and protecting those vessels from hostile fire.

Mr. President, I wish we could stop the reflagging today, but we cannot. What we can do is put a time limit on it.

How long will U.S. servicemen be in the middle of the gulf war? We don't know. How long will the U.S. flag fly above Kuwaiti tankers? The truth is that we do not know.

But we should know. And if the President is not willing to put a time limit on this policy, it is our responsibility to do so. In fact, that is the least we can do.

The bill we are introducing today puts a 6-month time limit on the reflagging arrangement. After 6 months, the flags can stay on the ships only if a joint resolution has been passed by this Congress.

I just hope we can hold our collective breath—and avoid the disaster that is waiting to happen—until then.

Mr. ADAMS. Mr. President, I am pleased to join with my colleagues Senators BUMPERS, HATFIELD, and MURKOWSKI to introduce this bill today. Earlier this week, the United States Navy began escorting reflagged Kuwaiti ships carrying oil through the Persian Gulf. The President has committed us to this operation without carefully articulating to the American people why we are taking this action and what the consequences of our action can be.

Our ships have entered a war zone. By agreeing to this reflagging operation we have agreed to assist a key ally of Iraq in its war against Iran. This, I am convinced, places our ships and our military men in a dangerous and hostile situation. Just this morning we hear on the radio that one of the reflagged Kuwaiti tankers has hit an Iranian mine in the gulf. This could have just as easily been one of our Navy ships and it could have resulted in lost American lives.

The President should agree under these circumstances to abide by the provisions of the War Powers Resolution which is designed to bring the country together around a common policy when we send our fighting men into situations involving sure hostilities.

But the President has not chosen to trigger the War Powers Resolution. The Congress, concerned about the disastrous image of unreliability which has been created under this administration's foreign policy actions toward the Persian Gulf states, has been reluctant to force the President's hand on the reflagging operation. I believe that the President has made a mistake in not listening to the congressional votes to delay this reflagging operation until we have raised and found answers to the perplexing questions surrounding this matter.

All this notwithstanding, though, the U.S. escort of these reflagged ships has begun. At the same time that the reflagging operation has begun, we are pursuing objectives through the United Nations aimed at ending the Iran-Iraq war. This effort may very well be undercut by this reflagging operation. Since reflagging began, the United States has been accused by Iran of violating the U.N. resolution by introducing new forces into the Persian Gulf to implement the reflagging scenario.

Where are we going, and why? What will our response be should one of those U.S. ships be attacked in the gulf and more American lives lost? Who will be held accountable for any acts of terrorism against U.S. citizens which might result from this operation and how will we respond if they occur? How long should the reflagging operation continue? What are the other Gulf States and allies of the United States willing to do to assist in raising security in the gulf? What role is the United States willing to play in bringing about an end to the destructive Iran-Iraq war?

The questions are endless. None have been answered. The American people deserve answers. In the weeks ahead, I intend to keep asking the questions. In the meantime, I am pleased to join with my colleagues Senator BUMPERS, HATFIELD, and MURKOWSKI in introducing this bill today. By putting a definite time limit on our initial involvement in the reflagging operation, we can force the evolution of some answers to these critical questions.

I hope that we do not have to find answers to the questions in a crisis atmosphere. For under such circumstances, there is a high probability that our response will not be well thought through or that the country will not be braced for that response. Under this bill, the President will have 6 months to articulate his policy, answer the questions, and convince the American people that the reflagging operation in the Persian Gulf is in our national interest.

The President should welcome the opportunity to work with the Congress and the American people within this 6-month period to chart a course for our future in the Persian Gulf.

The United States has legitimate and important interests in this area of the globe which we cannot abandon. This bill represents a roadmap to the charting of a policy based on those fundamental concerns that all Americans share. The alternative is continued reactionary, ad hoc foreign policymaking which can only lead to disaster for United States interests in the Persian Gulf and for our allies in the region as well.

By Mr. WALLOP:

S. 1547. A bill to amend the Internal Revenue Code of 1986 to provide that amounts included in gross income under section 78 of such code shall not be taken into account in allocating deductions to sources within and without the United States; to the Committee on Finance.

CALCULATION OF LIMITATION ON FOREIGN TAX CREDITS

● Mr. WALLOP. Mr. President, I am introducing legislation to deal with an anomaly in the tax law dealing with calculation of the limitation on foreign tax credits against U.S. income tax liability.

The law on foreign tax credits reflects the general principle that the country where income is earned has the priority right to tax this income, even where the activities which produce the income are conducted by individuals or corporations who are residents of another country. The home country of the individual or corporation has a secondary right to tax the income. However, to insure that double taxation does not result, the United States uses the credit system for foreign taxes, whereby a U.S. taxpayer with activities outside the United States obtains a credit against its U.S. tax liability on foreign income for taxes paid on this income to the foreign country where it was earned.

Under our system, limitations are applied to the use of foreign tax credits to insure that foreign taxes can be credited and used to reduce U.S. tax on foreign income and not U.S. tax on U.S. income. Part of the calculation of the foreign tax credit limitation involves a series of allocations and apportionments of deductions between U.S. and foreign gross income.

The foreign tax credit is allowed not only for taxes paid to a foreign country on a U.S. corporation's operations in that country, but also for taxes paid by a foreign subsidiary of a U.S. corporation which receives and is taxed in the United States on dividends paid to it by the foreign subsidiary. Under this deemed paid credit, dividends to the U.S. parent corporation carry with them a proportionate amount of the foreign taxes paid by the foreign subsidiary.

In order to make the deemed paid credit work effectively, code section 78 was enacted in 1962. This statutory correction was necessary to overrule a Supreme Court decision, *American Chicle Co.*, v. *United States*, 316 U.S. 450 (1942), which allowed, in effect, a combined deduction and credit for foreign taxes on dividend distributions paid by a foreign subsidiary to its U.S. parent. Code section 78 requires that the dividend be grossed up, or increased, by the foreign taxes attributable to this income paid by the foreign subsidiary.

The problem I wish to address arises from the position of the Internal Revenue Service in broadly applying the section 78 gross up not only for purposes of eliminating a disadvantage to the Government reflected by the American Chicle decision, but also for purposes of allocating deductions under Treasury Regulations section 1.861-8, as one of the steps to determine the foreign tax credit limitation.

One of the methods available for apportioning U.S. expenses against foreign source income is the gross income method. In this method, the taxpayer calculated its foreign source gross income and its total gross income. A percentage of foreign to total is developed and is applied to apportion U.S. expenses deemed to be incurred in producing foreign source income. The issue here is whether the section 78 gross up, an artificial, noneconomic attribution of income, should be an item of gross income for purposes of Treasury Regulations section 1.861-8, which results in the apportionment of actual economic expenses against this artificial, noneconomic taxable income. The result of the IRS position of apportioning expenses in ths fashion is that U.S. taxpayers are unable to use as a credit some of the foreign taxes which have been paid.

This interpretation is founded on the statutory language of code section 78, which requires use of the gross up, with one exception, "for purposes of this title" * * * that is, for all purposes of the entire Internal Revenue Code. However, neither the legislative history of section 78 nor Treasury Regulation 1.861-8 reflects any intention to apply the section 78 gross up to credit limitation calculations under code section 861.

It appears that in eliminating the inequity caused by the American Chicle decision, the drafters of section 78 did not consider the impact the gross up would have on calculations under section 1.861-8 of the regulations. Indeed, it may not have been perceived to be a possible problem because this regulation was in a much simplified form compared to what it is today. Moreover, several revisions to regulations section 1.861-8 since section 78 was enacted do not make any reference to any section 78 gross up in either their discussion or examples. Yet, the Internal Revenue Service has recently taken the position that a section 78 gross up should be used for purposes of section 861 calculations.

The section 78 gross up is a noneconomic artificial attribution of income to prevent a specific distortion of the foreign tax credit rules, that caused by the American Chicle decision. It is a noneconomic attribution because the U.S. taxpayer obtains no economic benefit in that it never receives any funds to pay expenses or otherwise use in its business. This artificial attribution of income should not be used for purposes of making nonartificial, real-life calculations to apportion economic deductions under section 861.

I have concluded this recent position taken by the IRS almost 25 years after section 78 was enacted is incorrect and is not supported by regulations under section 861. Further, it is inappropriate to use the artificial, noneconomic attribution of income for purposes of making what is intended to be an apportionment of deductions based on nonartificial, real-life economic facts. This bill would make the necessary correction to exclude the section 78 gross up from calculations of the foreign tax credit limitation.

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. 1547

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

SECTION 1. SECTION 78 NOT TAKEN INTO ACCOUNT IN DETERMINING SOURCE OF DEDUCTIONS.

(a) IN GENERAL.—Section 78 of the Internal Revenue Code of 1986 (relating to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit) is amended by adding at the end thereof the following the new sentence: "The preceding sentence shall not apply for purposes of applying section 245 or for purposes of apportioning deductions under section 861(b), 862(b), or 863(b)."

(b) CONFORMING AMENDMENT.—Section 78 of such Code is amended by striking out "(other than section 245)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.●

By Mr. LUGAR (for himself, Mr. RIEGLE, Mr. QUAYLE, Mr. DURENBERGER, Mr. HELMS, Mr. KASTEN, Mr. HEFLIN, Mr. SHELBY, Mr. LEVIN, Mr. PROXMIRE, Mr. D'AMATO, Mr. GRAHAM, Mr. HEINZ, Mr. GLENN, Mr. SANFORD, Mr. THURMOND, Mr. WARNER, Mr. DANFORTH, Mr. DOLE, and Mrs. KASSEBAUM):

S. 1548. A bill to amend section 1886 of the Social Security Act to require that certain hospitals be classified as being located in an urban area for purposes of determining payments under the Medicare Program for inpatient hospital services furnished by such hospitals, and to require that certain hospitals be treated in the same manner as a hospital located within a particular geographic area for purposes of making such determination; to the Committee on Finance.

RURAL HOSPITAL LEGISLATION

● Mr. LUGAR. Mr. President, I am today introducing along with Senator RIEGLE a bill to correct an inequity in present Medicare hospital reimbursement policy. Joining with us in introducing this measure are Senators QUAYLE, DURENBERGER, HELMS, KASTEN, HEFLIN, SHELBY, LEVIN, PROXMIRE, D'AMATO, GRAHAM, HEINZ, GLENN, SANFORD, THURMOND, WARNER, DANFORTH, DOLE and KASSEBAUM.

Mr. President, this measure is written to seek relief for a limited number of rural hospitals that have been put at a serious economic disadvantage simply because they happen to be located between urban centers. These are hospitals which by all published criteria should qualify as urban hospitals. But because they are located in counties bordering on multiple metropolitan areas rather than one, they are denied the urban rate of reimbursement and must compete at great disadvantage with surrounding urban hospitals.

The Health Care Financing Administration [HCFA] is well aware of this anomaly and, in a study conducted last year, determined that there were only 28 counties and 51 hospitals in the entire country affected by this unique situation. Even though there was agreement that a fair solution was needed, the problem was corrected for only one county. Rather than revise their current interpretation of eligibility criteria, the Health Care Financing Administration chose to defer a solution until the creation of an alternative classification system.

Since that decision to delay was made, one of these hospitals has gone out of business. Thus the number of affected hospitals has dropped to 49. I look forward to the eventual development of an alternative classification system and to the phasing out of geographical boundaries as the basis for Medicare hospital reimbursement. I am convinced, nevertheless, that more immediate action must be taken to remove a critical discrepancy in the current methodology—a methodology that harms vulnerable hospitals, some of which are not likely to survive a long deferment of the needed solution.

Under current Medicare policy, hospital reimbursement is set at a higher rate for hospitals serving in an urban environment than for those in rural areas. The primary demarcation separating the urban and rural classifications depends on geographical boundaries which have been drawn to define various Metropolitan Statistical Areas [MSA's]. In general, hospitals located within an MSA are compensated according to an urban rate of reimbursement, while one not within the boundaries of an MSA is reimbursed at a rural rate. An adjustment to this general rule is provided in recognition of the fact that the size and shape of urban areas are not static. Thus, the government has established a limited set of criteria by which hospitals in "outlying" counties, counties bordering on MSA's, may be judged to be urban and thus to qualify for an urban reimbursement rate.

Each hospital affected by the measure I am introducing today actually meets all of the relevant criteria to be classified as urban. They are being excluded from urban classification because of the manner in which one of the qualifying criteria, a criterion regarding the rate of commuting, is interpreted. Because these hospitals are located in counties that border not one but by several metropolitan areas, they serve a population which commutes in more than one direction. For each, a measure of the total commuting is more than enough to meet the amount needed to satisfy the commuting criterion. But they are being denied simply because the level of commuting is being assessed only in one direction at a time. As a result, these hospitals receive substantially less revenue for the same services rendered to Medicare patients than do their competitors, even though they must pay similar wages, similar salaries, and have similar operating costs.

The purpose of providing criteria to assess the urban character of communities bordering on the rigid geographic limits of MSA's was meant to allow a degree of realistic flexibility in the structure of metropolitan definitions. It is my contention, and the contention of those Senators who have joined me, that these hospitals are no less "urban" because they are surrounded by two or more MSA's than they would be if bordering on a single MSA. We are not suggesting that any special exception be made. Rather we are seeking in this legislation to direct a commonsense application of existing criteria to the problem at hand.

The names of all hospitals directly affected, and the States in which they are located, are as follows:

Arab Hospital, Arab, AL;
Boaz-Albertville Med. Ctr, Boaz, AL;
Guntersville Hospital, Guntersville, AL;
St. Joseph Hospital, Port Charlotte, FL;
Fawcett Memorial Hospital, Port Charlotte, FL;
Medical Center Hospital, Punta Gorda, FL;
Humana Hospital-Sebastian, Sebastian, FL;
Indian River Memorial Hospital, Vero Beach, FL;
Pana Community Hospital, Pana, IL;
St. Vincent Memorial Hospital, Taylorville, IL;
Carlinville Area Hospital, Carlinville, IL;
Community Memorial Hospital, Staunton, IL;
Mason District Hospital, Havana, IL;
Clinton County Hospital, Frankfort, IN;
Henry County Memorial Hospital, New Castle, IN;
Jefferson Co. Memorial Hospital, Winchester, KS;
Allegan General Hospital, Allegan, MI;
Pipp Community Hospital, Plainwell, MI;
Pennock Hospital, Hastings, MI;
Lee Memorial Hospital, Dowagiac, MI;
Orchard Hills Hospital, Belding, MI;
Ionia Co. Memorial Hospital, MI;
Addison Community Hospital, MI;
Emma L. Bixby Hospital, MI;
Thorn Hospital, Hudson, MI;
Morenci Area Hospital, MI;
Herrick Memorial Hospital, MI;
Caro Community Hospital, MI;
Hills & Dales Gen. Hospital, Cass City, MI;
Lake View Community Hospital, Paw Paw, MI;
South Haven Com. Hospital, South Haven, MI;
Cameron Community Hospital, Cameron, MO;
Betsy Johnson Mem. Hospital, Dunn, NC;
Good Hope Hospital, Erwin, NC;
St. Jerome Hospital, Batavia, NY;
Genesee Memorial Hospital, Batavia, NY;
Potters Medical Center, East Liverpool, OH;
East Liverpool City Hospital, East Liverpool, OH;
N. Columbia Co. Com. Hospital, Salem, OH;
Morrow County Hospital, Mt. Gilead, OH;
Van Wert County Hospital, Van Wert, OH;
Ellwood City Hospital, Ellwood City, PA;
St. Francis Hospital, New Castle, PA;
James Memorial Hospital, New Castle, PA;

Cherokee County Mem. Hospital, Gaffney, SC;
Bedford County Mem. Hospital, Bedford, VA;
Fort Atkinson Mem. Hospital, Fort Atkinson, WI;
Watertown Memorial Hospital, Watertown, WI; and
Lakeland Hospital, Elkhorn, WI.

I urge my colleagues to see the inherent fairness of this measure and to support a solution for this limited but vulnerable group of rural hospitals.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 1548

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

SECTION 1. MEDICARE CLASSIFICATION OF CERTAIN HOSPITALS AS BEING LOCATED IN AN URBAN AREA.

(a) IN GENERAL.—Section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D)) is amended by adding at the end thereof the following: "The Secretary shall classify a hospital as being located in an urban area for purposes of this subsection if such hospital is located in a county which would, under the system for designating Metropolitan Statistical Areas, be classified as an outlying county if commuting rates (used in determining outlying counties) were determined on the basis of the aggregate number of resident workers who commute to a central county within any one all contiguous Metropolitan Statistical Areas (rather than to the central county of a single contiguous Metropolitan Statistical Area).".

(b) APPLICATION.—The amendment made by subsection (a) shall apply to discharges occurring in fiscal years beginning on or after October 1, 1987.

SEC. 2. TREATMENT OF CERTAIN HOSPITALS IN THE SAME MANNER AS HOSPITALS LOCATED IN A CERTAIN METROPOLITAN STATISTICAL AREA FOR PURPOSES OF COMPUTING THE WAGE LEVEL OF SUCH HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) is amended by adding at the end thereof the following: "In making the adjustment under this subparagraph with respect to a hospital that is classified as being located in an urban area on the basis of the last sentence of paragraph (2)(D), the Secretary shall treat such hospital in the same manner as hospitals located in the Metropolitan Statistical Area to which the largest percentage of residents of the county in which such hospital is located commute.".

(b) APPLICATION.—The amendment made by subsection (a) shall apply to discharges occurring in fiscal years beginning on or after October 1, 1987.●

● Mr. RIEGLE. Mr. President, I am pleased to join today with the Senator from Indiana [Mr. LUGAR] and others in introducing S. 1548, legislation designed to correct a serious inequity in Medicare reimbursement policy. This bill would reclassify 49 hospitals across the country, and 15 in my State of Michigan, from rural hospitals to urban hospitals, allowing them to receive payment rates similar to other hospitals in their area.

Under the prospective payment system for reimbursing inpatient hospital services under Medicare, payments are set at a higher level for hospitals in urban areas than those in rural areas. Congress chose to differentiate between rural and urban hospitals because the costs of urban hospitals are usually higher than those for rural hospitals. An urban hospital is generally one located in a Metropolitan Statistical Area, or MSA, but because urban areas are expanding, hospitals in "outlying counties" bordering MSA's may also qualify for urban reimbursement rates if they meet certain criteria.

One requirement for qualification as an urban hospital concerns the percentage of individuals from the outlying county who commute to the central county of a contiguous MSA. It is the application of this requirement that has proven unfair to a small number of hospitals and that this legislation seeks to address.

These 51 hospitals are denied urban status only because they are located in counties that border not one but several MSA's. The county's aggregate commuting rates to adjacent MSA's are clearly sufficient for classification as an urban area, but the commuting rate to each MSA, considered singly, falls below the required rate. The bill being introduced today would require that commuting rates be determined on the basis of the total number of resident workers who commute to a central county within any one of the adjacent MSA's. It would thus eliminate a glaring anomaly which results from the formula used in the current regulations.

One of the major objectives of the PPS system was to increase efficiency within hospitals and to increase competition among hospitals. For those goals to be reached, it is critical that hospitals with similar costs be reimbursed at similar rates. I am pleased to lend by support to legislation which would help do just that.

Mr. President, I urge all my colleagues to join with Senator LUGAR and myself and others in supporting this needed corrective legislation.●

● Mr. QUAYLE. Mr. President, I am pleased to cosponsor this bill with the distinguished senior Senator from Indiana and a number of my other colleagues which would correct an inequity in the prospective payment system. I am a strong supporter of this new Medicare reimbursement system. However, as with any new system as broad and significant as prospective payment, it has demonstrated some unanticipated and unwanted effects and has affected some institutions adversely, particularly some of the hospitals classified under the PPS system as rural.

Congress, in developing this new system, made a decision that the per-case rate should be adjusted to account for differences between costs in urban and rural areas. For the purposes of prospective payment, hospitals are considered urban if located in metropolitan statistical areas [MSA's] and rural if located outside MSA's. This classification is used as a mechanism to accommodate differences in the service and labor costs of providing care to the Medicare population. However, sometimes this classification scheme unjustly penalizes certain hospitals which have urban costs but are paid the rural rate. This is just the sort of situation which this amendment is designed to remedy.

There are two hospitals, Henry County and Clinton County, in my State that receive substantially less revenue for the same services rendered to Medicare patients than its "urban classified" competitors even though they have to pay the same wages and salaries, the same operating costs and in all other respects attempt to compete while receiving substantially less revenue.

The two hospitals in my home State and the other 49 hospitals which will benefit from this amendment share the same geographic and sociological characteristics as their competitors but are classified differently simply through an unexpected quirk in the implementation of the urban/rural classification scheme. Let me emphasize that this bill does not provide an exception to the rules for these hospitals but merely makes it possible for the Secretary to make a commonsense application of the urban criteria to these hospitals.

Specifically, these hospitals meet all the requisite criteria necessary for classification as an urban hospital except for a question of interpretation concerning the requirement that there be a commuting rate by urban counties of 15 percent—25 percent to an MSA. Because of the unusual proximity of these hospitals to more than one MSA, the population commutes in different directions so that each designated MSA falls somewhere between the required commuting rates of 15 percent—25 percent while their population's aggregate commuting rates to surrounding MSAs is well within the minimum requirements. This bill simply requires the Secretary to interpret MSA criteria so that commuting ratios can be calculated in the aggregate instead of only to a central county.

Without this bill, these hospitals will remain at a significant disadvantage. The effect of the losses they will incur will be staggering both to the institutions in question and to their respective communities. In developing the urban/rural classification scheme,

it was Congress' intent to be able to account for the differences between hospitals by virtue of geographic and sociological factors. The new system was adopted to encourage efficiency, not to harm otherwise well-run hospitals which happen to fall in between the cracks in the system. Thus, I urge my colleagues to support this important bill to remedy this inequity.●

● Mr. D'AMATO. Mr. President, I rise today to lend my strong support for legislation that corrects an inequity in the Medicare Program. This inequity causes a number of rural hospitals to be reimbursed at an inadequate, and an unfairly inaccurate, reimbursement rate. The continuation of this rate threatens the very existence of some of these hospitals. The loss of these hospitals, in turn, could well create major problems for senior citizens seeking health care in rural areas. Senator LUGAR and I worked on a similar proposal last year but, unfortunately, were unsuccessful in our efforts. This effort is even more urgent this year.

Currently, hospitals are reimbursed at either a rural or an urban Medicare rate based on a number of criteria. One criteria relates to commuting patterns of the area in which a hospital is located. According to current regulations, if 25 percent or more of the residents of a given county commute to one neighboring metropolitan statistical area [MSA] and all urban-qualifying criteria are met, hospitals in the county are eligible to receive the urban rate. However, if 25 percent of a county's population commutes to more than one neighboring MSA, the hospitals in the county are not eligible for the urban rate.

This technical difference arises from statistical formulae entirely unrelated to the intent of the Medicare payment system. Commuting patterns are intended to indicate the urban-like nature of a county. Whether commuters commute to one or two neighboring MSA's would seem irrelevant.

Because the Medicare system draws this distinction, 49 rural hospitals in 14 States across the country are being unduly penalized. These hospitals meet all, but one, criteria to receive the urban rate. The one criteria which excludes these hospitals is the commutation rate. Each of these hospitals would otherwise qualify.

Clearly, the disqualification of these 51 hospitals based on this technicality was not the intent of Congress. Without a readjustment, the health of our senior citizens in these rural areas is seriously at risk.

This legislation corrects this inequity in a budget neutral manner. I am pleased to lend my support to this legislation in hopes of insuring that senior citizens in rural areas will have access to affordable health care services.

Thank you, Mr. President.●

By Mr. MOYNIHAN:

S. 1550. A bill to complete the Federal Triangle in the District of Columbia, to construct a public building to provide Federal office space and space for an international cultural and trade center, and for other purposes; to the Committee on Environment and Public Works.

FEDERAL TRIANGLE DEVELOPMENT ACT

● Mr. MOYNIHAN. Mr. President I rise to introduce S. 1550, a bill to authorize development of Federal office space and an international cultural and trade center on the Federal triangle site on Pennsylvania Avenue.

The Senate Subcommittee on Water Resources, Transportation and Infrastructure which oversees the General Services Administration and public buildings policy, held a hearing on this matter on May 1, 1987. On the House side, Chairman HOWARD, Subcommittee Chairman SUNIA, and other Members of the House Committee on Public Works and Transportation have been most cooperative in reviewing this proposal expeditiously. The House Subcommittee on Public Buildings and Grounds held its hearing on the international cultural and trade center on July 22, 1987. Therefore, it is my hope that the Senate and House Members can agree quickly on this bill, and so move the project forward expeditiously.

The Administrator of the General Services Administration, Terence C. Golden, is a major proponent of this undertaking. During our hearing, we also received testimony and letters from a number of Federal agencies including the Department of Commerce, State Department, U.S. Information Agency, and Commission of Fine Arts, all of which endorsed the proposal. The Office of Management and Budget sent us letters endorsing this project. Furthermore, the Federal City Council, a distinguished group of business and civic leaders from the Washington, DC area has been working to advance this proposal for several years. Mr. Harry McPherson, the current president of the Federal City Council, gave persuasive testimony about the benefits this complex will bring to Federal, State and local government, as well as to the business community, nationally and internationally.

I enthusiastically support a creative Federal use of the land at 14th Street and Pennsylvania Avenue. This premier location along our ever more magnificent Pennsylvania Avenue cries out for more than a parking lot. The proposal we are advancing would transform the 9-acre Federal triangle site into a complex that would provide both Federal office space and an international cultural and trade center.

About 75 percent of the space in the complex would be used for Federal offices. A major benefit of this development would be the consolidation of three major Federal agencies, which are now inefficiently scattered in different locations around the city. As Mr. Golden testified, the Treasury Department would go from 38 buildings currently to 4; the Justice Department from 26 locations to 3; and the State Department from 16 locations to 3.

This legislation authorizes the General Services Administration [GSA], Pennsylvania Avenue Development Commission [PADC], and the International Cultural and Trade Center Commission (Commission) to work cooperatively to develop this project. In consultation with the Administrator of GSA and the Commission, the PADC will conduct a design-build competition among private developers. Insofar as practicable, the design and development will be guided by the principles for Federal architecture, recommended by the Committee on Federal Office Space in 1962.

Because this project will be built under a lease to own plan, the Federal Government will not need to appropriate the full amount of funds for construction in advance, as is the usual case in building Federal buildings. Instead, the Government's lease payments over a 30-year period will cover the cost of construction. At the end of 30 years, the Government owns the building. This is a sensible, economical approach to securing badly needed Federal office space.

It is important that the Federal Government begin to build Federal office space again. In the 1960's the Federal Government stopped building buildings, largely because in the short term it was easier to make an annual lease payment, than to appropriate the money to build a new facility. Unfortunately, we are now paying for our past accounting devices, as hundreds of leases are up for renewal at vastly more expensive rates. Mr. Golden testified at our hearing that the GSA budget for rental space in the National Capital Region has gone from $329 million in fiscal year 1986 to a projected cost of $425 million in fiscal year 1988—more than a 30-percent increase over just 2 years.

Within the next 10 years, 75 percent of Federal office leases across the Nation will be up for renewal. The national rental bill for Federal space will be $1.6 billion by 1992, up from about $400 million in 1970. It is obvious that we must protect the Federal Government from these runaway leasing costs. I believe that this type of creatively financed project is exactly the businesslike approach that the Federal Government should be taking to meet this problem.

At this point, Mr. President, I request that the bill and a brief section-by-section analysis be placed in the RECORD.

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

S. 1550

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 "Federal Triangle Development Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) it is in the national interest to build a Federal building complex and establish an international cultural and trade center on the Federal Triangle property in the District of Columbia;

(2) development of such a Federal building complex will permit consolidation of a number of Federal agencies which are currently housed in numerous, scattered locations and will enable more economical and efficient use of building space and environs;

(3) inclusion of an international cultural and trade center within the Federal building complex will create and enhance opportunities for American trade, commerce, communications, and cultural exchanges with other nations and complement the work of Federal, State, and local agencies in the areas of international trade and cultural exchange; and

(4) the appropriate development, maintenance, and use of the Federal Triangle property should be a joint development effort of the General Services Administration, the Pennsylvania Avenue Development Corporation, and the International Cultural and Trade Center Commission.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To transfer the Federal Triangle property from the Administrator of General Services to the Pennsylvania Avenue Development Corporation.

(2) To grant to the Corporation the power of eminent domain to acquire certain properties and rights-of-way adjacent to the Federal Triangle site and to authorize the Corporation to exercise such power as may be necessary to further the public interest.

(3) To authorize the Corporation, after consultation with the Secretary of State, the Administrator, and the Commission, to prepare plans for development of such property.

(4) To establish a process for review and selection of such plans and, after completion of such review process, to authorize the Corporation to enter into an agreement with a private developer selected for the development of such property.

(5) To ensure that the design and construction of the Federal building complex on such property will insofar as practicable be in accordance with the guiding principles for Federal architecture recommended by the Committee on Federal Office Space in 1962 which require among other things that facilities to be used by Federal agencies be efficient and economical and that public buildings provide visual testimony to the dignity, enterprise, vigor, and stability of the Federal Government.

(6) To provide for establishment, operation, and maintenance of a self-sustaining international cultural and trade center in such complex.

SEC. 3. FEDERAL TRIANGLE PROPERTY.

(a) TRANSFER TO PADC.—

(1) GENERAL RULE.—Subject to such terms and conditions as the Administrator and the Corporation may establish, the Administrator shall transfer, without compensation, to the Corporation title to the Federal Triangle property for development under this Act.

(2) DURATION OF TRANSFER.—Title to the Federal Triangle property shall revert to the Administrator at such time as the Administrator and the Corporation agree but not later than the date on which ownership of the building to be constructed on such property under section 5 vests in the United States. On and after such date, title to such building shall be in the Administrator.

(3) LEGAL DESCRIPTION.—The exact acreage and legal description of the Federal Triangle property shall be based upon surveys which are satisfactory to the Administrator and the Corporation.

(b) ADJOINING PROPERTY AND RIGHTS-OF-WAY.—

(1) ACQUISITION.—The Corporation may acquire by purchase, exchange, condemnation, or otherwise such additional property or improvements or interest therein (including any portion of any street, roadway, highway, alley, or right-of-way and any easements to and air rights on or above any public lands or rights-of-way) as are necessary for development of the Federal Triangle property.

(2) TRANSFER TO GSA.—At the time title to the Federal Triangle property reverts to the Administrator under subsection (a), the Corporation shall transfer to the Administrator, without compensation, title to any property or interest therein acquired under this subsection and improvements thereon.

SEC. 4. DEVELOPMENT PROPOSAL.

(a) PREPARATION AND CONTENTS.—The Corporation shall prepare a written proposal for development of the Federal Triangle property which shall include, but not be limited to, the following:

(1) A narrative description of the building to be constructed on the Federal Triangle property, including a description of the types of uses both public and private to be permitted in the building.

(2) A comprehensive plan prepared by the Administrator for providing space for Federal officers and employees in the building.

(3) A plan for inclusion of an international cultural and trade center comprising not to exceed 500,000 occupiable square feet, including a leasing plan prepared by the Commission for occupancy of such center and a plan for permitting conversion of space not used for such center to office space.

(4) A comprehensive plan for providing security for the building and its occupants and contents.

(5) A comprehensive plan for providing parking for motor vehicles of occupants of and visitors to the building and for providing access to the building by delivery and service vehicles.

(6) A statement prepared by the Administrator of rents and other housing costs currently being paid by the United States for Federal agencies to be housed in the building.

(7) Design criteria for the building.

(8) An estimate of the cost of construction of the building and of the annual cost to the United States of leasing the building under section 6.

(9) Environmental impact documentation for development of the Federal Triangle property under Federal laws and regulations.

(10) An analysis of the economic impact in the metropolitan area which includes the District of Columbia of development of the Federal Triangle property.

(11) Terms and conditions approved by the Administrator for inclusion in the lease agreement under section 6.

(b) LIMITATIONS.—

(1) SIZE OF BUILDING.—The building (including parking facilities) to be constructed on the Federal Triangle property may not exceed 3,100,000 gross square feet in size.

(2) HEIGHT OF BUILDING.—The height of the building shall be compatible with the height of surrounding Government buildings.

(3) DESIGN.—The building shall be designed in harmony with historical and Government buildings in the vicinity, shall reflect the symbolic importance and historic character of Pennsylvania Avenue and the Nation's Capital, and shall represent the dignity and stability of the Federal Government.

(c) CONSULTATION REQUIREMENT.—In preparing the development proposal under subsection (2), the Corporation shall consult the Secretary of State, the Administrator, and the Commission.

(d) DUTIES OF THE ADMINISTRATOR AND COMMISSION.—

(2) ADMINISTRATOR.—The Administrator shall prepare and submit to the Corporation for inclusion in the development proposal under subsection (a)—

(A) a comprehensive plan for providing space for Federal officers and employees in the building to be constructed on the Federal Triangle property;

(B) a statement of rents and other housing costs currently being paid by the United States for Federal agencies to be housed in the building; and

(C) a list of terms and conditions which the Administrator has approved for inclusion in the lease agreement to be entered into under section 6.

(2) COMMISSION.—The Commission shall prepare and submit to the Corporation for inclusion in the development proposal under subsection (a) a leasing plan for occupancy of the international cultural and trade center under section 8.

(e) REVIEW AND APPROVAL OF DEVELOPMENT PROPOSAL BY GSA AND OTHERS.—

(1) SUBMISSION FOR REVIEW.—As soon as practicable but not later than 365 days after the date of the enactment of this Act, the Corporation shall submit the development proposal prepared under subsection (a) to the General Services Administration, the Commission, the National Capital Planning Commission, and the Commission of Fine Arts.

(2) APPROVAL OR RECOMMENDED MODIFICATIONS.—Not later than 60 days after the date of submission of the development proposal under paragraph (1), each governmental entity referred to in paragraph (1) shall notify the Coporation of approval or recommended modifications of the development proposal. If such governmental entity does not notify the Corporation of its approval or recommended modifications of the proposal within such 60-day period, such governmental entity shall be deemed to have approved the proposal.

(3) CONSULTATION.—In the event a governmental entity referred to in paragraph (1) submits recommended modifications of the development proposal within the 60-day period described in paragraph (2), the Cor-

poration shall consult such entity regarding such modifications and may modify such proposal to take into account one or more of such recommended modifications.

(f) SUBMISSION FOR CONGRESSIONAL REVIEW.—Not later than 150 days after the date of submission of the development proposal to governmental entities under subsection (e)(1), the Corporation shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives for review and approval the development proposal with any modifications made under subsection (e)(3), a statement of the areas of difference between such proposal and the recommended modifications of each such governmental entity, and the views of the Corporation with respect to such differences.

(g) FUNDING.—Not later than 60 days after the date of the enactment of this Act, the Administrator shall transfer from amounts appropriated to the Administrator $800,000 to the Corporation for carrying out this section.

SEC. 5. CONSTRUCTION OF BUILDING.

(a) SELECTION PROCESS.—

(1) GENERAL RULE.—Upon approval of the development proposal submitted under section 4(f) by resolutions adopted by the Committee on Environment and Public Works of the Senate and the Committee on Public Works of the House of Representatives, the Corporation in accordance with its policies and procedures for a development competition, shall select a person to develop the Federal Triangle property.

(2) CONSULTATION REQUIREMENT.—In selecting a person to develop the Federal Triangle property, the Corporation shall consult the Administrator and the Commission.

(3) COMPETITION.—The Corporation shall conduct a competition for selection of a person to develop the Federal Triangle property. Such competition shall be conducted in accordance with the existing policies and procedures of the Corporation for a development competition.

(4) PROHIBITION ON PAYMENTS FOR BIDS AND DESIGNS.—The Corporation may not make any payment to any person for any bid or design proposal under the competition conducted under this subsection.

(b) DEVELOPMENT AGREEMENT.—

(1) AUTHORITY TO ENTER.—the Corporation may enter into an agreement for the development of the Federal Triangle property in accordance with the development proposal approved under subsection (a) with the person selected to develop the Federal Triangle property.

(2) CONTENTS.—The development agreement under paragraph (1) shall at a minimum provide for the following:

(A) The construction of a building on the Federal Triangle property in accordance with the architectural plans and specifications selected under the development competition.

(B) Ownership of such property and building will be by the United States; except that the person selected under subsection (a) may own such building for a term not to exceed 35 years beginning on the date on which construction of such building commences.

(C) The Administrator to lease such building from such person for the term determined under subparagraph (B).

(D) Inspection of such building during construction by the Administrator and the Coporation.

The agreement shall include a copy of the lease agreement entered into by the Administrator and such person under section 6.

(c) CONNECTION WITH RAIL SYSTEM.—The building to be constructed under this section may be connected with the rapid rail system operated by the Washington Metropolitan Area Transit Authority via a station located on the Federal Triangle property. The construction cost of making such connection shall be the responsibility of the person selected to develop the Federal Triangle property. The Washington Metropolitan Transit Authority may not charge any fee or other amount for the connection of such building to such rail system.

(d) CONSTRUCTION STANDARDS AND INSPECTION.—The building constructed under this section shall meet all standards applicable to construction of a Federal building. During construction, the Administrator and the Corporation shall conduct periodic inspections of such building for the purpose of assuring that such standards are being met.

(e) TREATMENT OF PADC.—For purposes of any State or local law (including laws relating to taxation and building permits and inspections), the Corporation with respect to development of the Federal Triangle property shall be treated as the General Services Administration is treated with respect to acquisition and construction of a Federal building.

(f) APPLICABILITY OF CERTAIN LAWS.—Any person who enters into an agreement with the Corporation under subsection (b) for development of the Federal Triangle property shall not, with respect to such development, be subject to any State or local law relating to building permits and building inspection. Such property and any improvements to such property shall not be subject to real and personal property taxation, or special assessments.

(g) TREATMENT OF FEDERAL TRIANGLE DEVELOPMENT AREA.—For purposes of the Pennsylvania Avenue Development Corporation Act of 1972 (other than section 5), the Federal Triangle development area shall be treated as being a part of the development area described in section 2(f) of such Act (40 U.S.C. 871(f)). The Corporation shall have the same authority with respect to the Federal Triangle development area as it has with respect to the development area described in such section 2(f).

(h) POWERS OF THE CORPORATION.—The Corporation shall have with respect to its duties under this Act any powers which the Corporation has under section 6 (other than paragraph (9) and (10)) of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 875) with respect to its duties under such Act. The Corporation may enter into agreements with any Federal agency or the Commission with respect to this Act, or as permitted or authorized by 31 U.S.C. 1535.

(i) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated, from the fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), to the Administrator for transfer to the Corporation for carrying out this section and section 4 $3,700,000 for fiscal years beginning after September 30, 1987. Such sums shall remain available until expended.

SEC. 6 LEASE OF BUILDING BY GSA.

(a) ENTRY INTO AGREEMENT.—Before the development agreement is entered into under section 5, the Administrator shall enter into with the person selected to construct the building under section 5 an agreement for the lease of such building for Federal office space and the international cultural and trade center space.

(b) TERMS OF AGREEMENT.—The agreement entered into under this section shall include at a minimum the following terms:

(1) The Administrator will lease the building for the term that the person selected to construct the building owns the building.

(2) The rental rate per square foot of occupiable space for all space in the building will be in the best interest of the United States and carry out the objectives of this Act, but in no case may the aggregate rental rate for all space in the building produce an amount less than the amount necessary to amortize the cost of development of the Federal Triangle property over the term of the lease.

(3) Obligations of funds from the Federal Building Fund shall only be made on an annual basis to meet lease payments.

(4) The Administrator will be permitted to sublease to the Commission for establishment, operation, and management of the international cultural and trade center under section 8.

(c) ACCOUNTING SYSTEM.—The Administrator shall maintain an accounting system for operation and maintenance of the building to be constructed under section 5 which will permit accurate projections of the dates and the costs of major repairs, improvements, reconstructions, and replacements of such building and other capital expenditures on such building. The Administrator shall take such action as may be necessary to assure that funds are available to cover such projected costs and expenditures.

(d) OBLIGATION OF FUNDS.—Obligation of funds to make lease payments under this section may only be made on an annual basis and from amounts in the fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)).

SEC. 7. INTERNATIONAL CULTURAL AND TRADE CENTER COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the International Cultural and Trade Center Commission.

(b) DUTIES OF COMMISSION.—The duties of the Commission are as follows:

(1) To participate in accordance with section 4 in the planning of the building to be constructed under section 5.

(2) To enter into an agreement with the Administrator under section 8 for the lease of space in the building constructed under section 5 for establishment, operation, and maintenance of an international cultural and trade center.

(3) To operate and manage any space leased under section 8 in accordance with the objectives of this Act.

(4) To prepare under section 8 an annual report on the operation and management of such space.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) The Secretary of State or his delegate.

(B) The Secretary of Commerce or his delegate.

(C) The Secretary of Agriculture or his delegate.

(D) The Special Trade Representative or his delegate.

(E) The Administrator or his delegate.

(F) The Director of the United States Information Agency or his delegate.

(G) The Chairman of the Corporation or his delegate.

(H) The Mayor of the District of Columbia or his delegate.

(I) The Chairman of the National Endowment for the Arts or his delegate.

(J) 6 individuals appointed by the President one of whom shall be a resident and registered voter of the District of Columbia and all of whom shall be specially qualified to serve on the Commission by virtue of their education, training, or experience in international trade, commerce, cultural exchange, finance, business, or management of facilities similar to the international cultural and trade center described in section 8.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(2) TERMS.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), appointed members of the Commission shall be appointed for terms of 6 years.

(B) FILLING A VACANCY.—Any member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(3) PAY.—Members of the Commission shall serve without pay; except that any member of the Commission appointed under paragraph (1)(J) shall while attending meetings of and attending hearings held by the Commission be entitled to travel or transportation expenses in accordance with section 5703 of title 5, United States Code.

(4) QUORUM.—8 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(5) DESIGNATION OF CHAIRMAN.—The Chairman and Vice Chairman of the Commission shall be designated by the President; except that the Chairman may only be designated from individuals appointed under paragraph (1)(J).

(6) MEETINGS.—The Commission shall meet at the call of the Chairman but no less often than every 4 months.

(d) STAFF OF COMMISSION.—

(1) GENERAL RULE.—The Commission shall have a staff, including an executive director. Such staff shall be composed of individuals who may either be appointed under paragraph (2) or detailed under paragraph (3); except that the staff of the Commission may not at any time be composed of more than 15 individuals.

(2) AUTHORITY TO APPOINT.—The Commission may appoint and fix the pay of not to exceed 10 individuals, including an individual to serve as the executive director of the Commission. Staff appointed under this paragraph shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; except that—

(A) the individual appointed to serve as the executive director and one other individual appointed to the staff of the Commission may be appointed and compensated without regard to such provisions; and

(B) the pay of any individual (other than the 2 individuals referred to subparagraph (A)) appointed under this paragraph shall be at a rate not to exceed the maximum rate of basic pay payable for GS-17 of the General Schedule.

(3) DETAIL.—Subject to paragraph (1), upon request of the Commission, the Secretary of State, the Secretary of Commerce, the Secretary of Agriculture, the Special Trade Representative, the Administrator, and the Director of the United States Information Agency may detail, on a reimbursable basis, such of the personnel of the department or agency such person heads as may be necessary to assist the Commission in carrying out its duties under this Act.

(e) OFFICE SPACE AND SUPPLIES.—Upon request of the Commission, the Secretary of State, the Secretary of Commerce, the Secretary of Agriculture, the Special Trade Representative, the Administrator, and the Director of the United States Information Agency may provide, on a reimbursable basis, such office space, supplies, equipment, and other support services as may be necessary for the Commission to carry out its duties under this Act.

(f) POWERS OF COMMISSION.—

(1) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out its duties under this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) OBTAINING OFFICIAL DATA.—The Commission may obtain from any department or agency of the United States information necessary to enable it to carry out its duties under this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(5) MAILS.—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.

(6) AUTHORITY TO CONTRACT OUT.—Subject to applicable provisions of law, the Commission may enter into such contracts or agreements as the Commission considers appropriate to carry out any of its duties under this Act.

(7) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code.

(g) LIMITATION ON EXPENSES.—

(1) MAXIMUM AMOUNT.—The maximum amount of expenses (including salaries, travel expenses, expenses for temporary and intermittent services, expenses under contracts or agreements entered into under subsection (f)(7), and supply expenses) which the Commission may incur in any fiscal year may not exceed $1,000,000 in any fiscal year.

(2) ADJUSTMENT FOR INFLATION.—Any dollar amount referred to in this subsection, subsection (h)(3), and section 8(d) may be adjusted by the Commission annually to reflect a percentage increase or decrease in the Consumer Price Index for All Urban Consumers for the preceding calendar year, as determined by the United States Department of Labor, Bureau of Labor Statistics.

(h) FUNDING.—

(1) REQUESTS FOR TRANSFERS.—If the Commission incurs any expenses in carrying out its duties under this Act, the Commission may request the Secretary of State, the Administrator, or any other Federal official referred to in subsection (c)(1) to transfer to the Commission an amount equal to such expenses from funds appropriated to such official.

(2) AUTHORITY FOR TRANSFERS.—Subject to paragraphs (3) and (5), any official referred to in paragraph (1) may transfer such amounts from funds appropriated to such official as may be necessary to enable the Commission to carry out its duties under this Act.

(3) MAXIMUM AMOUNT OF REQUESTS AND TRANSFERS.—The aggregate amount of requests for transfers, and the aggregate amount of transfers, under this subsection may not exceed $1,000,000 in any fiscal year.

(4) DEPOSIT OF RECEIPTS.—The Commission shall deposit all amounts it receives under this subsection into the account established by section 8(d).

(5) LIMITATION ON EFFECT.—This subsection shall not be effective with respect to any fiscal year beginning after the last day of the 2-year period beginning on the first day the Commission deposits under section 8(c) funds into the account established by section 8(d).

SEC. 8. OPERATION AND MANAGEMENT OF INTERNATIONAL CULTURAL AND TRADE CENTER.

(a) LEASE OF SPACE.—

(1) AGREEMENT.—The Administrator and the Commission shall enter into an agreement for the Commission to lease from the Administrator not to exceed 500,000 square feet of occupiable space in the building to be constructed under section 5 to serve as an international cultural and trade center.

(2) SIZE.—The Commission shall determine the amount of space necessary for operation of the international cultural and trade center based upon demand, except that such space may not to exceed 500,000 square feet of occupiable space. Upon certification of such demand by the Commission, the Administrator shall lease such amount of space to the Commission.

(3) TERMS.—The agreement entered into under this subsection shall include at a minimum the following terms:

(A) The Commission will be permitted to sublease its space in such building to foreign missions, commercial establishments sponsored by foreign governments, and international cultural and trade organizations, including domestic organizations and State and local governments.

(B) All space leased by the Commission from the Administrator will be at such rate as the Administrator and the Commission may agree but not less than the rate established under section 6(b)(2) plus such amount as the Administrator determines is necessary to pay on an annual basis for the costs of administering such building (including operation, maintenance, and rehabilitation costs) which are attributable to such space.

(C) Such terms relating to default and nonperformance as the Administrator considers appropriate to protect the interests of the United States.

(b) ESTABLISHMENT OF CENTER.—

(1) BY COMMISSION.—The Commission shall establish, operate, and maintain an international cultural and trade center in the space lease from the Administrator under subsection (a).

(2) CONTENTS.—The international cultural and trade center may include the following:

(A) Office space for foreign missions and domestic and international organizations involved in international trade or cultural activities.

(B) A world exhibition center providing space for exhibits from foreign nations.

(C) An international bazaar providing space for commercial establishments sponsored by foreign governments.

(D) An international center providing a centralized foreign trade reference facility, conference and meeting facilities, and audio-visual facilities for translating foreign languages.

(E) Such other facilities as are consistent with the objectives of this section.

(3) SUBLEASING OF SPACE.—

(A) AGREEMENTS.—The Commission may enter into agreements with foreign missions and international cultural and trade organizations (including domestic organizations and State and local governments) to sublease any or all of the space it leased from the Administrator under subsection (a). Space subleased to such missions and organizations may only be used for establishment of trade centers and exhibitions, offices, and commercial establishments described in paragraph (2) and such other facilities as the Commission determines are consistent with an international cultural and trade center.

(B) TERMS AND CONDITIONS.—An agreement entered into under this subsection shall be subject to such terms and conditions as the Commission determines are appropriate to carry out the objectives of this Act. The rental rate per square foot of occupiable space for space subleased under this subsection shall be determined in accordance with subsection (c); except that the Commission may adjust such rate with respect to any space subleased to a foreign mission in accordance with the recommendations of the Secretary of State acting in accordance with section 204(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4303(b)). The Secretary of State may reimburse the Commission for any expenses which are incurred by the Commission as a result of making adjustments in the rental rate for space under this subparagraph.

(4) REFERENCE FACILITY AND CULTURAL EVENTS.—The Commission may establish in a portion of the space leased from the Administrator under this section a centralized foreign trade reference facility and conference and meeting facilities and audio-visual facilities for translating foreign languages. The Commission may permit cultural events and other activities to be held in a portion of such space. The Commission shall establish in accordance with subsection (c) fees and charges for—

(A) the use of such facilities and auditorium, and

(B) the holding of such events and activities.

(c) RENTS AND FEES.—

(1) ESTABLISHMENT OF AMOUNT.—The Commission shall establish the amounts of fees under subsection (b)(4), and establish a rental rate for space subleased under subsection (b)(3), taking into account the objectives of this section and the best interests of the United States. In any fiscal year beginning after the last day of the 2-year period beginning on the first day the Commission deposits under this subsection funds into the account established under subsection (d), the aggregate amount of such fees and rent shall not be less than the cost to the Commission of subleasing space from the Administrator under subsection (a) in such fiscal year plus the expenses (including salaries, travel expenses, expenses for temporary and intermittent services, expenses under contracts or agreements entered into under section 7(f)(7), supply expenses and any reimbursable expenses) incurred by the Commission in carrying out its duties under this Act in such fiscal year.

(2) COLLECTION.—The Commission shall collect—

(A) rent for space subleased under subsection (b), and

(B) fees and charges under subsection (b).

(3) DEPOSIT.—The Commission shall deposit all amounts collected under this subsection and all amounts transferred by the Secretary of State to the Commission under subsection (b)(3)(B) into the account established under subsection (d).

(d) SEPARATE ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a separate account.

(2) CONTENTS.—The account shall include all amounts deposited by the Commission under subsection (c) and section 7(h).

(3) AVAILABILITY.—Amounts in the account established under this subsection shall be available to the Commission to pay—

(A) all rents owed to the Administrator for lease of space under subsection (a);

(B) all expenses (including salaries, travel expenses, expenses for temporary and intermittent services, expenses under contracts or agreements entered into under section 7(f)(7), and supply expenses) incurred by the Commission in carrying out its duties under this Act but not exceeding $1,000,000 in any fiscal year.

(4) PAYMENTS.—The Commission shall pay, from amounts in the account established by this subsection—

(A) for lease of space under subsection (a) on an annual basis amounts owed to the Administrator for deposit into the fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)); and

(B) all expenses incurred by it in carrying out its duties under this Act but not exceeding $1,000,000 in any fiscal year.

(5) TRANSFER OF EXCESS FUNDS.—Periodically, but not less often than once per fiscal year, funds which the Commission determines are in excess of those needed to make the payments described in paragraph (4) shall be transferred by the Commission from the account established under this subsection to the fund established under section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490 (f)).

(h) ANNUAL REPORT AND BUDGET.—The Commission shall prepare and transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives (1) an annual report in January of each calendar year on the operation and management of the space leased by the Commission under subsection (a) and the international cultural and trade center, and (2) a budget for such fiscal year for operation, maintenance, and alteration of such center, including amounts received and projected to be received by the Commission in such fiscal year and expenses incurred and projected to be incurred by the Commission in such fiscal year.

SEC. 9. DEFINITIONS.

As used in this Act—

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of General Services.

(2) COMMISSION.—The term "Commission" means the International Cultural and Trade Center Commission established by section 7.

(3) CORPORATION.—The term "Corporation" means the Pennsylvania Avenue Development Corporation.

(4) FEDERAL TRIANGLE DEVELOPMENT AREA.—The term "Federal Triangle development area" means the area which begins at a point on the southwest corner of the intersection of Fourteenth Street and Pennsylvania Avenue (formerly E Street), Northwest; thence southerly along the west side of Fourteenth Street to the northwest corner of the intersection of Fourteenth Street and Constitution Avenue, Northwest; thence easterly along the north side of Constitution Avenue to the northeast corner of the intersection of Twelfth Street and Constitution Avenue, Northwest; thence northerly along the east side of Twelfth Street and Constitution Avenue, Northwest; thence northerly along the east side of Twelfth Street to the southeast corner of the intersection of Twelfth Street and Pennsylvania Avenue, Northwest; thence westerly along the south side of Pennsylvania Avenue to the point of beginning being the southwest corner of the intersection of Fourteenth Street and Pennsylvania Avenue (formerly E Street), Northwest.

(5) FEDERAL TRIANGLE PROPERTY.—The term "Federal Triangle property" means—

(A) the property owned by the United States in the District of Columbia, known as the "Great Plaza" site, which consists of squares 256, 257, 258, parts of squares 259 and 260, and adjacent closed rights-of-way as shown on plate IV of the King Plats of 1803 located in the Office of the Surveyor of the District of Columbia; and

(B) any property acquired by the Corporation under section 3(b);

except that for purposes of section 3 such term does not include any property referred to in subparagraph (B).

BRIEF SECTION-BY-SECTION ANALYSIS OF FEDERAL TRIANGLE BILL

SEC. 1. FEDERAL TRIANGLE DEVELOPMENT ACT

SEC. 2. FINDINGS AND PURPOSES

This section states that development of a federal building complex and international cultural and trade center on the federal triangle site is in the national interest. It directs the General Services Administration (GSA), Pennsylvania Avenue Corporation (Corporation) and International Cultural and Trade Center Commission (Commission) to work cooperatively to develop the project.

The act transfers title over the federal triangle property temporarily to the Pennsylvania Avenue Development Corporation, and gives the Corporation powers of eminent domain in order to accomplish the development of the site.

Congress directs the Corporation after consultation with the Administrator of GSA and Commission to prepare development plans, and to enter into an agreement with a private developer for the site.

The design and development of the site will be guided insofar as practicable by the guiding principles for federal architecture, recommended by the Committee on Federal Office Space in 1962.

SEC. 3. FEDERAL TRIANGLE PROPERTY

This section transfers title over the federal triangle site to the Corporation until development is completed, the lease term between the developer and GSA is terminated, and the building ownership is turned over to the federal government.

SEC. 4. DEVELOPMENT PROPOSAL

This section specifies the contents of the written development proposal to be prepared by the Corporation within 365 days of enactment, and limitations on the size, height and design of the building.

In preparing the development proposal, the Corporation must consult with the Secretary of State, Administrator of GSA and Commission.

The Commission will prepare the comprehensive leasing plan for occupancy of the international cultural and trade center.

The Corporation will submit the development proposal to the GSA, the Commission, the National Capital Planning Commission and the Commission of Fine Arts. These agencies have 90 days to notify the Corporation of their approval or of proposed changes to the proposal.

The Corporation will submit the proposal along with any areas of difference identified by reviewing agencies to the Congress within 150 days after the proposal is submitted for review to those agencies.

SEC. 5. CONSTRUCTION OF BUILDING

After the development proposal is reviewed by the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation, the Corporation will conduct a development competition and will select a developer in consultation with the GSA Administrator and the Commission. The development agreement between the Corporation and the developer will contain elements specified in this section.

SEC. 6. LEASE OF BUILDING BY GSA

Before the development agreement in section 5 is executed, the Administrator will enter a lease with the developer selected which will cover both the federal office portion and the international cultural and trade center portion of the complex. This section specifies terms of that agreement, including authority for the Administrator to sublease to the Commission for the international cultural and trade center.

SEC. 7. INTERNATIONAL CULTURAL AND TRADE CENTER COMMISSION

This section establishes the international cultural and trade center commission appointed by the President whose duties are to participate in the planning, establishment, operation and maintenance of an international cultural and trade center. Fifteen Members are designated from federal agencies including 6 from the private sector.

The Secretaries of State, Commerce, Agriculture, the Special Trade Representative, The U.S. Information Agency Director, and the GSA Administrator are authorized to detail personnel, office space, supplies, equipment and other support services to the Commission upon request of the Commission, on a nonreimbursable basis. Similarly, the Commission may request these agencies to transfer funds to the Commission to carry out its duties.

SEC. 8. OPERATION AND MANAGEMENT OF INTERNATIONAL CULTURAL AND TRADE CENTER

This section describes features of the International Cultural and Trade Center (ICTC), which uses will include space for foreign missions, and international and domestic organizations involved in international trade or cultural activities. Other features of the ICTC may include a world exhibition center, international bazaar, international conference and reference center, and an auditorium.

Funds collected from leases in the ICTC which exceed expenses of the Commission, will be deposited in the Federal Buildings Fund.

The ICTC will make an annual report to Congress, including an itemization of expenses and receipts.

SEC. 9. DEFINITIONS

This section defines terms in this act, including a description of the federal triangle property.●

By Mr. ROTH (for himself and Ms. MIKULSKI):

S. 1551. A bill to grant the consent of Congress to the Appalachian States low-level radioactive waste compact; to the Committee on the Judiciary.

APPALACHIAN LOW-LEVEL RADIOACTIVE WASTE COMPACT

● Mr. ROTH. Mr. President, it was a year ago yesterday that I introduced legislation to allow for the formation of the Appalachian low-level waste compact. Today I take great pleasure in reintroducing this bill.

Mr. President, the Low-Level Radioactive Waste Policy Act of 1980 required that States establish regional compacts for the disposal of low-level radioactive waste produced by States within the compact. This act takes responsibility for the disposal of this waste from sites in South Carolina, Nevada, and Washington and places it with the producing State. Last year the Low-Level Radioactive Waste Policy Act amendments became law. Title I of these amendments set forth the means by which the 1980 act could be enacted by defining responsibilities for the disposal of low-level radioactive waste, providing incentives for States to move forward in developing regional disposal sites, and setting policies that will govern the transition to the regional disposal sites. Title II of these amendments established the Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act. This gave consent to the Northwest, Central, Southeast, Central Midwest, Midwest, Rocky Mountain, and Northeast interstate low-level radioactive waste management compacts.

Mr. President, as you are well aware, the disposal of low-level radioactive waste involves numerous difficult issues which, of necessity, must be addressed. The problems, as well as the solutions, are both complex and controversial. Our inability to squarely confront these issues has meant that the timely and proper disposal of low-level radioactive waste has not always been possible. While the elimination of such waste would be ideal, the activities that produce it play vital roles in the economy, both as a source of employment and in making contributions to our quality of life. Producers include hospitals, research facilities, and industry. The wastes produced include rags, protective clothing, radiopharmaceuticals, and lab equipment. Although these wastes do not pose the same threat to health and safety as does high-level radioactive waste produced by nuclear powerplants, we must still take care to dispose of them in a responsible and timely manner.

Mr. President, the Appalachian compact legislation I am introducing today establishes an organization and describes the procedures under which Delaware, Maryland, Pennsylvania, and West Virginia can, in a responsible and timely manner, develop new disposal capacity for low-level radioactive waste generated in the region. The compact has been ratified, in identical form, in all four States. It is imperative that we act quickly so that we can begin to meet the goals established by the Congress for low-level radioactive waste disposal and meet the safety and health needs of the people in this region.

I ask unanimous consent that the bill, in its entirety, be placed in the RECORD.

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

S. 1551

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

SECTION 1. AMENDMENT TO TITLE II OF PUBLIC LAW 99-240 TO GRANT CONGRESSIONAL CONSENT TO THE APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT.

Title II of Public Law 99-240 is amended by adding at the end thereof the following:

"SEC. 228. APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT.

"In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act, the consent of Congress is hereby given to the States of Delaware, Maryland, Pennsylvania, and West Virginia to enter into the Appalachian States Low-Level Radioactive Waste Compact. Such compact is substantially as follows:

"APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT

"PREAMBLE

"Whereas, The United States Congress, by enacting the Low-Level Radioactive Waste Policy Act (42 U.S.C. §§ 2021b-2021d) has encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level radioactive waste;

"Whereas, Under section 4(a)(1)(A) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. § 2021(a)(1)A)), each state is responsible for providing for the capacity for disposal of low-level radioactive waste generated within its borders;

"Whereas, To promote the health, safety and welfare of residents within, the Commonwealth of Pennsylvania and other eligible states as defined in Article 5(A) of this compact shall enter into a compact for the regional management and disposal of low-level radioactive waste.

"Now, therefore, the Commonwealth of Pennsylvania and the state of West Virginia and other eligible states hereby agree to enter into the Appalachian States Low-Level Radioactive Waste Compact.

"ARTICLE 1

"DEFINITIONS

"As used in this compact, unless the context clearly indicates otherwise:

(a) 'Broker' means any intermediate person who handles, treats, processes, stores, packages, ships or otherwise has responsibility for or possesses low-level waste obtained from a generator.

(b) 'Carrier' means a person who transports low-level waste to a regional facility.

(c) 'Commission' means the Appalachian States Low-Level Radioactive Waste Commission.

(d) 'Disposal' means the isolation of low-level waste from the biosphere.

(e) 'Facility' means any real or personal property within the region, and improvements thereof or thereon, and any and all plant structures, machinery and equipment acquired, constructed, operated or maintained for the management or disposal of low-level waste.

(f) 'Generate' means to produce low-level waste requiring disposal.

(g) 'Generator' means a person whose activity results in the production of low-level waste requiring disposal.

(h) 'Hazardous life' means the time required for radioactive materials to decay to safe levels, as defined by the time period for the concentration of radioactive materials within a given container or package to decay to maximum permissible concentrations as defined by Federal law or by standards to be set by a host state, whichever is more restrictive.

(i) 'Host state' means Pennsylvania or other party state so designated by the Commission in accordance with Article 3 of this compact.

(j) 'Institutional control period' means the time of the continued observation, monitoring and care of the regional facility following transfer of control from the operator to the custodial agency.

(k) 'Low-level waste' means radioactive waste that:

(1) "is neither high-level waste or transuranic waste, nor spent nuclear fuel, nor by-product material as defined in Section 11(e)(2) of the Atomic Energy Act of 1954 as amended; and

(2) "is classified by the Federal Government as low-level waste, consistent with existing law; but does not include waste generated as a result of atomic energy defense activities of the Federal Government, as defined in Public Law 96-573, or Federal research and development activities.

(l) 'Management' means the reduction, collection, consolidation, storage, packaging or treatment of low-level waste.

(m) 'Operator' means a person who operates a regional facility.

(n) 'Party state' means any state that has become a party in accordance with Article 5 of this compact.

(o) 'Person' means an individual, corporation, partnership or other legal entity, whether public or private.

(p) 'Region' means the combined geographical area within the boundaries of the party states.

(q) 'Regional facility' means a facility within any party state which has been approved by the Commission for the disposal of low-level waste.

(r) 'Shallow land burial' means the disposal of low-level radioactive waste directly in subsurface trenches without additional confinement in engineered structures or by proper packaging in containers as determined by the law of the host state.

(s) 'Transuranic waste' means low-level waste containing radionuclides with an atomic number greater than 92 which are excluded from shallowland burial by the Federal Government.

"ARTICLE 2

"THE COMMISSION

(A) "Creation and Organization.

(1) "Creation—There is hereby created the Appalachian States Low-Level Radioactive Waste Commission. The Commission is hereby created as a body corporate and politic, with succession for the duration of this compact, as an agency and instrumentality of the governments of the respective signatory parties, but separate and distinct from the respective signatory party states. The Commission shall have central offices located in Pennsylvania.

(2) "Commission Membership—The Commission shall consist of two voting members from each party state to be appointed according to the laws of each party state and two additional voting members from each host state to be appointed according to the laws of each host state. Upon selection of the site of the regional facility, an additional voting member shall be appointed to the Commission who shall be a resident of the county or municipality where the facility is to be located. The appointing authority of each party state shall notify the Commission in writing of the identities of the members and of any alternates. An alternate may vote and act in the member's absence. No member shall have a financial interest in any industry which generates low-level radioactive waste, any low-level radioactive waste regional facility or any related industry for the duration of the member's term. No more than one-half the members and alternates from any party state shall have been employed by or be employed by a low-level waste generator or related industry upon appointment to or during their tenure of office; provided, that no member shall have been employed by or be employed by a regional facility operator. No member or alternate from any party state shall accept employment from any regional facility operator or brokers for at least three years after leaving office.

(3) "Compensation—Members of the Commission and alternates shall serve without compensation from the Commission but may be reimbursed for necessary expenses incurred in and incident to the performance of their duties.

(4) "Voting Power—Each Commission member is entitled to one vote. Unless otherwise provided in this compact, affirmative votes by a majority of a host state's members are necessary for the Commission to take any action related to the regional facility and the disposal and management of low-level waste within that host state.

(5) "Organization and Procedure.

(a) "The Commission shall provide for its own organization and procedures and shall adopt by-laws not inconsistent with this compact and any rules and regulations necessary to implement this compact. It shall meet at least once a year in the county selected to host a regional facility and shall elect a chairman and vice chairman from among its members. In the absence of the chairman, the vice chairman shall serve.

(b) "All meetings of the Commission shall be open to the public with at least 14 days' advance notice, except that the chairman may convene an emergency meeting with less advance notice. Each municipality and county selected to host a regional facility shall be specifically notified in advance of all Commission meetings. All meetings of the Commission shall be conducted in a manner that substantially conforms to the Administrative Procedure Act (5 U.S.C. Ch. 5, Subch. II, and Ch. 7). The Commission may, by a two-thirds vote, including approval of a majority of each host state's Commission members, hold an Executive Session closed to the public for the purpose of: considering or discussing legally privileged or proprietary information; to consider dismissal, disciplining of or hearing complaints or charges brought against an employee or other public agent unless such person requests such public hearing; or to consult with its attorney regarding information or strategy in connection with specific litigation. The reason for the Executive Session must be announced at least 14 days prior to the Executive Session, except that the chairman may convene an emergency meeting with less advance notice, in which case the reason for the Executive Session must be announced at the open meeting immediately subsequent to the Executive Session. All action taken in violation of this open meeting provision shall be null and void.

(c) "Detailed written minutes shall be kept of all meetings of the Commission. All decisions, files, records and data of the Commission, except for information privileged against introduction in judicial proceedings, personnel records and minutes of a properly convened Executive Session, shall be open to public inspection subject to a procedure that substantially conforms to the Freedom of Information Act (Public Law 89-554, 5 U.S.C. § 552) and applicable Pennsylvania law and may be copied upon request and payment of fees which shall be no higher than necessary to recover copying costs.

(d) "The Commission shall select an appropriate staff, including an Executive Director, to carry out the duties and functions assigned by the Commission. Notwithstanding any other provision of law, the Commission may hire and/or retain its own legal counsel.

(e) "Any person aggrieved by a final decision of the Commission which adversely affects the legal rights, duties or privileges of such person may petition a court of competent jurisdiction, within 60 days after the Commission's final decision, to obtain judicial review of said final decisions.

(f) "Liabilities of the Commission shall not be deemed liabilities of the party states. Members of the Commission shall not be personally liable for actions taken in their offical capacity.

(B) "Powers and Duties.

The Commission:

(a) "Shall conduct research and establish regulations to promote a reasonable reduction of volume and curie content of low-level wastes generated in the region. The regulations shall be reviewed and, if necessary, revised by the Commission at least annually.

(b) "Shall ensure, to the extent authorized by Federal law, that low-level wastes are safely disposed of within the region except that the Commission shall have no power or authority to license, regulate or otherwise develop a regional facility, such powers and authority being reserved for the host state(s) as permitted under the law.

(c) "Shall designate as "host states" any party state which generates 25 percent or more of Pennsylvania's volume or total curie content of low-level waste generated based on a comparison of averages over three successive years, as determined by the Commission. This determination shall be based on volume or total curie content, whichever is greater.

(d) "Shall ensure, to the extent authorized by Federal law, that low-level waste packages brought into the regional facility for disposal conform to applicable state and Federal regulations. Low-level waste brokers or generators who violate these regulations will be subject to a fine or other penalty imposed by the Commission, including restricted access to a regional facility. The Commission may impose such fines and/or penalties in addition to any other penalty levied by the party states pursuant to Article 4(D).

(e) "Shall establish such advisory committees as it deems necessary for the purpose of advising the Commission on matters pertaining to the management and disposal of low-level waste.

(f) "May contract to accomplish its duties and effectuate its powers subject to projected available resources. No contract made by the Commission shall bind a party state.

(g) "Shall prepare contingency plans for management and disposal of low-level waste in the event any regional facility should be closed or otherwise unavailable.

(h) "Shall examine all records of operators of regional facilities pertaining to operating costs, profits or the assessment or collection of any charge, fee or surcharge and may make recommendations to the host state(s) which shall review the recommendations in accordance with its (their) own sovereign laws.

(i) "Shall have the power to sue and be sued subject to Article 2(A)(5)(e) and may seek to intervene in any administrative or judicial proceeding.

(j) "Shall assemble and make available, to the party states and to the public, information concerning low-level waste management and disposal needs, technologies and problems.

(k) "Shall keep current and annual inventories of all generators by name and quantity of low-level waste generated within the region, based upon information provided by the party states. Inventory information shall include both volume in cubic feet and total curie content of the low-level waste and all available information on chemical composition and toxicity of such wastes.

(l) "Shall keep an inventory of all regional facilities and specialized facilities, including, but not necessarily restricted to, information on their size, capacity and location, as well as specific wastes capable of being managed, and the projected useful life of each regional facility.

(m) "Shall make and publish an annual report to the governors of the signatory party states and to the public detailing its programs, operations and finances, including copies of the annual budget and the independent audit required by this compact.

(n) "Notwithstanding any other provision of this compact to the contrary, may, with the unanimous approval of the Commission members of the host state(s), enter into temporary agreements with nonparty states or other regional boards for the emergency disposal of low-level waste at the regional facility, if so authorized by law(s) of the host state(s), or other disposal facilities located in states that are not parties to this agreement.

(o) "Shall promulgate regulations, pursuant to host state law, to specifically govern and define exactly what would constitute an emergency situation and exactly what restrictions and limitations would be placed on temporary agreements.

(p) "Shall not accept any donations, grants, equipment, supplies, materials or services, conditional or otherwise, from any source, except from any Federal agency and from party states which are certified as being legal and proper under the laws of the donating party state.

(C) "Budget and Operation.

(1) "Fiscal Year—The Commission shall establish a fiscal year which conforms to the fiscal year of the Commonwealth of Pennsylvania.

(2) "Current Expense Budget—Upon legislative enactment of this compact by two party states and each year until the regional facility becomes available, the Commission shall adopt a current expense budget for its fiscal year. The budget shall include the Commission's estimated expenses for administration. Such expenses shall be allocated to the party states according to the following formula:

"Each designated initial host state will be allocated costs equal to twice the costs of the other party states, but such costs will not exceed $200,000.

"Each remaining party state will be allocated a cost of one half the cost of the initial host state, but such costs will not exceed $100,000. The party states will include the amounts allocated above in their respective budgets, subject to such review and approval as may be required by their respective budgetary processes. Such amounts shall be due and payable to the Commission in quarterly installments during the fiscal year.

(3) "Annual Budget Request—For continued funding of its activities, the Commission shall submit an annual budget request to each party state for funding, based upon the percentage of the region's waste generated in each state in the region, as reported in the latest available annual inventory required under Article 2(B)(k). The percentage of waste shall be based on volume of waste or total curie content as determined by the Commission.

(4) "Annual Report to Include Budget—The Commission shall prepare and include in the annual report a budget showing anticipated receipts and disbursements for the ensuring year.

(5) "Annual Independent Audit—

(a) "As soon as practicable after the closing of the fiscal year, an audit shall be made of the financial accounts of the Commission. The audit shall be made by qualified certified public accountants selected by the Commission, who have no personal direct or indirect interest in the financial affairs of the Commission or any of its officers or employees. The report of audit shall be prepared in accordance with accepted accounting practices and shall be filed with the chairman and such other officers as the Commission shall direct. Copies of the report shall be distributed to each Commission member and shall be made available for public distribution.

(b) "Each signatory party, by its duly authorized officers, shall be entitled to examine and audit at any time all of the books, documents, records, files and accounts and all other papers, things or property of the Commission. The representatives of the signatory parties shall have access to all books, documents, records, accounts, reports, files and all other papers, things or property belonging to or in use by the Commission and necessary to facilitate the audit; and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents and custodians.

"ARTICLE 3

"RIGHTS, RESPONSIBILITIES AND OBLIGATIONS OF PARTY STATES

(A) "Regional Facilities.

"There shall be regional facilities sufficient to dispose of the low-level waste generated within the region. Each regional facility shall be capable of disposing of such low-level waste but in the form(s) required by regulations or license conditions. Specialized facilities for particular types of low-level waste management, reduction or treatment may not be developed in any party state unless they are in accordance with the laws and regulations of such state and applicable Federal laws and regulations.

(B) "Equal Access to Regional Facilities.

"Each party state shall have equal access as other party states to regional facilities located within the region and accepting low-level waste, provided, however, that the host state may close the regional facility located within its borders when necessary for public health and safety. However, a host state shall send notification to the Commission in writing within three (3) days of its action and shall, within thirty (30) working days, provide in writing the reasons for the closing.

(C) "Initial Host State.

"Pennsylvania and party states which generated 25 percent or more of the volume or curies of low-level waste generated by Pennsylvania, based on a comparison of averages over the three years 1982 through 1984, are designated as 'initial host states' and are required to develop and host low-level waste sites as regional facilities. The percentage of waste from each state shall be determined by cubic foot volume or total curie content, whichever is greater.

(D) "Exemption From Being Initial Host State.

"Party states which generated less than 25 percent of the volume or curies of low-level waste generated by Pennsylvania, based on a comparison of averages over the years 1982 through 1984, shall be exempt from initial host state responsibilities. These states shall continue to be exempt as long as they generate less than the 25 percent threshold over successive 3-year periods. Once a state generates an average of 25 percent or more of the volume or curies generated by Pennsylvania over a successive 3-year period, it shall be designated as a 'host state' for a 30-year period by the Commission and shall immediately initiate development of a regional facility to be operational within five years. Such host state shall be prepared to accept at its regional facility low-level waste at least equal to that generated in the state. With Commission approval, any party state may volunteer to host a regional facility. The percentage of waste from each state shall be determined by either a cubic foot volume or total curie content, whichever is greater.

(E) "Useful Life of Regional Facilities.

"Pennsylvania and other host states are obligated to develop regional facilities for the duration of this compact. All regional facilities shall be designed for at least a 30-year useful life. At the end of the facility's life, normal closure and maintenance procedures shall be initiated in accordance with

the applicable requirements of the host state and the Federal Government. Each host state's obligation for operating regional facilities shall remain as long as the state continues to produce over a 3-year period 25 percent or more of the volume or curies of low-level waste generated by Pennsylvania.

(F) "Duties of Host State.

"Each host state shall:

(a) "Cause a regional facility to be sited and developed on a timely basis.

(b) "Ensure by law, consistent with applicable state and Federal law, the protection and preservation of public health, safety and environmental quality in the siting, design, development, licensure or other regulation, operation, closure, decommissioning, long-term care and the institutional control period of the regional facility within the state. To the extent authorized by Federal law, a host state may adopt more stringent laws, rules or regulations than required by Federal law.

(c) "Ensure and maintain a manifest system which documents all waste-related activities of generators, brokers, carriers and related activities of generators, brokers, carriers and operators, and establish the chain of custody of waste from its initial generation to the end of its hazardous life. Copies of all such manifests shall be submitted to the Commission on a timely basis.

(d) "Ensure that charges for disposal of low-level waste at the regional facility are sufficient to fully fund the safe disposal and perpetual care of the regional facility and that charges are assessed without discrimination as to the party state of origin.

(e) "Submit an annual report to the Commission on the status of the regional facility which contains projections of the anticipated future capacity.

(f) "Notify the Commission immediately if any exigency arises requiring the possible temporary or permanent closure of a regional facility within the state at a time earlier than was projected in the state's most recent annual report to the Commission.

(g) "Require that the institutional control period of any disposal facility be at least as long as the hazardous life, as defined in Article 1(h), of the radioactive materials that are disposed at that facility.

(h) "Prohibit the use of any shallow land burial, as defined in Article 1(r), and develop alternative means for treatment, storage and disposal of low-level waste.

(i) "Establish by law, to the extent not prohibited by Federal law, requirements for financial responsibility, including, but not limited to:

(i) "Requirements for the purchase and maintenance of adequate insurance by generators, brokers, carriers and operators of the regional facility;

(ii) "Requirements for the establishment of a long-term care fund to be funded by a fee placed on generators to pay for preventative or corrective measures of low-level waste to the regional facility; and

(iii) "Any further financial responsibility requirements that shall be submitted by generators, brokers, carriers and operators as deemed necessary by the host state.

(G) "Duties of Party State.

Each party state:

(a) "Shall appropriate its portion of the Commission's initial and annual budgets as set out in Article 2(C)(2) and (3).

(b) "To the extent authorized by Federal law, shall develop and enforce procedures requiring low-level waste shipments originating within its borders and destined for a regional facility to conform to volume reduction, packaging and transportation requirements and regulations as well as any other requirements specified by the regional facility. Such procedures shall include, but are not limited to:

(i) "Periodic inspections of packaging and shipping practices;

(ii) "Periodic inspections of low-level waste containers while in custody of carriers; and

(iii) "Appropriate enforcement actions with respect to violations.

(c) "To the extent authorized by Federal law, shall, after receiving notification from a host state or other person that a person in a party state has violated volume reduction, packaging, shipping or transportation requirements or regulations, take appropriate action to ensure that violations do not recur. Appropriate action shall include, but is not limited to, the requirement that a bond be posted by the violator to pay the cost of repackaging at the regional facility and the requirement that future shipments be inspected. Appropriate action may also include suspension of the violator's use of the regional facility. Should such suspension be imposed, the suspension shall remain in effect until such time as the violator has, to the satisfaction of the party state imposing such suspension, complied with the appropriate requirements or regulations upon which the suspension was based and has taken appropriate action to ensure that such violation or violations do not recur.

(d) "Shall maintain a registry of all generators and quantities generated within the state.

(H) "Liability.

In the event of liability arising from the operation of any regional facility and during and after closure of that facility, each party state shall share in that liability in an amount equal to that state's share of the region's low-level waste disposed of at the facility. If such liability arises from negligence, malfeasance or neglect on the part of a host state or any party state, then any other host or party state(s) may make any claim allowable under law for that negligence, malfeasance or neglect. If such liability arises from a particular waste shipment or shipments to, or quantity of waste or condition at, the regional facility, then any host or party state may make any claim allowable under law for such liability. The percentage of waste shall be based on volume of waste or total curie content.

(I) "Failure of Party State to Fulfill Obligations.

"A party state which fails to fulfill its obligations, including timely funding of the Commission, may have its privileges under the Compact suspended or its membership in the Compact revoked by the Commission and be subject to any other legal and equitable remedies available to the party states.

"ARTICLE 4

"PROHIBITED ACTS AND PENALTIES

(A) "Prohibition.

"It shall be unlawful for any person to dispose of low-level waste within the region except at a regional facility unless authorized by the Commission.

(B) "Waste Disposed of Within Region.

"After establishment of the regional facility(s), it shall be unlawful for any person to dispose of any low-level waste within the region unless the waste was generated within the region or unless authorized to do so both by the Commission and by law of the host state in which said disposal takes place. For the purposes of this compact, waste generated within the region excludes radioactive material shipped from outside the party states to a waste management facility within the region. In determining whether to grant such authorization, the factors to be considered by the Commission shall include, but not be limited to, the following:

(a) "The impact on the health, safety and environmental quality of the citizens of the party states;

(b) "The impact of importing waste on the available capacity and projected life of the regional facility;

(c) "The availability of a regional facility appropriate for the safe disposal of the type of low-level waste involved.

(C) "Waste Generated Within Region.

"Any and all low-level waste generated within the region shall be disposed of at a regional facility, except for specific cases agreed upon by the Commission, with the affirmative votes by a majority of the Commission members of the host state(s) affected by the decision.

(D) "Liability.

"Generators, brokers and carriers of wastes, and owners and operators of sites shall be liable for their acts, omissions, conduct or relationships in accordance with all laws relating thereto. The party states shall impose a fine for any violation in an amount equal to the present and future costs associated with correcting any harm caused by the violation and shall assess punitive fines or penalties if it is deemed necessary. In addition, the host state shall bar any person who violates host state or Federal regulations from using the regional facility until that person demonstrates to the satisfaction of the host state the ability and willingness to comply with the law.

(E) "Conflict of Interest.

(1) "Prohibitions—

No commissioner, officer or employee shall:

(a) "Be financially interested, either directly or indirectly, in a contract, sale, purchase, lease or transfer of real or personal property to which the Commission is a party.

(b) "Solicit or accept money or any other thing of value in addition to the expenses paid to him by the Commission for services performed within the scope of his official duties.

(c) "Offer money or anything of value for or in consideration of obtaining an appointment, promotion or privilege in his employment with the Commission.

(2) "Forfeiture of Office or Employment—

Any officer or employee who shall willfully violate any of the provisions of this section shall forfeit his office or employment.

(3) "Agreement Void—

Any contract or agreement knowingly made in contravention of this section is void.

(4) "Criminal and Civil Sanctions—

Officers and employees of the Commission shall be subject, in addition to the provisions of this section, to such criminal and civil sanctions for misconduct in office as may be imposed by Federal law and the law of the signatory state in which such misconduct occurs.

"ARTICLE 5

"ELIGIBILITY, ENTRY INTO EFFECT, CONGRESSIONAL CONSENT, WITHDRAWAL

(A) "Eligibility.

"Only the States of Pennsylvania, West Virginia, Delaware and Maryland are eligible to become parties to this compact.

(B) "Entry into Effect.

"An eligible state may become a party state by legislative enactment of this compact or by executive order of the governor adopting this compact; provided, however, a state becoming a party state by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened thereafter, unless the legislature shall have enacted this compact before such adjournment.

(C) "Congressional Consent.

"This compact shall take effect when it has been enacted by the legislatures of Pennsylvania and one or more eligible states. However, Article 4(B) and (C) shall not take effect until Congress has consented to this compact. Every fifth year after such consent has been given, Congress may withdraw consent.

(D) "Withdrawal.

"A party state may withdraw from the compact by repealing the enactment of this compact, but no such withdrawal shall become effective until two years after enactment of the repealing legislation. If the withdrawing state is a host state, any regional facility in that state shall remain available to receive low-level waste generated within the region until five years after the effective date of the withdrawal.

"ARTICLE 6

"CONSTRUCTION AND SEVERABILITY

(A) "Construction.

"The provisions of this compact shall be broadly construed to carry out the purposes of the compact, but the sovereign powers of a party state shall not unnecessarily be infringed.

(B) "Severability.

"If any part or application of this compact is held invalid, the remainder, or its application to other situations or persons, shall not be affected.".●

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, Mr. BUMPERS, Mr. GORE, Mr. SIMON, Mr. MITCHELL, Mr. NUNN, Mr. KERRY, and Mr. STAFFORD):

S.J. Res. 179. Joint resolution to establish a National Economic Commission; to the Committee on Banking, Housing, and Urban Affairs.

NATIONAL ECONOMIC COMMISSION

Mr. MOYNIHAN. Mr. President, I am today introducing the National Economic Commission Act and ask unanimous consent that the joint resolution be printed in the RECORD.

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

S.J. RES. 179

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This joint resolution may be cited as the "National Economic Commission Act".

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) the United States fiscal position has deteriorated substantially during the last decade:

(A) the United States budget deficit increased from $74 billion in fiscal year 1976 to $221 billion in fiscal year 1986; and

(B) the gross Federal debt increased from $632 billion at the end of fiscal year 1976 to $2,133 billion at the end of fiscal year 1986;

(2) the United States trade and investment balances with the rest of the world have deteriorated substantially during the last decade:

(A) the United States trade deficit increased from $17 billion in 1976 to $170 billion in 1986;

(B) the balance on the current account of the United States moved from a surplus of $10 billion in 1976 to a deficit of $140 billion in 1986; and

(C) the United States moved from a net creditor nation of $84 billion at the end of 1976 and $141 billion at the end of 1981, to the world's largest debtor nation—an estimated $250 billion—at year end 1986;

(3) the debt burden of developing countries is a major burden to the health of the United States economy:

(A) 15 nations, Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Ivory Coast, Mexico, Morocco, Nigeria, Peru, Phillipines, Uruguay, Venezuela, and Yugoslovia, had a cumulative external debt of $463.3 billion at the end of 1986;

(B) United States trade with those countries moved $11.3 billion further into deficit from 1980 to 1986; and

(C) in 1985, debt-related austerity in the top five developing country debtors, Brazil, Mexico, Argentina, Venezuela, and the Phillipines, resulted in reductions of United States exports of $5.0 billion, increases of United States imports of $8.7 billion, and a decline in United States employment of 219,000 full-time equivalent jobs in nonservice industries;

(4) growth in the developed and developing world has been weak; in 1986, real GNP growth was—

(A) 2.8 percent in developed countries,

(B) 2.5 percent in the United States,

(C) 2.7 percent in Japan,

(D) 2.5 percent in the European Communities,

(E) 3.3 percent in Canada, and

(F) 2.7 percent in developing countries;

(5) These problems—the budget deficit, the trade deficit, international debt burdens, and lagging economic growth—are interconnected and require coordinated solutions;

(6) an organized inquiry into these problems could assist in the development of a consensus among members of both political parties, the private sector, and academicians as to what action is necessary to address these problems; and

(7) it is a long established practice to create Senate, House, or joint commissions to deal with special issues, often with a mix of public and private members.

ESTABLISHMENT OF COMMISSION

SEC. 3. There is hereby established the National Economic Commission (hereafter in this Act referred to as the "Commission").

MEMBERSHIP

SEC. 4. (a)(1) The Commission shall be composed of sixteen members:

(A) three citizens of the United States appointed by the President;

(B) two Senators appointed by the President pro tempore of the Senate upon the recommendations of the Majority Leader of the Senate;

(C) one Senator appointed by the President pro tempore of the Senate upon the recommendation of the Minority Leader of the Senate;

(D) two Members of the House of Representatives appointed by the Speaker of the House of Representatives;

(E) one Member of the House of Representatives appointed by the Minority Leader of the House of Representatives;

(F) two citizens of the United States appointed by the Majority Leader of the Senate;

(G) two citizens of the United States appointed by the Minority Leader of the Senate;

(H) two citizens of the United States appointed by the Speaker of the House of Representatives; and

(I) one citizens of the United States appointed by the Minority Leader of the House of Representatives.

(2) Individuals appointed under paragraph (1)(A) may be officers or employees of the Executive Branch or may earn their livelihood in the private sector of the economy.

(3) Individuals appointed under subparagraphs (F), (G), (H), and (I) of paragraph (1) shall be individuals who—

(A) are leaders of business or labor or prominent academicians, and

(B) are not officers or employees of the United States.

(b) Any vacancy on the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(c) The Commission shall elect a Chairman from among the members of the Commission.

(d) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(e) Each member of the Commission shall be entitled to one vote which shall be equal to the vote of every other member of the Commission.

FUNCTIONS OF THE COMMISSION

SEC. 5. (a) The Commission shall conduct a comprehensive study of—

(1) the elements of domestic fiscal, monetary, and trade policies and their effect on—

(A) employment,

(B) real interest rates,

(C) national saving, capital formation and investment,

(D) labor productivity,

(E) the exchange rate value of the dollar vis-a-vis the currency of major United States trading partners,

(F) the United States balance of trade in goods and services,

(G) the United States international investment position, and

(H) the vigor and viability of economic growth in the United States and the world;

(2) the elements of the fiscal, monetary, and trade policies of major United States trading partners and their effect on the United States balance of trade in goods and services and United States employment; and

(3) the debt burden of developing countries and its effect on the United States balance of trade in goods and services and United States employment.

(b) The comprehensive study conducted under subsection (a) shall include consideration of recommendations regarding domestic fiscal, monetary, and trade policies and the coordination of such policies with the macroeconomic policies of the other economically developed nations to achieve balanced and vigorous economic growth in the United States and the world. The Commission shall specifically address in the study conducted under subsection (a)—

(1) the goal of promoting—

(A) employment,

(B) low real interest rates,

(C) national savings, capital formation and investment,

(D) high labor productivity,

(E) a greater balance in United States trade in goods and services and United States international investment position, and

(F) vigorous and sustainable economic growth in the United States and the world;

(2) a means of ensuring that the burden of achieving such goals is equitably distributed and not borne disproportionately by any one economic group, social group, region, nation, or group of nations;

(3) the current and prospective economic factors and developments, in both the United States and in foreign countries that should be taken into account in making policy to achieve these goals; and

(4) the institutional arrangements required to achieve the appropriate coordination, within the United States and among foreign nations, for the making and implementation of economic policy.

(c)(1) The Commission shall submit to the President and to the Congress by no later than November 30, 1988, a final report on the study conducted under subsection (a) that contains a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative and legislative action which the Commission considers advisable.

(2) Any recommendation made by the Commission to the President and to the Congress must be adopted by a majority vote of the members of the Commission who are present and voting.

POWERS OF THE COMMISSION

SEC. 6. (a) The Commission may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places, administer such oaths, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission may find advisable.

(b) The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c)(1) The Commission is authorized to secure directly from any officer, department, agency, establishment, or instrumentality of the Federal Government such information as the Commission may require for the purpose of this Act, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, research, surveys, and statistics directly to the Commission, upon request made by the Chairman of the Commission.

(2) Upon request of the Chairman of the Commission, the head of any Federal department, agency, or instrumentality shall make any of the facilities and services of such department, agency, or instrumentality available to the Commission and detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimburseable basis, to assist the Commission in carrying out its duties under this Act.

(3) 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.

(d) The Commission is authorized, to such extent and in such amounts as are provided in appropriation Acts, to enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this Act.

(e)(1) 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 Commission.

(2) For purposes of section 552 of title 5, United States Code, the Commission shall not be considered to be an agency.

(f)(1) Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission shall have the power to—

(A) 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 the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director and of such additional personnel as the Chairman deems advisable to assist in the performance of the duties of the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(B) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized by law for agencies in the executive branch but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of such General Schedule.

(2) Service of an individual as a member of the Commission, or employment of an individual by the Commission as an attorney or expert in any business or professional field, on a part-time or full-time basis, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission, or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

COMPENSATION OF MEMBERS

SEC. 7. (a) Each member of the Commission not otherwise employed by the Federal Government shall receive compensation at a rate equal to the daily rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties as a member of the Commission.

(b) Except as provided in subsection (c), a member of the Commission who is otherwise an officer or employee of the United States Government shall serve on the Commission without additional compensation.

(c) All members of the Commission shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Commission in accordance with subchapter I of chapter 57 of title 5, United States Code.

TERMINATION OF COMMISSION

SEC. 8. The Commission shall cease to exist on the date that is 60 days after the date on which the Commission submits the report required under section 5(c)(1).

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are authorized to be appropriated to the Commission such sums as may be necessary to carry out the provisions of this Act.●

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. MOYNIHAN, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 182

At the request of Mr. RIEGLE, the name of the Senator from Montana [Mr. MELCHER] was added as a cosponsor of S. 182, a bill to amend title 3, United States Code, and the Uniform Time Act of 1966 to establish a single poll closing time in the continental United States for Presidential general elections.

S. 430

At the request of Mr. SASSER, his name was added as a cosponsor of S. 430, a bill to amend the Sherman Act regarding retail competition.

S. 453

At the request of Mr. MURKOWSKI, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 453, a bill to amend title 38, United States Code, and the Veterans' Dioxin and Radiation Exposure Compensation Standards Act to improve the standards for determining whether a radiation-related disease is service-connected, and for other purposes.

S. 604

At the request of Mr. PRYOR, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 604, a bill to promote and protect taxpayer rights, and for other purposes.

S. 675

At the request of Mr. MITCHELL, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 675, a bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992.

S. 680

At the request of Mr. CHAFFEE, the name of the Senator from Vermont [Mr. STAFFORD] was added as a cosponsor of S. 680, a bill to prohibit the use of subtherapeutic doses of penicillin,

chlortetracycline, and oxytetracycline in animal feed.

S. 887

At the request of Mr. MATSUNAGA, the name of the Senator from South Dakota [Mr. PESSLER] and the Senator from Vermont [Mr. STAFFORD] was added as a cosponsor of S. 887, a bill to extend the authorization of appropriations for and to strengthen the provisions of the Older Americans Act of 1965, and for other purposes.

S. 998

At the request of Mr. DECONCINI, the name of the Senator from Indiana [Mr. QUAYLE] was added as a cosponsor of S. 998, a bill entitled the "Micro Enterprise Loans for the Poor Act."

S. 1109

At the request of Mr. KARNES, his name was added as a cosponsor of S. 1109, a bill to amend the Federal Food, Drug, and Cosmetic Act to require certain labeling of foods which contain tropical fats.

S. 1247

At the request of Mr. MCCAIN, the name of the Senator from Wisconsin [Mr. PROXMIRE] was added as a cosponsor of S. 1247, a bill to designate the area of Arlington National Cemetery where the remains of four unknown service members are interred as the "Tomb of the Unknown."

S. 1278

At the request of Mr. TRIBLE, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1278, a bill to permit certain payments under the act of September 30, 1950 (Public Law 874, 81st Congress) based on incorrect determinations under section 2(a)(1)(C) of that act.

S. 1408

At the request of Mr. CHAFEE, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 1408, a bill to amend the Immigration and Nationality Act to waive the continuous residence requirement under the legalization program for spouses and children of qualified legalized aliens.

S. 1451

At the request of Mr. HEINZ, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 1451, a bill to amend title 38, United States Code, to improve veterans' benefits for former prisoners of war.

S. 1468

At the request of Mr. MITCHELL, the names of the Senator from Pennsylvania [Mr. HEINZ], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 1468, a bill to provide for a Samantha Smith Memorial Exchange Program to promote youth exchanges between the United States and the Soviet Union, and for other purposes.

S. 1519

At the request of Mr. LAUTENBERG, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1519, a bill to authorize the President of the United States to award congressional gold medals to Lawrence Doby and posthumously to Jack Roosevelt Robinson in recognition of their accomplishments in sport and in the advancement of civil rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of those medals.

SENATE JOINT RESOLUTION 161

At the request of Mr. DECONCINI, the names of the Senator from Oklahoma [Mr. NICKLES] and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of Senate Joint Resolution 161, joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation.

SENATE CONCURRENT RESOLUTION 32

At the request of Mr. GRASSLEY, the names of the Senator from Florida [Mr. CHILES], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of Senate Concurrent Resolution 32, concurrent resolution to express the sense of Congress that volunteer work should be taken into account by employers in the consideration of applicants for employment and that provision should be made for a listing and description of volunteer work on employment application forms.

SENATE CONCURRENT RESOLUTION 63

At the request of Mr. SANFORD, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Concurrent Resolution 63, concurrent resolution expressing the sense of the Congress regarding the formulation and implementation of a regional economic development and recovery program for Central America.

AMENDMENT NO. 591

At the request of Mr. DANFORTH, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of amendment No. 591 intended to be proposed to S. 328, a bill to amend chapter 39, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

SENATE RESOLUTION 255—EXPRESSING SUPPORT FOR GENERAL JOHN VESSEY IN HIS FORTHCOMING NEGOTIATIONS TO RESOLVE THE FATE OF AMERICANS MISSING IN SOUTHEAST ASIA

Mr. MCCAIN (for himself and Mr. NUNN) submitted the following resolution; which was placed on the calendar by unanimous consent:

S. RES. 255

Whereas fourteen years have passed since the last American combat troops left Southeast Asia, and twelve years have passed since the end of the war in Vietnam;

Whereas 2,413 Americans missing in action during our involvement in Southeast Asia remain unaccounted for;

Whereas President Reagan has repeatedly stated that the fullest possible accounting of those Americans missing in action in Southeast Asia is "a matter of the highest national priority";

Whereas the President, the Congress and the American people stand united in supporting continued efforts to account for Americans still missing in action in Southeast Asia;

Whereas other humanitarian issues affecting the people of the United States and Vietnam remain unresolved, including the resettlement of Amerasians still in Vietnam, the release of political prisoners in Vietnamese reeducation camps, the rejuvenation of emigration procedures for Vietnamese who wish to leave their country through the orderly departure program;

Whereas the aforementioned humanitarian issues have caused great hardship to the peoples of both the United States and Vietnam, and it is in the interest of both countries that they be fully and quickly resolved;

Whereas in February, 1987, President Reagan appointed retired General John Vessey, former Chairman of the Joint Chiefs of Staff, as Special Presidential Emissary for POW/MIA affairs;

Whereas General Vessey will, in the near future, travel to Hanoi to discuss with officials of Vietnam humanitarian issues of concern to both countries: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) expresses its full and undivided support for General Vessey in his forthcoming negotiations to determine the fate of those Americans missing in action in Southeast Asia, to facilitate the return of the recoverable remains of those missing in action, and to discuss the remaining humanitarian issues affecting both nations.

(2) calls on Vietnam to respond positively to the aforementioned concern of the American people in a humanitarian context.

AMENDMENTS SUBMITTED

RETIREE BENEFITS SECURITY ACT

THURMOND AMENDMENT NO. 633

Mr. HELMS (for Mr. THURMOND) proposed an amendment to the bill (S. 548) to amend title 11, United States

Code, the Bankruptcy Code, regarding benefits of certain retired employees; as follows:

In section 1114(l):

Delete the third "e" in "preceding";

Delete the words, "one million," and insert in lieu thereof the following: "two hundred and fifty thousand."

WIRTH (AND ARMSTRONG) AMENDMENT NO. 634

Mr. BYRD (for Mr. WIRTH, for himself and Mr. ARMSTRONG) proposed an amendment to the bill (S. 548) supra; as follows:

At the appropriate place, add the following:

SEC. . (a) There shall be appointed, pursuant to section 152(a)(1) of title 28, United States Code, an additional bankruptcy judge for the judicial district of Colorado.

(b) To reflect the change made by this section, section 152(a)(2) of title 28, United States Code, is amended by striking out the following:

"Colorado ..... 4";

and inserting in lieu thereof the following:

"Colorado ..... 5".

STAFFORD (AND PELL) AMENDMENT NO. 635

Mr. HELMS (for Mr. STAFFORD for himself and Mr. PELL) proposed an amendment to the bill (S. 548) supra; as follows:

At the end of the substitute amendment add the following:

TITLE IV—STUDENT LOANS

SEC. 401. This title may be cited as the "Student Loan Bankruptcy Prevention Act".

SEC. 402. (a) Section 1328(a)(2) of title 11, United States Code, is amended by striking out "section 523(a)(5)" and inserting in lieu thereof "paragraph (5) or (8) of section 523(a)".

(b) The amendment made by subsection (a) shall not apply to any case under title 11, United States Code, commenced before the date of the enactment of this title.

DECONCINI (AND MCCAIN) AMENDMENT NO. 636

Mr. BYRD (for Mr. DECONCINI, for himself and Mr. MCCAIN) proposed an amendment to the bill (S. 548) supra; as follows:

At the appropriate place, add the following:

SEC. . (a) There shall be appointed, pursuant to section 152(a)(1) of title 28, United States Code, an additional bankruptcy judge for the judicial district of Arizona.

(b) To reflect the change made by this section, section 152(a)(2) of title 28, United States Code, is amended by striking out the following:

"Arizona ..... 4";

and inserting in lieu thereof the following:

"Arizona ..... 5".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, July 24, 1987, at 1:30 p.m. to hold a hearing on ambassadorial nominations.

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

ADDITIONAL STATEMENTS

METHANOL AND ALTERNATIVE FUELS PROMOTION ACT

Mr. CRANSTON. Mr. President, I am pleased to join my colleague from West Virginia, Senator ROCKEFELLER as a cosponsor of the Methanol and Alternative Fuels Promotion Act of 1987. It wasn't too long ago when this country was first forced to confront our precarious dependency on Middle East oil. We were caught by surprise in 1973. We were unprepared for the disruption in our oil supply. What is so disconcerting is that we are no better prepared today than we were then. In fact, we are worse off.

In 1973, approximately 34 percent of the oil we consumed was imported. Today, we import approximately 38 percent, and oil imports are expected to rise to 50 percent by the early 1990's.

Our transportation sector, which is 97 percent oil dependent and accounts for more than 60 percent of our oil consumption, continues to be our Achilles' heel. Switching to alternative fuel vehicles has not been easy. Auto manufacturers are not willing to produce cars for which there is no consumer demand. Consumers are not willing to buy cars for which there is no available fuel supply. Service stations are not willing to provide fuel for nonexistent vehicles.

By providing an incentive to auto manufacturers to produce alternative fuel vehicles, including methanol, ethanol and natural gas vehicles, we can begin to break this chicken and egg cycle that has plagued their development.

This bill amends the Motor Vehicle Cost Savings Act to provide an appropriate application of the fuel economy standards to methanol, ethanol, and natural gas automobiles. The bill applies to dedicated vehicles and dual fuel vehicles. Dedicated vehicles are those using at least 85 percent of the alternative fuel at all times and would be calculated for CAFE purposes on the 15-percent content of the fuel. Dual fuel vehicles are those vehicles capable of operating on a range of fuel mixtures up to 85 percent of the alternative fuel and would be calculated on a 50-percent gasoline and 50-percent alternative fuel basis.

The CAFE rating for these vehicles would be significantly higher than the CAFE rating for straight gasoline automobiles. Production of the dedicated and dual fuel vehicles would increase the average CAFE rating for the entire fleet of automobiles. In order to keep the integrity of the CAFE law intact, the bill provides that the CAFE increase resulting from the production of alternative fuel vehicles would be capped at 1.5 miles per gallon for the first 5 model years—model year 1993 to model year 1998—and 1.1 miles per gallon for the second 5 model years—model year 1999 to model year 2003.

I have always been and continue to be a strong supporter and advocate of the CAFE standards and increased efficiency of our automobiles. I believe more can be done in this area. However, I also believe that ultimately, increased efficiency by itself will not provide the solution to our energy security dilemna. Along with conservation measures we must wean our transportation sector from its total dependence on oil. This bill begins that process by encouraging the production of vehicles capable of using alternative fuels.

Equally important to our energy security concerns are the potential air quality benefits that can be realized from switching to alternative fuels. I am particularly interested in methanol and the impact methanol vehicles could have in areas battling severe ozone pollution, such as Los Angeles. The south coast air quality management district estimates that a total conversion to methanol vehicles in the Los Angeles area would reduce peak ozone levels by as much as 50 percent.

Methanol is made from natural gas, coal or biological matter and is a cleaner burning fuel than gasoline. Emissions of nitrogen oxide and hydrocarbons—precursors of ozone—are substantially reduced in methanol-powered automobiles. For areas around the country facing sanctions for noncompliance with the Clean Air Act's air quality standards, widespread substitution of methanol-powered vehicles is one viable option out of a shrinking pool of options that could significantly reduce ozone levels.

California has made great strides in demonstrating the potential of methanol. The California Energy Commission's Alternative Fuels Demonstration Program began in 1978 and has tested more than 500 methanol-powered Ford Escorts, established a network of methanol service stations and since 1982 has been operating two methanol-powered buses. Recently, the State entered into an agreement with the Atlantic Richfield Co. whereby Atlantic Richfield will add another

25 methanol fuel stations to the 20 already established.

Mr. President, expanded use of alternative fuels is a logical and effective way to increase our energy independence and reduce ozone and carbon monoxide levels. This bill makes sense—environmentally and in terms of our national security.●

MISSISSIPPI CHIEF JUSTICE NEVILLE PATTERSON

● Mr. COCHRAN. Mr. President, the State of Mississippi lost one of its finest leaders when the former chief justice of the Mississippi Supreme Court, Neville Patterson, died on July 15. Judge Patterson had retired last summer after serving 22 years on the Mississippi Supreme Court, including nine as chief justice.

He developed and caused to be implemented significant reforms in our State courts. He took on the legislature and won. He confronted the organized bar with his decisive leadership, and won the respect of the lawyers throughout our State. He was well-liked and admired by all who knew him.

Judge Patterson was a native of Monticello, MS, and graduated from the University of Mississippi School of Law in 1939. He returned to his hometown to join his father in the practice of law. When World War II broke out, he served with distinction in the U.S. Army. He was a captain with the 3d Armored Division and won a Bronze Star during the Battle of the Bulge.

After the war, he resumed his law practice, and then was elected chancery judge, serving on that court for 16 years before joining the Mississippi Supreme Court in 1954. He became chief justice in 1977 and served in that capacity until his retirement June 30, 1986.

When I was elected to the U.S. Senate in November 1978, my predecessor, James O. Eastland, resigned before his term expired, and I was sworn in ahead of most Senators who were elected that year. I invited Judge Patterson to administer the oath of office to me, and he did so in the Governor's mansion in Jackson on December 27, 1978.

Judge Patterson was a personal friend of mine. My sympathies go out to his wife and family. His loss will be felt by all Mississippians, but especially by his family and his friends.

I ask that an editorial that appeared in the Clarion Ledger/Jackson Daily News on July 17, 1987, be printed in the RECORD.

The editorial follows:

NEVILLE PATTERSON: STATE NEEDED HIS WISDOM, COURAGE

Mississippi needs courageous, enlightened forward-looking leadership and, to its credit and good luck, received it in full measure from Neville Patterson, Mississippi Supreme Court justice for 22 years, nine of them as chief justice.

Patterson, 71, died of a heart attack Wednesday just a little more than a year after he retired from the bench.

He guided the state through extensive judicial reform that, among other things, better balanced the powers of Mississippi's three branches of government.

Patterson wrote the 1975 unanimous decision that properly asserted the courts right to establish judicial rules for the state courts, rules previously set by the Legislature.

In 1983, under Patterson's leadership, the high court ruled that legislators could not sit on executive boards, commissions or agencies, a reform also long needed.

He richly deserves the outpouring of tributes in the wake of news of his death. His successor, Chief Justice Harry G. Walker, described Patterson as "an outstanding jurist and a man of impeccable integrity." Justice Reuben Anderson said Patterson "ranks as one of Mississippi's great men." These accolades are typical.

His family—and his state—can be proud of the legacy he leaves from his 40-year judicial career.●

NO CRIME DAY

● Mr. DIXON. Mr. President, I am proud, once again, to call to the attention of the Senate the annual citywide No Crime Day which will be held in Chicago, IL, on August 15, 1987.

This event is a great example of the important neighborhood effort underway to combat violent crime in the streets of our cities. Combating violent crime must remain a national priority. Efforts such as No Crime Day allow the opportunity for communities and neighbors to gather together in order to galvanize city support to wipe out crime.

I commend all of those involved in organizing this fourth annual event for their civic pride. The Black on Black Love Campaign has demonstrated Chicago's commitment to preventing violent crime and protecting the innocent victims of such cowardly acts. No Crime Day will provide the city of Chicago with an increased awareness of the goal of a crime-free city. I hope that positive efforts in crime prevention, such as this, will act as a model for other cities throughout the country to rid our streets of violent crime.●

HISTORIC HANGOVER

● Mr. HATFIELD. Mr. President, in a speech earlier this month, Federal Reserve Board of Governors member Edward W. Kelley, Jr., suggested that this great nation suffers from an "historic hangover." "Deep in our national consciousness," he said, "we think that we are still supposed to dominate the world. If we are not doing that, then we must be failing and we are in decline."

Are we in decline, Mr. President? If decline means that our allies no longer lie in ruin, maybe we are in decline. If decline means that our products now must compete in the world market, maybe we are in decline. And if decline means that we can no longer impose our policies on other nations, maybe we are in decline. But I think not.

Forty years ago, Europe and Japan were in economic and political ruin. Forty years ago, our industrial capacity and skilled labor force were unrivalled. And 40 years ago, it was very easy to impose our policies on nations around the world.

A lot has changed since then. We helped our allies get back on their feet, and we encouraged them to become competitive and independent. Unfortunately, we now have an "historic hangover"—we cannot or will not adjust to the changes. Whether it is bombing Libya or imposing protectionist trade policies, we still want to dominate.

"I think we do ourselves a disservice when we accept hegemony as a national benchmark for performance. We cannot dominate the world today and that's a clear fact," said Mr. Kelley. "But further, we should not want to dominate the world. World peace, if we are ever going to build it, is going to happen when everybody has their heads up and their stomachs full."

I could not agree more.

Edward Kelley's speech, delivered on July 9 to the Board of Directors of the Federal Reserve Bank of Atlanta, is one of the most thoughtful speeches I have ever read. I commend it to my colleagues, and ask that it be inserted in the RECORD.

The speech follows:

A HISTORIC HANGOVER

(By Edward W. Kelley, Jr.)

From our earliest days we have had a long history in this country of periodic self-flagellation, and we are certainly in one of those periods right now. U.S. competitiveness in the world economy is the issue and the focus is our huge trade deficit. The media are having a field day. We are getting it every day on network television and the daily newspapers, but quite beyond that, some of the most responsible analysts in this country have picked up the theme. U.S. News and World Report has had two cover articles in the last several months, one entitled "Will Your Next Boss Be Japanese?" and the others "Is Our Economy Coming Apart?" The Wall Street Journal had a feature article entitled "Decline of the West" and, the Houston Chronicle, when I was home recently, had a full-page entitled "Portrait of Decline." A recent New York Times had a feature story entitled "When Main Street Belongs to the Japanese." This situation has been analyzed and opined upon endlessly and it certainly is complicated, multifacted and describable in many different ways.

A national debate is a healthy thing, but the danger is that it can get destructive. If we were to talk ourselves into a lowered level of national confidence, or even beyond that, some type of hopelessness, we could easily lash back very destructively in the form of severe protectionist legislation or some bilateral slap at an ally that might do much more harm than good. I think there is

some danger of this. Why are we so negative? An objective look at the facts just doesn't warrant it, because on balance our economy is really doing quite well. Let me explore a theory with you for a minute that I think just might explain part of it.

In all of this analysis, I believe there is one underlying condition that's largely been ignored. I believe that deep in our national consciousness we think that we are still supposed to dominate the world, and clearly, we're not doing that. If we are not doing that, this line of reasoning follows, then we must be failing and we are in a decline. Now where does this sense of failure come from?

My thought is that we have given ourselves a historic hangover. And that that historic hangover arose from a very strong drink of dominance that we experienced in the years after World War II. Let's remember those days.

Coming out of World War II the industrial world lay in ruins, except for the United States. The United States was untouched. But even more than that, it was stronger than ever due to the war effort that we had just mounted. We had a massive industrial capacity, a huge skilled workforce, the beginnings of a superb service sector, tremendous agricultural efficiency, and, not one other nation could come close to us. The operative word for this condition is hegemony. Webster defines hegemony as "the predominant influence of one nation over others." At that time, we had it—hegemony.

Our response to this situation was wonderfully idealistic and also practical. Over the succeeding 20 years, we caused the world to be rebuilt. Not alone by any means. All the peoples of the industrialized world participated, each in their own way. But we paid outright for much of it, we financed virtually all of the rest, we encouraged and aided in innumerable ways, and we built our foreign policy around it.

This was a wonderful thing for the world and ourselves. It created a long boom under stable conditions. There was an enormous gain in the standard of living, and, it probably prevented the depression that was so widely expected after the war. For about 20 years, more or less, we did dominate—economically and politically.

But by 1965 the world was rebuilt. The industrial countries were strong and vigorous again, and the world had definitely changed. But we did not change our world view. Hegemony was still in the middle 1960's, and as evidence of that, I give you the fact that Vietnam was heating up right around that time period, and until it started to go so badly, it was widely supported. I think that shows that our world view had not evolved. That's when our historic hangover began and much of it continues today.

This hangover hurts us in two separate sets of ways. First, it adversely affects a large body of our national policy. And, second, it has caused us to fall into a certain kind of complacency in our industrial and business community. Let's look at each one of these.

First, the policy effects. I think the major areas here are in economics and defense. In economic policy the hegemony fantasy is really dying hard. As an example, take the exchange rates. As recently as from the early 1980's well into 1985—hardly 2 years ago—we allowed the dollar to go way too high and we were proud of it. And, as we know very well, that proved to be highly disadvantageous, to say the least. Now, today, our reaction to the trade deficit problem is really a hegemony hangover. Not that the trade deficit isn't a serious thing. It was $148 billion in 1986 and that is very serious, and we certainly must address it. However, we've allowed it to give us a national inferiority complex. We're saying that all of a sudden we are uncompetitive. We are lazy. We are sloppy, and, we are on the skid to second class status.

That is nonsense. There is absolutely overwhelming evidence to the contrary. Indeed, one of the major reasons for the deficit is our strong and vigorous economy that has made us such a desirable market for all of the products of the other countries of the world. But our trade policy has had a terrible time coming to grips with the fact that we are in a world that is playing hardball. We just have not wanted to change our ways of doing things. We are finally beginning to wake up, and now, as we talked about a moment ago, we are in danger of some overreaction in the protectionist direction.

Defense. After World War II we said to our allies, "we'll handle it." After all, we didn't want old enemies to rearm and we didn't want those struggling economies that we were trying to help to be burdened with taking care of their own defense needs. Besides, Russia was not nearly as severe a threat in those days as they have become more recently. Thus, the rebuilding economies were free of that defense cost and we carried it all.

The problem is it's largely still true today—over 20 years after that notion became obsolete. Today, our defense bill runs about 6½ percent of gross national product. Great Britain does a pretty good job, their's is 5.3 percent. But most of our other allies spend less than one-half of the rate of their gross national product that we in the United States do. Japan spends 1 percent of its gross national product on defense. We all have a pretty good idea of how much of a presence we have militarily along the Pacific rim, and in the Persian Gulf, former Secretary of the Navy Lehman estimates that we are spending about $40 billion a year to ensure that we keep those seaways open. Japan gets 60 percent of its oil through those seaways and they have no naval presence there. The United States gets less than 10 percent and I've seen estimates as low as 6 percent. Now, why do we do this? I can only assume that we nationally assume that it is still our duty.

If one imagines the defense burden as being spread evenly across all of the western allies at a level of, say, 4 percent of gross national product, the United States would save about $100 billion a year. Imagine what we could do if we were to free up that much of our national budget. Very recently this situation has begun to be addressed in Congress but it is still far from a policy shift in this direction.

The second set of adverse effects has occurred in our industrial efforts where we also have a historic hangover. You see, rebuilding the world meant creating competitors, and those competitors had to scratch to survive and prosper. They had to be efficient. They had to be innovative. they had to have low labor costs, high quality products and advanced technology. The survivors of those tough years were wonderfully successful, with our help. And now, we have to compete with them.

During those same years, what was happening in the United States? We became, and still are, a high cost nation. How did that happen? Well, for twenty years we were almost forced into it and, indeed, we could afford it. There was no effective competition. There was lots of business. From 1948 to 1968, world trade grew at a real rate of 7 percent per year, and, industrial production grew at a real rate of 6 percent a year—far, far higher than any other sustained period in history. The big concern of our business community was to get the work out and the result was what you might expect. We got fat.

We built a huge regulatory infrastructure. I remember from my days of being active in the trucking industry that one of the major assets of the company, and one of the major expenses, was route rights. In order to obtain and hold the privilege of delivering a certain product to a certain location, we had internal staff, outside lawyers, and hired lobbyists. All of this existed to influence an entire bureaucracy at both the state and national levels that was set up solely to control route rights.

Labor costs skyrocketed. Our union settlements were huge because the most costly thing of all was a strike. In many instances we allowed our staffs to become far larger than we have since found they needed to be. We under-invested in modernizing and cost cutting because we were so aggressively expanding capacity.

Why did we let that happen? It was a rational response to the pressures of the time, and, under the circumstances that existed then, we could afford it. Now, belatedly, the chickens have come home to roost and we are fighting back hard. We are deregulating. We are modernizing. We are merging. We are restructuring, and, we are bargaining hard with our trade partners. The dollar has fallen rapidly and is back near its 1980 level.

Now all of this is messy, it is causing a lot of pain and a lot of disruption. But we have to do it, we are doing it, and it will work.

Is this a pessimistic assessment of what's going on in this country? By no means. I am extremely optimistic about our future. Today we have the strongest economy in the world in spite of all these things we've been saying, and, in spite of the media. We are creating new jobs, and they are good jobs, by the millions. We have a 56-month expansion going and counting. As far as the future is concerned, we have some extremely important basic assets. First of all, we are effecting a transition from the old "smokestack" emphasis to an "information based" economy. Secondly, the service sector is where the future is going to have its emphasis, ours is growing fast and we have a big lead over everybody. The world is moving in an entrepreneurial direction and we have an unmatched entrepreneurial tradition. The same with management. Good management is going to be key in the world of the future and we have a management depth across this economy that is unmatched. When I say that, I include Japan.

Indeed, the whole point of discussing this historic hangover idea is to show that we are not over the hill. That this situation has rational historical roots that grew out of our success, not our failure. We can handle this situation if we understand it, both for what it is, and what it is not.

I think we do ourselves a disservice when we accept hegemony as a national benchmark for performance. We cannot dominate the world today and that's a clear fact. But further, we should not want to dominate the world. World peace, if we are ever going to build it, is going to happen when everybody has their heads up and their stomachs full.

So I say, let's turn this old attitude on its head. Let's be proud we don't dominate. After all, we created the conditions for the peoples of the world to recover, we're still helping where we are needed in a great many places, and so we should be. It's been a very successful effort and one of our finest national episodes.

So, let's have pride in the past and let's use that as a stepping stone to the future. Let's ask ourselves what is reality today and what are appropriate responses to that reality.

We don't have to dominate to lead. We always have been, are, and will remain leaders in the world community.

We don't have to dominate to excel. We are the strongest and best nation in the world, and there is no reason not to remain so.

So, let's cure our hangover and get on with it.●

R. HIRT, JR., CO. 100 YEARS OLD

● Mr. LEVIN. Mr. President, there are fewer tributes to the American dream realized than that of an immigrant who begins with little more than desire and hard work and establishes a family business.

And, even more tribute is paid by a family business that endures for a century.

Rudolf Hirt, Jr., and the company which bears his name give such tribute to the American dream on the centennial of R. Hirt, Jr., Co.

It is no accident that walking into Hirt's in Detroit's historic Eastern Market—as I like to do when I have some free time in my hometown—reminds customers of an earlier, simpler time.

The warmth of the store has been simmering for a century—impervious to trends in mass merchandising, supermarket sterility, and fast-food indifference—unchanged in its tradition of personal service and high quality exotic and imported cheeses and specialty foods.

The three-story red brick Dutch and Romanesque building overlooking the marketplace has become a landmark for shoppers. They come from across Michigan, nearby States and Canada to jam the store on Saturdays. Visitors from many countries also add Hirt's to their Detroit experience.

Their shoes clatter across the bare wood floors as they peer into open crates of delicacies, line up for a snippet of one of the store's 300 varieties of cheeses, or sniff deeply the paper bags of natural ground coffee, as they make their selections.

The standards of the company are unchanged since its founding in 1887, when a Swiss immigrant stovemaker, Rudolf Hirt, Jr., took his life savings to open a food stall at Detroit's Central Market. He peddled butter, eggs, and other dairy products that he purchased from local farmers.

Hirt moved his business "out a ways" to its present quarters in the new Eastern Market in 1890. It is this building which has become known to four generations as a friendly place to buy specialty foods.

Rudolf and Anna Hirt and their seven children all worked in the store, paving the way for a succession of family ownership that continues to this day.

As the post-World War II coming of age of the "supermarket" changed family shopping habits, the new generation of Hirts began to appeal directly to a new generation of sophisticated shoppers who wanted items they could not find in mass merchandised food stores.

The store expanded its lines of exotic imported cheeses and specialty foods from around the world.

In the 1950's and 1970's, Hirt's added wicker baskets and decor items to make the shopping experience an even more rewarding one for its increasingly creative customer base.

It is through such creative service that the R. Hirt, Jr., Co. of Detroit has endured and will enter its second century serving its legion of customers and friends as well as future generations seeking pleasant, personal service.

I am pleased to help honor this outstanding company and its actualization of the American dream.●

CAPTIVE NATIONS WEEK—1987

● Mr. RIEGLE. Mr. President, this year, we mark the 28th observance of "Captive Nations Week." This annual commemoration provides an important opportunity for citizens of the free world to honor the citizens of the captive nations who, at great personal risk and sacrifice, continue to demand respect for their human rights.

The fate of the captive peoples of the world is a matter of concern to all of us who cherish our freedom. Thirteen years ago, the leaders of 33 nations of Eastern and Western Europe, including Canada and the United States, signed the Helsinki Final Act. In so doing, those signatory nations publicly affirmed their belief in the right of all people to self-determination and to freedom of thought, conscience, and religion. They further pledged to facilitate freer movement of people, ideas and information between their nations.

Almost immediately after the accords were signed, private groups were organized in the Eastern bloc to monitor Soviet and East European compliance with the provisions of the agreement. The Helsinki Committee in Poland, Charter 77 in Czechoslovakia, and monitoring groups in Armenia, Lithuania, Ukraine, and Georgia placed great faith in the Helsinki accords. Tragically, however, many of their members were subjected to harsh prison terms in Siberia and elsewhere, simply for exercising their rights guaranteed in the accords. Oleksy Tykhy, Yuri Lytvyn, Vasyl Stus, Rev. Bronius Laurinavicius, and others, have paid with their lives for their involvement in the monitoring process in the Soviet Union.

Despite the persecution of these human rights activists, their presence continues to be felt throughout the captive nations. Just last month, leaders of Helsinki '86, the Latvian human rights monitoring group, led what has been called the largest known peaceful non-Communist political gathering in the history of the Soviet Union. The vitality of that Helsinki group was vividly demonstrated on June 14, when some 5,000 people from Latvia and surrounding captive nations, responded to the call of the group's leaders to participate in a public tribute to the victims of the 1941 deportations of the Baltic people.

During this "Captive Nations Week," we reaffirm our commitment to support the citizens of the world's captive nations in their struggle to regain their basic freedoms. We strengthen our resolve to ensure that the letter and spirit of the provisions of the Helsinki accords are honored by the signatory nations. Although some may criticize the accords for their lack of effectiveness, I firmly believe that the regular process of reviewing compliance with the provisions of the accords provides us with an important forum for discussing individual liberties in the captive nations. By insisting that the signatory nations honor their commitment to respect to the rights of their citizens, I believe we can play an important role in advancing individual freedoms throughout the world.●

TECHNOLOGY TRANSFER TO CHINA

● Mr. HEINZ. Mr. President, I would like to strongly recommend to my colleagues a report, recently released by the Congressional Office of Technology Assessment [OTA], entitled "Technology Transfer to China." Jointly requested by the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Energy and Commerce, the study provides a detailed analysis of technology transfer to China, its effect on both the United States-Chinese trade relationship and the state of economic modernization in China.

OTA concludes that United States trade with China has not been meeting expectations. In 1986, Japan exported to China, three times as much as we did and the European Community also collectively exceeds the United States level. Yet American companies are harmed much more by restrictive export controls than by that competition. In the past few years, U.S. export restraints have loosened considerably

but are still limited compared to other countries.

Furthermore, OTA concludes that standards increased technology transfer with China will be reflected in the economic modernization and integration of China. The most visible effect of technology transfer will appear in the higher quality of Chinese goods, a prerequisite for competition in international markets. OTA concludes that there is a strong relationship among modernization, economic reforms, political changes, and technology transfer.

I recently visited China and was impressed by the progress that the Chinese are making. As our relations with the Peoples Republic improve, questions of technology transfer will undoubtedly become more and more common. I urge my colleagues to consult the OTA report as it provides insight and analysis of which we should all be aware.

I ask that the summary of the study be printed in the RECORD.

The summary follows:

TECHNOLOGY TRANSFER TO CHINA

A billion people! If they each buy just one * * *

If we give them technology, they'll be just like Japan * * *

In a country that can launch satellites, why is the plumbing so bad * * *

All they want is technology, and they expect miracles from it * * *

It's completely different now. It's hardly even Marxist * * *

So where are all those Red Guards now? Aren't they just waiting * * *

If we don't sell it to them, France or Japan will * * *

They'll pin down the Russians on the Eastern front * * *

How do we know they won't use it against Taiwan—or us * * *

There's a lot we can learn, too * * *

China evokes counteless, often contradictory, expectations and impressions. What is clear is that China will become increasingly important to the United States over the next several decades. Its impressive economic growth in recent years, if continued, will propel it into the ranks of the newly industrialized economies of Asia—Taiwan, South Korea, Hong Kong, and Singapore—but eventually on a much larger scale. International trading patterns are likely to change dramatically as China increases both imports and exports. China will also acquire increasing political influence in world affairs as its economic, technological, and military strengths grow. U.S. interests in Asia will be profoundly affected by China's international role, including its relations with the Soviet Union, Taiwan, and other neighbors.

As important as these developments are, the U.S. ability to influence them is limited. China's economic growth is much more dependent on internal Chinese factors than on any U.S. actions, and China will play its international role on the basis of its own perceived best interests. What the United States can do is reinforce China's constructive choices and trends, and protect itself against the risk that Sino-American interests will again diverge.

One of the most important influences that the United States has is technology transfer. China recognizes the need to acquire new technology and new capabilities in its efforts to modernize and expand its economy. This need was one of the main reasons for ending its self-imposed isolation and for opening itself to the West in the 1970s. The United States benefits insofar as China is a strategic asset, if not an ally, in the global competition with the Soviet Union. Technology transfer helps build these ties and increases China's strength vis-a-vis the Soviet Union. It also can lead to important commercial ties and to the export of American products. In addition, China is still a very poor country, and technology transfer can be an important element in humanitarian efforts to help a billion people move out of poverty.

U.S. policy toward China for the past 10 years has been predicated on the assumption that closer relations are generally beneficial but that caution must be exercised in the transfer of advanced, sensitive technology. This policy has had some success: China has played a more constructive international role, and many areas of common interest (reportedly including sensitive intelligence gathering) have been found. Trade has also become significant. With so much gained, some ask whether further steps are warranted—in particular, whether the United States should make greater efforts to help China modernize through technology transfer.

However, the reasons for caution have not been eliminated, and some observers feel that U.S. policy has gone too far: that China is a potential adversary, with an alien ideology and an unstable, unpredictable political system. Others see China as a newly industrializing country that is rapidly upgrading its production technology and aggressively seeking international markets, becoming another, potentially much more powerful, Japan or Korea. Both views suggest great caution with respect to technology transfer.

It is the intent of this assessment to put these views into perspective and to contribute to a reexamination of U.S. policy toward China. The assessment evaluates the economic, political, and strategic implications of technology transfer to China in the context of China's capabilities and evolution. It reviews the U.S. commercial and governmental role in technology transfer, and the policies and practices of other countries. It asks whether the application of U.S. policy has been consistent with the overall guidelines, and analyzes policy options for Congress in the areas of export control, trade promotion, and military cooperation.

As used in this assessment, technology transfer is a process whereby a government, company, or institution provides the information necessary for China to improve its capability to design or produce goods or services. It may or may not involve the sale of equipment, but it almost always involves exchanges of information between people. Technology transfer may involve the transfer of sophisticated equipment, training in its use and maintenance, and information on design or manufacture. Indirectly, it may include the teaching of technology and management in universities. Commercial technology transfer can be accomplished through sales of equipment or expertise, licensing agreements, direct sales of information, or investments in China. The U.S. Government transfers technology by granting access to information (e.g., the U.S. National Technical Information Service) and through agency-to-agency agreements.

Technology transfer can provide some of the keys China needs to meet its modernization goals. Modernization, in turn, will enhance China's position as an exporter and will eventually enhance China's military strength. The positive and negative implications for the United States can be estimated only imperfectly. The following sections summarize the critical factors.

CHINA'S NEED FOR TECHNOLOGY

China has considerable technological capability already, especially compared with that of other developing countries, but progress has been very uneven. Military industries in particular have been favored with priorities for investments and personnel. Some of these industries have developed "pockets of excellence" that can compete in world markets. For example, China has built and launched its own experimental communication satellites and has offered to launch foreign satellites. The military sector has now been ordered to help the civilian sector, especially since many military factories are underutilized because of the recent lowering of defense budgets. If this expertise can be used effectively, it may have a substantial impact on civilian production and exports.

Much of China's civilian technology is out-of-date, if not obsolete. The Seventh Five-Year Plan (1986-90) has set acquisition of technology as a high priority, especially in the fields of transportation, electronics and computers, telecommunications, and energy. The plan calls for importing much of this technology. One of the "Four Modernizations"—the policy program for development—was to raise the the level of science and technology. The others—agriculture, industry, and defense—also to a large degree depend on improvements in technology. Some of these improvements could be accomplished by the purchase of modern equipment without technology transfer, but China has limited funds for imports. China could develop some technologies independently, but in general this would be much slower and less efficient than acquiring them from abroad.

China has ambitious goals, including a quadrupling of the 1980 industrial and agricultural output by year 2000. Progress so far has been above that rate (about 7 percent), primarily because a loosening of controls has freed a latent strength in the economy. New technology has made only a minor contribution but will be of increasing importance in the future. Goals for economic growth will not be met without improved technology to modernize industry and to alleviate constraints in energy, transportation, and communications.

Technology transfer can foster not only an increase in production, but also an increase in the quality of products. Modern industrial equipment can easily surpass the quality levels of the antiquated equipment typical of Chinese factories. Exposure to modern management practices, which technology transfer often entails, broadens the Chinese manager's concepts of what can be accomplished and how. Coupled with these new tools has been the realization of the need for quality in products if China is to compete well enough in world markets to earn the foreign exchange to continue buying technology.

However, China's modernization does not yet appear to have reached the point where improvements in one sector lead to improvements in others. There have, of course, been many examples of successful assimilation of

specific technology transfers, but there have also been many cases of failure or incomplete success. For instance, computers and other modern equipment sometimes remain unused because of a lack of expertise or an adequate supply of a necessary input, such as electricity.

The question is not whether China is capable of modernization, but whether it is willing to make enough of the changes required for continued, rapid modernization. Like other centrally planned economies, China developed a pattern of decisionmaking that discourages efficiency and innovation, and gives the management of a productive enterprise few incentives to improve. The economic reforms that have been initiated since the Cultural Revolution have been directed at providing workers and management with incentives to increase output and quality and to improve economic decisionmaking. Measures taken include increasing the autonomy of enterprises, allowing them to retain and reinvest earnings, freeing up some markets, loosening price controls, and reducing the role of the Chinese Communist Party. Reforms have been successful in agriculture but less so in industry. Delays in price reform and opposition by those fearing loss of their power have showed improvements in efficiency.

China's "Open Door" policy is closely related to economic reforms and is intended to facilitate technology transfer and trade. Under this policy, economic zones and coastal cities have been opened to foreign investment, and joint ventures and cooperative manufacturing have been encouraged.

To date, however, the results have been somewhat disappointing. Investments have been lower than expected, and many problems have been encountered, including high costs, shortages of skilled workers and supplies, and unfamiliarity with quality and scheduling requirements. Moreover, most enterprises are risk-averse, and the incentives for new capabilities may be weak if other constraints (e.g., energy or materials) limit production in any case. Delays and uncertainties caused by the intricacies of Chinese bureaucracy have been particularly frustrating for outsiders trying to do business. Although the Ministry of Economic Relations and Trade (MOFERT) was established to facilitate trade, the process is still cumbersome and full of pitfalls. If new technology is sought, approval may be needed from both the local authorities and several agencies of the central government, depending on the enterprise, the priority of the technology, and the cost.

The shortage of foreign exchange has become critical over the past year. Unlike many developing countries, China has refused to go heavily in debt, and it has had many competing requirements for its declining foreign exchange reserves. Decisions on which technologies to import are now frequently biased by considerations of how much foreign exchange can be earned rather than by how much the Chinese economy would benefit. Petroleum technologies have been particularly favored because petroleum is one of the most important exports, even though infrastruture (e.g., electric power, transportation, communications) inadequacies have been much more of a constraint on the economy.

Despite many problems, China's economy is growing very rapidly and that is likely to continue. There is also evidence that the technology transfer process is improving, and that modernization will benefit considerably.

THE U.S. ROLE IN TECHNOLOGY TRANSFER

Most technology transfer from the United States is from private companies. Although most U.S. firms approach the China market with the intent to sell products, many find they must include technology transfer if they wish to gain access to the China market. The variety of experiences are illustrated by the following examples:

General Electric won two large orders for locomotives in part by a willingness to transfer the technology of materials and manufacture. G.E. is not setting up any manufacturing facilities in China, though an important part of the contract stipulated that China would produce several of the parts for the locomotives. The first contract took several years to negotiate. The second needed only a few months, largely because trust had developed among the participants. G.E. was also flexible in tailoring the locomotives design to Chinese requirements.

American Motors established a joint venture with the Beijing Automotive Works to produce AMC's Cherokee model. Initial production has used parts sent from the United States. The intent was to increase the local content as rapidly as possible, but China has been unable to produce parts and supplies in the quantity and quality required. As a result, costs are high and export of the Cherokees has been impractical. China's foreign exchange crisis interfered with the purchase of U.S. parts, leading to a shutdown of the plant for 2 months, though a compromise has allowed restart.

McDonnell Douglas has started coproduction of 25 MD-82 twinjet transports with the Shanghai Aviation Industrial Corp., following a sale of 5 to China. The planes are being produced partially under the direction of Americans, with the first plane expected to fly in 1987. Training will also be provided by the Chinese in the United States. The planes are to be certified for airworthiness by the U.S. Federal Aviation Administration, which provides an explicit standard for quality control.

There have been no commercial satellite telecommunication sales despite two sets of proposals by U.S. and European companies. The Chinese received considerable technology transfer for free as a result of these proposals, but that probably was not their intent. Rather, China's conflicting priorities and bureaucratic power struggles, combined with the shortage of foreign exchange, have delayed a decision. China has launched two geosynchronous communication satellites of its own design, but both were relatively unsophisticated. It is unlikely that China's own products will be competitive for several decades, even with imported technology. The parallel effort on rockets is much more competitive, especially since the U.S. and European programs are temporarily inoperative because of accidents.

IBM has been very successful in selling computers to China, but has not yet initiated any manufacturing. Technology transfer has been largely limited to training in the use of computers. IBM may be in a unique situation to resist pressures for investment in China because of its dominant role in the international computer industry.

Wang Laboratories is preparing at least one joint venture for the assembly and eventual manufacture of microcomputers. Included would be engineering, managerial and manufacturing expertise, software diagnostics, and after-sales techniques. This effort would complement Wang's sales to China and its manufacturing in other countries. However, Wang is concerned about China's lack of experience with large-scale production and the difficulty of maintaining quality control.

One hallmark of these cases is the lengthy negotiations. Wang started in 1980, and negotiations are only now coming to a conclusion. The McDonnell Douglas agreement took 10 years. The satellite proposals started in the late 1970s, with no commercial results yet.

China's shortage of foreign exchange has become a critical problem in cases such as AMC's joint venture. The import of supplies and the repatriation of profits are difficult. Recent Chinese regulations require foreign ventures to export or supply advanced technology in return for access to China's market. In many cases, however, the quality of the goods produced is not up to international standards, which greatly limits exports.

In addition, taxes and unexpected expenses have made China one of the most expensive places in the world in which to do business. A company usually cannot hire its own employees; they are supplied by the state at a cost far higher than their actual salaries, and they cannot easily be replaced if they are incompetent or are transferred by the state. One of the main advantages of manufacturing in China—low-cost labor—is thus lost. Chinese managers also tend to be very cautious and frequently seen to lack a spirit of innovation.

High costs and bureaucratic rigidities are particularly difficult for small companies to manage. Few can afford to have a representative in China or continue negotiations for extended periods. Small companies are also particularly disadvantaged by complex export controls. However, some small companies have established profitable niches, particularly in the sale of specialized equipment.

Overall, businesses report mixed results in China. Some have lost money on early ventures, in the hope of building a profitable, long-term relationship, only to find China turning to competitors or dropping those imports altogether. The investment climate is particularly poor. The rate of foreign investment dropped by over 20 percent in 1986. China's leaders have recognized that foreign companies are being deterred by many regulations and costs over which the Chinese Government has control, as well as by more intractable deficiencies in skilled manpower, infrastructure, and resources. Significant steps have been taken to improve the atmosphere for foreign business (e.g., preferential tax treatment), but it remains to be seen whether these will be adequate.

It should be noted that some U.S. companies are doing quite well in China, particularly those that are not involved in joint ventures or other manufacturing investments. Two-way trade is over $8 billion and is still rising. Some companies recognize that it takes a long time to get established but are convinced that eventually the Chinese market will justify their patience. Other are waiting for other markets to improve, and anything sold to China will help bridge a gap, even if at little or no profit.

U.S. Government agencies are also involved in technology transfer as part of an overall effort to cooperate with China and improve relations. A broad agreement on science and technology cooperation was signed in 1979, and 25 protocols implementing the agreement in specific areas such as telecommunications, agriculture, space, environmental protection, transportation, and

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student/scholar exchange have been signed. Three more are pending. These contracts have facilitated commercial transactions and improved political contacts.

The presence of 17,000 Chinese students and scholars (half of those sent abroad) in American universities has been one of the most effective forms of technology transfer. Most students are in science or engineering courses. It appears that most students leave with friendly personal ties as well as an education, but it is not yet clear whether this will lead to commercial or political benefits for the United States.

The United States has many advantages in competing for the Chinese market (e.g., a reputation in China for advanced technology, connections through many Chinese-Americans, the popularity of the English language in China) but other countries seem to be doing relatively better in trade. Japan exports twice as much to China, and the nations of Western Europe collectively exceed the U.S. level. There are several reasons for this: American companies historically have been less concerned with exports, which have been very difficult during the last few years because of the high dollar. However, government trade policy is also a direct influence. U.S. export controls are time-consuming and laborious compared with those of other countries, and appear to be applied more rigidly. Moreover, Japan and West Germany have extensive foreign aid programs in China that lead to considerable trade. Japan, France, Italy, and others provide extensive official financing for exports. As discussed below, the United States does not necessarily have to emulate these tactics, but changes could be considered to improve the competitiveness of American companies.

ECONOMIC AND POLITICAL IMPLICATIONS

Technology transfer will have profound long-term impacts on China's economic and political future. Some sectors such as consumer electronics will benefit considerably because the industry has a head start or because the technology is more easily assimilated. Past experiences suggest that others will find foreign technology to have little effect because the industry is unprepared. Dissemination of the management concepts of quality, efficiency, and timeliness may be the most important result of technology transfer. Improvement in the quality of Chinese products (necessary for them to compete in international markets) may be the first general impact of technology transfer to be visible.

It appears quite probable that China's economic growth will remain high (above 5 percent and possibly over 7 percent). The goal of quadrupling the 1980 output by year 2000 should be attainable, though several factors could interfere. Foreign exchange limitations, energy constraints, and political instability could all hold the growth rate down.

China's exports should also rise rapidly over the next 15 years, but the competition with American products will not be great. The newly industrializing economies, including Korea, Taiwan, Mexico, and Brazil are more likely to feel the competition. Direct competition with either industrialized countries or less developed countries is less likely because the product mix will be different. One exception may be American agricultural exports to Asia, which would be hurt by rising Chinese surpluses. On the whole, however, China's increased role in the international economy should be beneficial for the United States.

Several factors may slow China's export growth rising protectionism in the developed countries may preclude growth in sectors, such as textiles, where China is strong. Diminishing foreign exchange reserves could limit China's ability to invest in new productive capacity. If the quality of China's products doesn't improve sufficiently, there will be limited markets for them in the West, and China may have to turn to the Soviet bloc for trade and credit, a trend that is already appearing.

There is a strong relationship among modernization, economic reforms, political changes, and technology transfer. As long as modernization is a prime goal (as it has been for the last 10 years), most economic reforms made to date will be retained. Modernization depends on technology transfer to achieve more efficient production, and further economic reforms will be needed to assimilate technology. However, the economic reforms are straining the political system, as evidenced by reactions to recent public demonstrations. If political reforms do not reinforce economic reforms, modernization is likely to be slow.

Some of the more diffficult economic reforms have yet to be implemented. Price decontrol is essential for rational economic decisionmaking, but it strikes at the heart of the concept of the planned economy. Mobility of labor would increase productivity but would bring unaccustomed social dislocations. Recent developments suggest that there is a strong resistance to reforms such as eliminating the control of Communist Party cadres over factory operations. If China insists on making ideology preeminent, it is unlikely to greatly improve its economic efficiency.

The leadership succession to Deng Xiaoping is one of the most crucial questions. Virtually all of China's leaders support economic reform, but there are major differences of opinion over how fast and far it should proceed. Promoting technology transfer benefits the United States by strengthening the hand of reform-minded leaders who have favored opening up to the West, largely to obtain technology.

If China's modernization program turns out to be even a partial failure, there are likely to be negative implications for the United States. A society disappointed and frustrated from unmet expectations of economic improvement would be more susceptible to political extremism, which could easily have ramifications for Taiwan and Korea. China would also be a less valuable trading partner for the West and could move closer to the Soviet bloc which presents fewer demands for hard currency and quality products.

However, successful reforms will create their own problems. Rising expectations of the population and critical environmental problems will make enormous demands on the leadership. Economic and political changes are creating an environment that will encourage a pluralism of ideas and a liberalization that is incompatible with traditional Communist Party control. It remains to be seen whether the party can accommodate itself to these changes and define a new social role, or whether it will attempt to slow modernization to preserve its control. The present problems of the reform movement indicate that the party conservatives still have considerable power, but China's political evolution is likely to exhibit many unpredictable shifts.

STRATEGIC IMPLICATIONS

Technology transfer will assist China's military. The important questions are how much it will help and how much that matters to the United States or its allies. The first question involves China's military needs and internal capabilities, the second involves China's foreign policy.

At present, China's military is large but unsophisticated technologically. It has a great many tanks and planes, some missiles, nuclear warheads, and ships, and even a few nuclear submarines, but all are outdated and much less effective than U.S. or Soviet equivalents. China is not a major power even regionally, as demonstrated by its ineffectual excursion into Vietnam in 1979. China's military capability is improving, especially in the strategic forces needed to deter a Soviet attack and in nontechnical ways such as command structure and professionalism, but the process will be gradual.

China's military can benefit from foreign technology in these ways: it can by military technology directly, obtain civilian technology that has military applications, or develop its own modern weapons systems as its economy as a whole modernizes.

The United States and other nations have offered to sell military equipment to China, including the avionics package for the F-8 fighter, but there have been few contracts because China apparently cannot afford to buy many weapons systems. Acquiring modern weapons would be the fastest way to a modernized military, but China does not feel the need to be pressing enough to sacrifice its economic priorities. Instead, it prefers to import technology rather than equipment, a rationale particularly compelling for the military, which often needs a very large quantity of each piece of equipment.

The transfer of dual-use technologies has increased rapidly. While it is reasonable to assume that China's military has access to such technology if it demands it, that does not mean that the military will be able to use it effectively. Until recently, civilian and military enterprises were kept separate, with the military being given priority on resources and talent. Military factories were significantly more sophisticated than civilian ones. This has changed over the past few years. Civilian factories have enjoyed much more technology transfer and appear to be modernizing faster. Both have exhibited considerable difficulty in assimilating new technology. For instance, the United Kingdom transferred the Spey jet fighter engine technology, but the military factory never was able to manufacture it successfully. Examples of successful reverse-engineering are very few. Chinese military factories produce large quantities of unsophisticated weapons that sell well in the Third World, but their production of sophisticated systems is very limited.

Modern military systems are complicated and demanding. They must be designed by teams of talented and experienced engineers and scientists representing a variety of disciplines. Their manufacture calls for additional expertise and the availability of precision production equipment and high-quality supplies. China's difficulty in assimilating advanced technologies suggests that more could be transferred without incurring much risk that China will use them to produce sophisticated weapons systems, but this risk will grow over the years as China's technological capability improves.

For instance, table 1 shows the major components and technologies involved in anti-submarine warfare (ASW), one of the key mission areas which would significantly enhance China's overall military capability. Critical ASW technologies should not be transferred unless there is an explicit political decision that this would be in the U.S. national interest. Those technologies that are unique to ASW are clearly critical. Others are so readily available for commercial uses that no purpose would be served in trying to contain them. The difficulty comes with the intermediate, dual-use technologies, such as spectrum analyzers, the electronic instruments used to identify the source of noise by analyzing the acoustic patterns.

TABLE 1.—ANTI-SUBMARINE WARFARE TECHNOLOGY

Anti-submarine warfare (ASW) is the detection, identification, and destruction or disabling of an enemy submarine. ASW can be conducted from any suitable "platform" from the air, sea surface, or from another submarine. The basic functions needed to successfully conduct the ASW mission are the same for each platform:

1. Detection: by either acoustic or nonacoustic methods.
2. Classification: determination of the type of target.
3. Localization: target motion analysis and contact management.
4. Approach to the Target: closing in on the submarine to within range of one's own ship or aircraft weapons.
5. Weapon Deployment (Launch): actual attack.
6. Evasion and Reattack: performed if necessary.
7. Related Functions: tactics such as mine avoidance, mine deployment, and surveillance performed as necessary.

Although the basic required ASW functions listed above are always the same, the complexity and difficulty of each of these elements varies from case to case and from platform to platform.

There is no one ASW technology. These functions require the implementation of many different technologies, and capabilities are required across a broad spectrum of engineering and science. Some technologies are critical in the sense that if their performance is substandard, the whole ASW system is significantly affected. Each increased level of sophistication will have a higher level of success in ASW, but there are many different levels that can be successful. Following are the critical technologies, grouped by commercial availability.

a. Critical technologies not commercially available (easily controlled): Propulsion design, low-noise machinery design, sonar dome, transducer design, classification techniques/algorithms, acoustic correlation algorithms, contact motion analysis, tracker design algorithms, passive ranging techniques, weapon guidance, high-density power-pack design, small-size high-power train design, exotic fuel design, power engineering, multipath processing techniques.

b. Critical technologies with less sophisticated versions available commercially (control is complex): Low-speed turbines, bearing design, baffle design, beamformer techniques, local area network design, spectrum analyzer design, microelectronic design, beamformer design, high-speed graphic techniques, color/bit plane graphics, shape charge techniques, fusing design, magnetic anomaly detection.

c. Critical technologies readily available commercially (controls futile): Corrosion resistance, ceramic design, elastomer technology, machinery isolation, spectral analysis algorithms, acoustic performance prediction techniques, environmental sampling techniques, high-speed math processor design, minicomputer design, high-explosive technology.

Source: Adapted from "Assessment of ASW Technology Transfer to the People's Republic of China," contractor report prepared for OTA by Global Associates, Ltd., Alexandria, VA, December 1986.

Spectrum analyzers are sold frequently to China, including sophisticated models that would be useful in ASW (though they would not play a prime role in U.S. ASW). However, this technology would be extremely difficult to reverse engineer. Moderate relaxation of controls over exports of spectrum analyzers would give China access to more equipment to upgrade its ASW, but would not in itself seriously effect U.S. security interests. However, any such decision has to be considered in the context of other technologies that are being made more available, China's growing technological capabilities, its political intentions and the impact on U.S. allies.

It is likely that military needs are considered when foreign technology is sought. The Chinese National Defense Science, Technology, and Industry Commission reviews requests to determine priorities, but no pattern of technology targeting is apparent. The civilian technology that China seeks has justifiable commercial uses. Considering China's great need for most technologies, the Soviet practice of targeting militarily significant technologies would seem to be irrelevent. There is little evidence that imported dual-use technology has been a significant factor in China's military modernization.

If China is to become a major power, it will be through developing its own capabilities throughout the economy. Thus, in the long term, technology transfer will have a great military effect if it spurs innovation, modernized thinking, research and development, and economic growth generally. However, China will not have the economic depth to become a superpower for several decades, especially considering the progress the United States and the Soviet Union will also be making.

U.S. policy includes the principle of military cooperation, but within certain limits. Many dual-use technologies have been transferred because any gains to Chinese defensive power are likely to be of greater Soviet than U.S. concern. Military cooperation has been seen as a natural part of the growing relationship, but concrete steps toward cooperation have been tentative. U.S. arms sales to China, while increasing, remain well below the level of sales elsewhere in Asia, such as to South Korea and Taiwan.

At worst, the current policy of technology transfer to China entails only moderate direct risk to the United States. China will not have the strategic strength for serious threats for several decades. While China has a few intercontinental ballistic missiles capable of reaching the United States, it also has compelling reasons not to launch them. However, other U.S. interests could be threatened more easily. In particular, as a regional power, China would be capable of putting great pressure on U.S. allies in East Asia.

Asia has been a region of relative stability and peace since the end of the Vietnam war, with the exception of the Kampuchean problem. There are, however, tensions and several potential flashpoints, specifically Korea and Taiwan. Military outbreaks could become of global significance, especially considering the U.S. and Soviet interests in the area. The large-scale Soviet military buildup and political initiatives are the greatest concerns to the United States. China shares this perception, which has become the basis for de facto military cooperation, though China is very unlikely to jeopardize its status as self-appointed Third World spokesman by an overt alignment.

Some of China's neighbors, however, may see China as a potential threat. Asian attitudes toward China are complex and vary from country to country. All share China's desire to see a Vietnamese withdrawal from Kampuchea and are relieved to see China focusing on economic growth rather than exporting revolution. However, there are misgivings about the effects of U.S. technology transfer on China's economic competitiveness and concern about China's growing influence. Many Asian countries have large Chinese populations, compounding the uneasiness. Such feelings may be inevitable, considering China's size, but special sensitivity by the United States may help minimize future problems. For instance, consultations with these countries on U.S. relations with China may provide reassurances of U.S. intentions.

U.S. POLICY CHOICES

U.S. policy currently supports the transfer of technology to China, but within certain limits set by national security considerations. The fundamental rationale for this policy, supported by four U.S. administrations, is that assisting China in its modernization will serve U.S. interests. This general framework represents a compromise between optimism and caution, and permits a flexible approach to specific policy choices. For example, advanced dual-use technologies and arms can be exported on a case-by-case basis, depending on the nature of the technology, the Chinese recipient, the conditions of the sale, and other factors.

The flexible approach has permitted the relaxation of controls as relations have improved and has brought significant benefits to the United States. However, case-by-case export controls are complex to administer (delays in export licensing are often the result) and can yield inconsistent decisions.

U.S. policy also includes some promotional programs to foster exports of nonsensitive equipment and technologies, but these programs are much less extensive than those of Japan, France, and other countries. There is no U.S. aid program and government financing of exports is quite limited relative to other countries.

There is a broad consensus that overall policy is on the right track, but changes in emphasis could be considered to improve the benefits for the United States. One alternative theme would emphasize a more activist strategy of technological cooperation: explicitly using technology transfer to improve relations and trade. Another possibility would be to make better use of technology transfer as a bargaining chip in U.S.-China relations. A third would be to emphasize the multilateral aspects of export control and trade with China.

It would of course be possible to pull back and further restrict technology transfer. However, in the current climate of improved U.S.-China relations, such an approach would appear to be counterproductive. It

would alienate China without denying it access to advanced technology, given the availability from many other suppliers. If the worst fears are realized, and China does revert to hostility, the present system can adapt to the change.

Regardless of whether or not a more explicit strategy is developed, a number of specific issues will be addressed by Congress. Most attention has been focused on export controls. For advanced exports with military significance, the United States maintains a system of extensive reviews to ensure that U.S. national security is preserved. The Department of Commerce (DOC) is the lead agency, but the Departments of State and Defense also participate. Multilateral review through COCOM[1] is also required on many such exports.

U.S. industry has been critical of China export controls, protesting lengthy reviews and contracts lost to firms from other countries as a result of more stringent U.S. controls.[2] OTA's research confirmed that other countries are generally able to reach a decision on even sophisticated dual-use exports in a few weeks, while the United States frequently requires months or even years. In addition, only the United States unilaterally imposes controls on items not on the list of COCOM controlled items, and requires that exports to allied countries, if reexported to third countries, be again subject to the original licensing. The latter requirement has also caused considerable discord between the United States and other COCOM members.

It is difficult to quantify sales lost due to export controls, because so many factors affect the competitiveness of U.S. firms in the China market. The green zone (items likely to be approved for export) has been expanded to cover items in 30 categories on the Commodity Control List. Today, U.S. controls on exports to China affect primarily a few key advanced technology sectors such as computers, telecommunications, precision instruments, and advanced manufacturing equipment—areas where the United States might otherwise have significant competitive advantage. In 1986, computing equipment alone made up almost 80 percent of the value of export licenses approved. Thus, while U.S. controls are not the critical factor determining the overall volume of trade with China, delays can considerably affect the advanced technology exports that China wants.

In recent months there have been signs of improved efficiency in license review. Average processing time for China cases has declined to 57 days in April 1987. However, the processing time for referred China cases (those reviewed by agencies in addition to DOC) continues to take almost 6 months on average. OTA found that 134 China cases valued at $145 million had been in the system for more than 1 year as of January 1987. Figures 1 and 2 show the trends in processing time for referred and nonreferred cases. China cases comprise about one-third of the total for all countries pending over statutory limits in 1986.[3]

There are several steps the U.S. Government could take to clarify export control guidelines and improve licensing administration. The process of license review could be made more consistent by expanded use of computerized information on precedent-setting cases. Additional technical analysis could be applied to develop U.S. positions for an expanded green zone and to develop sectoral approaches for technology transfer to China. At a broader level, improved mechanisms for resolving disputes among executive branch agencies would reduce processing times for referred cases.

If policymakers wish to relax controls, the key question is whether exports of technologies that are now controlled might endanger U.S. or allied security. For the near term, there are few dual-use technologies that would make a big difference in China's military capability if transferred. The discussion of ASW and spectrum analyzers above illustrate how many technologies must be mastered and coordinated to produce usable, sophisticated military systems.

Supercomputers are one of the exceptions. Decisions about such a transfer must take into account a broad array of factors. A supercomputer is useful in a number of defense applications, such as satellite imaging, acoustical intelligence, and nuclear weapons design. China has indigenously developed a supercomputer. It appears to be significantly less capable than the Cray-2 or Cyber 205, but it indicates that China has the expertise to make use of advanced computer technology. However, if an American supercomputer were exported, the Chinese would also need sophisticated software. Programs to simulate weapons design, for example, would not be transferred. Chinese scientists could produce usable software, but it would be years before they produce such sophisticated software as that used in advanced U.S. weapons design. An American (or Japanese) supercomputer would eventually be a significant asset for China for improving its own technology and for solving problems, say, in missile accuracy. If China is allowed to buy a supercomputer (perhaps for weather forecasting as authorized for India), conditions could be applied, such as limiting access to the facility or maintaining some U.S. control to prevent uses detrimental to U.S. interests.

Following the COCOM member country agreement to a liberalization of controls on specific types of exports to China, the number of U.S.-China cases submitted to COCOM declined from 287 in January 1986 to 187 in April 1987. However, the approaches to export controls differ among the COCOM countries, and there is leeway for different interpretations of the China regulations within the discretion permitted COCOM members. OTA's research indicated a need for further harmonization of COCOM country policies.

OTA found widespread misunderstanding among businessmen in the United States and abroad about multilateral controls. There is a tendency for all to suspect their competitors of circumventing the rules, but OTA found little hard evidence to support claims that foreign (COCOM) country governments are doing so.

A major issue for the future will be whether to remove China exports from COCOM consideration. This would announce full acceptance of China as a Western trading partner, although the commercial implications for U.S. firms are uncertain. If China's current trends continue, this issue will be given serious consideration. However, COCOM members will be cautious because once review is ended, it would be awkward to reinstitute if China's policies later change.

Some exporters have complained that their dual-use technologies are subjected to more stringent controls and take longer to gain approval than military technologies. Sophisticated, state-of-the-art systems such as the F-8 avionics package embody some technology that will be useful to China even if sold as an end product, with no intentional technology transfer. Since the United States has made a policy decision to help China's military to this degree, dual-use exports should be judged by the same standards.

OTA finds that approvals of military and dual-use technology have not been inconsistent. The actual number of munitions cases reviewed has been much smaller than those reviewed for dual-use exports, and the rate of denial higher. Inconsistency could be a problem in the future unless the two sets of reviewers are more aware of what their counterparts are doing. Information about recent arms sales, for example, could be useful to those involved in review of related types of dual-use cases.

A number of factors suggest that U.S.-China military cooperation will continue to develop slowly. Taiwan is one of those factors. China continues to object to U.S. arms sales to Taiwan, while supporters of Taiwan carefully scrutinize the more limited U.S. sales to China. Continued differences over Taiwan may limit U.S.-China military cooperation in practice.

The United States has several promotional programs that support trade with and technology transfer to China, although these programs are not extensive nor coordinated into a comprehensive strategy as are those of Japan, for example. These protocols for science and technology cooperation help set the stage for expanding commercial interaction. The Foreign Commercial Service in the Department of Commerce provides information and assistance to U.S. businesses and helps potential buyers learn of U.S. goods and services. The Dalian Management Center, a training program for Chinese managers, is supported by DOC. The U.S. Government also tries to provide a favorable environment for trade and technology transfer through U.S. official discussions.

U.S. financing programs, including those of the Export-Import Bank, have been comparatively limited and have been guided by the general principle that the private sector should finance exports unless the project is of great national interest or unless a competing foreign bidder is assisted by a national government with subsidized loans. The Overseas Private Investment Corporation (OPIC) has insured more than 20 U.S. investments in China against political risk. Programs of both the Export-Import Bank and OPIC are, however, being scaled back in some areas because of budgetary constraints.

The Trade and Development Program (TDP) has been well received in China. TDP provides project planning services, including feasibility studies. These relatively modest investments can yield significant results. In 1982, for example, a $440,000 TDP feasibili-

[1] The Coordinating Committee for Multilateral Export Controls, an informal organization of the NATO countries plus Japan, which seeks to harmonize export controls.

[2] OTA's analysis focuses on controls on exports to China. A recent study by the National Academy of Sciences examines the impact of U.S. national security export controls as they affect global competition: *Balancing The National Interest: U.S. National Security Export Controls and Global Economic Competition* (Washington, DC: National Academy Press, 1987).

[3] Congress has established deadlines for license processing in the Export Administration Act.

ty study of a hydropower project led to $20 million in U.S. exports.

Since the United States has no formal aid program to China and because of opposition by some to the use of "mixed credits," which combine official credits and concessional financing, low-cost programs such as those of TDP provide an important tool for U.S. Government support at important early stages of projects.

China is a good test case for U.S. exports, and the U.S. Government could provide more support. U.S. exports to China were lower in 1986 than in 1980. Increases in exports of machinery and equipment were more than offset by decreases in agricultural products. Congressional debates focus on whether the United States can maintain a policy directed at promoting free trade or whether protectionist responses will be forthcoming. Still another possibility would be to develop special bilateral understandings with China. U.S. policies affecting trade and technology transfer to China, however, must be part of an overall U.S. trade policy strategy to be effective over the long term. Technology transfer is a long-term relationship, and the participants could benefit from clear and consistent signals about the direction of government policies.

Specific actions on export control that Congress could consider include the following:

1. Improve the efficiency of export control administration: Require Operating Committee reports to Congress on greatly delayed cases; require more timely information on precedent setting export approvals; support automated systems to improve the efficiency of review; and set goals for faster licensing (e.g., 6 days for green-zone cases).

2. Modify existing export control policy: Give DOC authority to approve licenses unless *formally* appealed to the President, with automatic approval if cases back up for too long; require clearer guidelines for prohibited dual-use exports; require the development of plans for an enlarged green zone; improve information exchange between munitions and dual-use reviewers; and establish a distribution license procedure.

3. Ensure that U.S. controls are in line with COCOM allies, even if that means dropping unilateral controls.

Potential congressional actions on trade promotion include the following:

1. Expand existing programs, including TDP, the Foreign Commercial Service, and official financing.

2. Modify existing policy to: Encourage the development of sectoral trade strategies; review the science and technology protocols and revise government support as appropriate; and

3. Initiate an official development assistance program for China.

Technology will continue to be a key element in the expanding U.S.-China relationship, yet one not easily manipulated by governments. Technology transfer can help create a constructive, long-term partnership, but it can also create new and, in some cases, unanticipated problems. Policies aimed narrowly at either the control or promotion of technology transfer to China without consideration of the larger context of U.S.-China relations and Asian security could prove counterproductive.●

INFORMED CONSENT: ARKANSAS

● Mr. HUMPHREY. Mr. President, abortion is a very permanent decision, and often leaves very permanent scars. This is especially true for women who are not told the whole truth about abortion. Many are surprised when they later realize that they have taken the life of their living preborn child, and not simply had a blob of tissue or the "particles of conception" removed. Others, like Lorraine Messmer, are deeply hurt to learn that their baby may have felt pain during the abortion procedure.

Mr. President, we may not be able to help these women, but we can certainly prevent the same thing from happening to others. I urge my colleagues to support S. 272 and S. 273 to make sure that the choice to have a abortion is truely an informed choice.

I ask that a letter from the State of Arkansas be printed in the RECORD.

The letter follows:

CABOT, AR, *February 5, 1987.*

DEAR SENATOR HUMPHREY: In 1975, I had a legal abortion. It was done in a nice, clean building called the Womens Clinic. Everything in there was spotless. It was sterile. I was told that I was doing the right thing. I was commended for my courage. I wish to this day that I had never had it done. They never did tell me what my life would be like years later. If they had, I don't think I would have had it done. In fact, I am sure of it.

I would go to a store and see a child about the age mine would have been, and I would get very sick in my stomach. I saw all the things that I could have gotten him, but he wasn't there to buy anything for. I would have crying spells because I knew that my baby felt pain, and then I would wish that I were dead. When anyone would use the analogy of concentration camps to describe the abortion clinics I would cringe, because they were right and I knew it. The one thought that I have never ever been able to shake is the one that the baby feels pain. I didn't. And they were very careful to make sure that they didn't tell me that the baby would feel all of it. Oh, to move the clocks backward 12 years.

I am now a Christian; I have accepted Jesus Christ as my personal Lord and Savior. If it weren't for Him, and the fact that one day I will see my baby again, I don't think that I could keep going. I keep it out of my mind as much as possible. But even now, I am weeping as I write this.

If this will do you any good; if it will save just one baby from dying like mine did; if it will open the eyes of just one "pro-choice" person; then maybe, my baby didn't die in vain.

May the Lord bless you and your work concerning this.

Sincerely,

LORRAINE D. MESSMER.●

ORDERS FOR TUESDAY, JULY 28, 1987

RECESS UNTIL 9 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9 a.m. on Tuesday next.

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

MORNING BUSINESS

Mr. BYRD. Mr. President, on Tuesday next, after the prayer, I ask unanimous consent that following the recognition of the two leaders under the standing order, there be a period for morning business not to extend beyond 9:40 a.m., that Senators be permitted to speak during that period of morning business for not to exceed 5 minutes each.

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

PROGRAM

Mr. BYRD. Mr. President, on Tuesday next the Senate will convene at 9 o'clock a.m. After the two leaders or their designees have been recognized under the standing order, there will be a period for morning business not to extend beyond 9:40 a.m. during which period Senators may be permitted to speak for not to exceed 5 minutes each. At 9:40 a.m., the Senate will take up Senate Resolution 255 submitted by Mr. MCCAIN and other Senators. There is a time agreement for debate thereon, and a vote will occur at no later than 10 o'clock a.m. up or down on that resolution. Mr. President, that resolution expresses the sense of the Senate with regard to the forthcoming negotiations by Gen. John Vessey to resolve the fate of Americans missing in Southeast Asia and other issues of humanitarian concern to the people of the United States and Vietnam. There will be a rollcall vote. The yeas and nays have already been ordered thereon, so all Senators should be apprised of the fact there will be a rollcall vote at 10 o'clock a.m. or slightly before 10 o'clock a.m. I hope that Senators will come to the floor prepared to vote early so that we will not have to string out the rollcall vote and so we will get the day started off with a vote on that resolution.

Now, upon the disposition of that resolution, Mr. President, the Senate will resume consideration of the pending business, which is House Joint Resolution 324, a joint resolution increasing the statutory limit on the public debt.

As we heard just a little while ago, Mr. CHILES and Mr. DOMENICI have met today and they are reopening negotiations on the debt limit. It will obviously, I am sure, take them a while on Tuesday to come to any conclusions as to an accommodation. In the meanwhile, the Senate will need to do some business.

Now, what business will be done? Mr. President, I should alert Senators that there are a number of possibilities, one of which would be—in view of the fact that my request to go to the DOD authorization bill was rejected today with an objection from the other side of the aisle—on next Tues-

day, of course, we can resume consideration of S. 2, the Federal Election Campaign Act. That is commonly known as campaign finance reform. I would prefer, however, not to resume consideration of that measure next Tuesday. There are several bills on the calendar that staffs have been working on with respect to time agreements. We have not been able to get time agreements. Hopefully, we can get some time agreements next Tuesday and proceed with some of those items, so that the Senate will not have to stand in recess and will not have to have prolonged quorum calls.

Rather than have the Senate just spin its wheels, it would be my intention to attempt to go to certain bills on the calendar. It might be well if we went to the Grove City legislation. That is S. 557, Calendar Order No. 157, a bill to restore the broad scope of coverage and to clarify the application of title IX of the education amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964. Now, that measure has been on the calendar since June 5, during which time Senators have had ample opportunity to study the report and the minority views that were filed.

So that bill would be a good candidate. I simply state that for the RECORD at this time so that Senators who would be directly involved in that bill are aware of the possibility I might ask unanimous consent to go to it at some point on Tuesday. There are other measures. One is Calendar Order No. 132, S. 328, to require the Federal Government to pay interest on overdue payments—and it ought to.

Calendar Order No. 233, H.R. 348.

By the way, 348 reminds me: Back when I was a boy, I used to watch with great interest, in what we called the "funny papers" in those days, The Gumps—Andy Gump, Bim Gump, and Chester Gump—Happy Hooligan, Mutt and Jeff, Bringing Up Father, Tin Can Alley. Those funny papers in those days would put to shame some of the so-called funny papers these days.

Anyhow, I will bet that not many people can remember Andy Gump's license number.

I used to get up early on Sunday mornings and I would get my dad to give me 5 cents, and I would cross over the "hollow" over to the next hill, and get a copy of the Bluefield Daily Telegraph.

I followed with great interest the story of the Gumps. At this particular point, Uncle Ben Gump was in Africa looking for diamonds. I would always wait, from Sunday to Sunday, with great interest, to see the next chapter in the story of the Gumps.

Andy Gump's license number back in those days, when few people had automobiles, was 348. So, seeing this number on the calendar today reminded me of those halcyon days beyond recall.

Back to the present moment: H.R. 348 is an act to amend title XXXIX, United States Code, to extend to certain officers and employees of the U.S. Postal Service the same procedural and appeal rights with respect to certain adverse personnel actions. That measure would be one that we might be able to go to.

There is Calendar No. 168, S. 938, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal years 1988 and 1989.

Or, the Senate might return to the nomination of Melissa Wells. I have stated before that upon the disposition of the nomination of Melissa Wells, I want to go to the nomination of David Bryan Sentelle, of North Carolina, to be U.S. Circuit Judge for the District of Columbia.

Those are possible candidates for action on next Tuesday. There will be a rollcall vote early, as I stated, and we will continue our deliberations on the debt limit. But most of the deliberations early that day will be off stage rather than on stage, off the floor rather than on the floor. While they are going on off the floor, in an attempt to reach accommodations and, hopefully, a bipartisan compromise, these other measures might be called up, or at least the effort may be made.

There are other measures that I have not mentioned, but I have mentioned several, so that nobody will be caught unaware and off guard that those are items we will talk about next Tuesday.

ORDER TO PLACE ON THE CALENDAR H.R. 2470

Mr. BYRD. Mr. President, I ask unanimous consent—and this is with the approval of the Republican leader—to place on the calendar H.R. 2470, received from the House of Representatives today.

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

ORDER FOR STAR PRINT OF S. 1495

Mr. BYRD. Mr. President, I ask unanimous consent for a star print of S. 1495, a bill dealing with qualified export assets, the correct text of which I send to the desk.

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

The bill follows:

S. 1495

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 993(b) of the Internal Revenue Code of 1986 (defining qualified export assets) is amended by striking out "and" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraph:

"(10) obligations (either payable on demand or issued for a term of no more than 6 months) issued to the corporation by members of a controlled group of corporations which includes such corporation, but only to the extent of the lesser of—

"(A) $10,000,000 or

"(B) 20 percent of the average qualified export receipts for the 3-taxable year period ending with the taxable year (or the applicable portion of such period)"

(b) The amendment made by this section shall apply to taxable years beginning after December 31, 1971 and ending before December 31, 1984.

AUTHORITY FOR ACTION BY COMMITTEES ON TODAY AND MONDAY

Mr. BYRD. Mr. President, these other requests have been cleared with the Republican leader.

I ask unanimous consent that committees may have until 6 o'clock today to report legislative or executive calendar business and on Monday, July 27, between the hours of 10 a.m. and 3 p.m.

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

ORDER FOR RECORD TO REMAIN OPEN UNTIL 5 P.M. TODAY

Mr. BYRD. Mr. President, I ask unanimous consent that the RECORD remain open today until 5 p.m. for statements and for the introduction of legislation.

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

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, again I thank my colleague who is presiding over the Senate, Senator ROCKEFELLER. He and I pretty much have things our own way right at this moment.

Senator BENSTEN is watching over our shoulders, so I guess I had better put us out.

RECESS UNTIL 9 A.M. ON TUESDAY, JULY 28, 1987

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9 o'clock on Tuesday morning next.

The motion was agreed to, and at 4:34 p.m., the Senate recessed until Tuesday, July 28, 1987, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 24, 1987:

FEDERAL ELECTION COMMISSION

Lee Ann Elliott, of Illinois, to be a member of the Federal Election Commission for a term expiring April 30, 1993.

Danny Lee McDonald, of Oklahoma, to be a member of the Federal Election Commission for a term expiring April 30, 1993.

LIBRARY OF CONGRESS

James H. Billington, of the District of Columbia, to be Librarian of Congress.

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.