# SENATE—*Tuesday, March 24, 1987*

The Senate met at 2 p.m., and was called to order by the Honorable JOHN D. ROCKEFELLER IV, a Senator from the State of West Virginia.

## PRAYER

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

Let us pray.

The psalmist speaks so plainly, Lord, as he utters Your word:

*Blessed is the man that walketh not in the counsel of the ungodly, nor standeth in the way of sinners, nor sitteth in the seat of the scornful but his delight is in the law of the Lord; and in his law doth he meditate day and night. And he shall be like a tree planted by the rivers of water that bringeth forth his fruit in his season. His leaf also shall not wither and whatsoever he doeth shall prosper.*—Psalm 1: 1-3.

Your truth is so clear, so rational, so indisputable, so irresistible. Help us, Gracious God, to hear and to heed. Forgive our propensity to allow the roar—the confusion—the seductions of the world so easily to distract and deceive us. Help us to see we can never go wrong when we do right—when we conform to Your exhortations and commands. In the name of the righteous One, 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, March 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 JOHN D. ROCKEFELLER IV, a Senator from the State of West Virginia, to perform the duties of the Chair.

JOHN C. STENNIS,
*President pro tempore.*

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

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

## THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

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

## SCHEDULE

Mr. BYRD. Mr. President, there will be 1 hour of debate on the motion to invoke cloture. That time is equally divided between the two leaders today or their designees. Upon the disposition of the vote today, if that cloture vote should fail, as it probably will, I am not in position at this time to say what other business might be taken up during the afternoon. There will be another cloture vote on tomorrow. I will be discussing this with the distinguished Republican leader to see if we can arrive at a time for a vote on tomorrow.

In the meantime, there are a good many measures on the calendar, and I hope that we can begin to clear some of those measures for action. Among those are S. 477, a bill to assist homeless veterans. There is the bill S. 12 to remove the expiration date for eligibility for the educational assistance programs for veterans of the All-Volunteer Force. There is the House bill and the Senate bill which have to do with extending the date for submitting the report required of the National Commission on Dairy Policy.

Sooner or later, Mr. President, I will move to proceed to take up these measures. I understand that there is some continuing discussion going on with respect to those two dairy bills. I hope that those discussions will prove to be fruitful and that some agreement can be reached whereby the Senate can proceed to dispose of those measures.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes, I will be happy to yield.

Mr. DOLE. With particular reference to the Dairy Board, there are two bills. We have made a couple of suggestions. Senator ARMSTRONG indicated to me just in the last hour that perhaps if we could agree to have a hearing on one of the controversial amendments, that might satisfy the objection he has. But if we cannot work it out, I certainly share the majority leader's view that we ought to move to it, take it up and let people offer the amendments. I will be happy to work with the majority leader on that, if everything else fails. I for one would be willing to have hearings on the controversial amendment, the one that Senator ARMSTRONG is in doubt about. It does affect my State. It is very important. But we ought to have hearings on that and let the rest of the bill go. So maybe we can work that out today.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader for the helpful suggestions he has made. I hope those suggestions will help to expedite action on the measures.

Also on the calendar is a bill that has come out of the Banking Committee, S. 790, a banking bill. Some call it the FSLIC bill. That measure will be ready to be called up tomorrow. The committee report will have been available for 2 days and, therefore, that measure will meet the requirements for callup. Beyond that, I do not believe I have anything else at the moment.

Mr. PROXMIRE. Will the Senator yield time to me? I will not take it otherwise.

Mr. BYRD. Yes. How much time do I have remaining, please?

The ACTING PRESIDENT pro tempore. Six minutes and ten seconds.

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

## TIME TO SHARE DEFENSE BURDEN WITH NATO ALLIES

Mr. PROXMIRE. Mr. President, Senator JAMES SASSER is the new chairman of the Military Construction Subcommittee of the Appropriations Committee. As the new chairman, Senator SASSER has hit the ground running. On March 18, for the first time ever, the Military Construction Subcommittee took a hard look in formal hearings at burden sharing of our worldwide multibillion dollar military construction program with our NATO allies. The new chairman started off with a blizzard of statistics that dramatized the grotesque difference between the massive U.S. financial contributions to the defense of Western Europe and the relatively feeble efforts of Western Europe to pay for its own defense. Senator SASSER pointed out that in aggregate the United States spends more than twice as much as the European countries in relation to our gross national product for defense of the free world. And we are not talking about poor Third World countries. The European countries have done well, in fact, extraordinarily well, especially over the last two decades. The Europeans have won an

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

increasingly favorable trade balance with our country. Their personal income has generally improved far more than in our country. But their spending for defense continues to lag far behind. The fact is that the Europeans are under the gun. They can literally see the Russian troops across their borders. But what evidence is there that the Europeans are willing to increase their defense commitment when Uncle Sugar does it for them?

The most spectacular delinquency on the part of the Europeans is in the area of strategic defense—the SDI Program. When it comes to paying for SDI, it is strictly a U.S. program. To date we have paid for every penny of the program. In one of the great ironies of our time, the Secretary of Defense has won at least a reluctant silence from the criticism of SDI by our European allies by promising that they would receive billions of dollars over the years in SDI research contracts. But their taxpayers would have to pay nothing for the cost of researching and developing the program. The money for European research on SDI would come strictly out of the pockets of U.S. taxpayers.

It is even worse. Think of this: Even that part of the SDI Program research devoted strictly to protection against short and intermediate missile attack on Europe—about $100 million—will come from the United States. The Europeans will contribute nothing. Why is that so ironic? Because the virtually exclusive beneficiaries of defense against such an attack would be the European countries.

Mr. President, the Defense Department witnesses before the SASSER subcommittee could offer no real justification for this extraordinary rip off of the American taxpayer. There is none. How can we possibly justify dunning the American taxpayer to the tune of hundreds of millions of dollars over the years for research and billions more for production and deployment of defenses strictly and exclusively designed to protect European countries? The best the Defense Department could offer in justification was that the SDI system designed, produced, and deployed strictly to defend European countries would also defend those American soldiers who were stationed in NATO in Europe. And why are and will they continue to be stationed in Europe? Answer: To defend these European countries from Soviet aggression.

Mr. President, this Senator is not arguing that we should withdraw our troops from Europe. The NATO forces do, indeed, defend the free world including ultimately our country. But there is no justification for a burden sharing arrangement that requires this country to bear every penny of the cost of a missile defense system that would, if successful, entirely and exclusively protect European, not American, cities.

I have said nothing in this speech about the gross inequity of our burden sharing arrangement with the Japanese. But this sharing is even more unfair than with Europe. Think of it. The Japanese provide a pathetic one-sixth as high a proportion of their gross national product for defense as the United States. Our Navy, our Air Force, and our Marines provide a large share of the Japanese defense. Meanwhile, the Japanese enjoy a trade balance with our country which is more than $50 billion favorable from their standpoint and $50 billion unfavorable from our standpoint. Mr. President, at $35,000 to $50,000 per job, that means this country is losing between 1 million and 1½ million jobs per year to the Japanese. This Senator has great respect and admiration for the Japanese. They have done magnificent economic work, but that great economic work has put them in a superb position to pay in full for the cost of their defense. They should.

Finally, Mr. President, we cannot ignore the fact that these are extraordinary times. We must hold down spending on all fronts, including military spending. How can we do it? Arms control offers one alternative. But that depends on negotiations that are time consuming, require great cooperation from both sides, and must be primarily concerned with the ultimate national security rather than the dollar saving. A second alternative is to move our defense and the defense of Europe to an overall less costly system. How do we do that? By relying more than we do now on nuclear deterrence. But this creates a far more dangerous world. The third and last alternative is more equitable burden sharing with our NATO allies. At a time when reducing the deficit must be our No. 1 domestic priority, a time when $200 billion deficits even in periods of recovery have become the order of the day, this is the time to become truly serious about a more equitable distribution of the cost of defending that free world.

## LET'S REPEAL, NOT CODIFY, THE FAIRNESS DOCTRINE

Mr. PROXMIRE. Mr. President, I oppose S. 742, the Fairness in Broadcasting Act, and will vote against this legislation when it reaches the Senate floor. S. 742 would codify the fairness doctrine. I favor repeal, not codification.

In 1975, and then again in each subsequent Congress thereafter, I have introduced legislation—known as the First Amendment Clarification Act—that will give the people of the United States increased first amendment benefits by abolishing the fairness doctrine.

In the most recent Roper Poll released by the Television Information Office, 64 percent of the respondents said their main source of news was television while 14 percent cited radio. Clearly, television and radio are the dominant suppliers of news for the American people. Yet, because of the fairness doctrine and other governmental controls, broadcasters are second-class citizens when it comes to first amendment rights.

The fairness doctrine requires that broadcasters afford reasonable opportunities for the presentation of contrasting viewpoints on controversial issues of public importance. It does not call for each viewpoint to receive the same amount of air time. Nor does the fairness doctrine require that the other viewpoint be given in the same program.

That sounds fine. But the fairness doctrine violates the first amendment. A segment of the free press is being regulated by the Government.

Since I gave a full description and analysis of the First Amendment Clarification Act upon its introduction in January, I shall not do so again at this time. But I would like to state briefly why abolishing the fairness doctrine—the objective of my bill—is necessary, and, indeed, crucial.

First, the fairness doctrine is governmental control over a part of the free press and, therefore, unconstitutional. It violates the first amendment's guarantee of freedom of the press.

Second, the kind of governmental regulation embodied in the fairness doctrine is unnecessary. Newspapers, operating without Government control, have improved vastly in fairness, objectivity, accuracy, and relevance over the years. Broadcasters deserve that same opportunity to be free.

Third, denying broadcasters their first amendment rights is self-defeating. The fairness doctrine does not stimulate the free expression of diverse ideas. Rather, it promotes the sameness of ideas. Stations avoid the airing of controversial issues because they fear a challenge to their license renewal or expensive litigation resulting from a fairness complaint.

Fourth, governmental controls like the fairness doctrine are dangerous. Letting Government be the final arbiter of fairness confers immense power. This is especially true when that same Government decides on the granting of broadcast licenses.

Finally, those who favor continuing governmental regulation of the broadcasting media through the fairness doctrine and other controls rely on an argument that is fast becoming obsolete: the so-called scarcity rationale. In almost every city in America—regardless of size—there are more television signals available than daily newspapers. If radio stations are counted, as

they must be, general audience broadcasting stations far outnumber general circulation newspapers. Moreover, economic pressures make it nearly impossible to establish a daily newspaper in a community where one already exists.

Freedom of the press is for the benefit of all Americans. If television and radio, the most popular disseminators of news and opinion, continue to be tied down by governmental controls like the fairness doctrine, the people of our Nation will continue to be the losers. We need to change this situation by giving fuller meaning to our first amendment's guarantee of freedom of the press. Repeal, not codification, of the fairness doctrine will help lead the way. I urge my colleagues to join me in opposing S. 742 when it comes up for a vote on the Senate floor.

## RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the distinguished Republican leader is recognized.

## BICENTENNIAL MINUTE

### MARCH 24, 1853: VICE PRESIDENT WILLIAM KING

Mr. DOLE. Mr. President, on March 24, 1853, 134 years ago today, William Rufus de Vane King was sworn in as Vice President of the United States. What makes this otherwise routine event significant is that he took his oath in Cuba. King is the only Vice President ever sworn in outside the United States, and it had taken a special act of Congress to authorize this unusual oath taking.

William King was born in North Carolina in 1786. When he was just 24 years old, he was elected to the first of three terms in the House. In 1818, he moved to Alabama and immediately became active in politics there. When Alabama became a State in 1819, King was one of its first two Senators. He was reelected in 1822, 1828, 1834, and 1840. King served in the Senate for 25 years, 6 of them as President pro tempore, before he resigned in 1844 to become Minister to France. While in the Senate and even in France, King had pursued the Democratic Vice Presidential nomination, but it had always eluded him. King was again elected to the Senate in 1848.

In the summer of 1852, Democrats chose King as the running mate of Franklin Pierce, and the pair easily won election that fall. King resigned from the Senate in December and went to stay at a Cuban sugar plantation, hoping to seek relief from the tuberculosis that plagued him. When it became clear that King was too weak to return for the March 4, 1853, inauguration, the special act was passed permitting him to be sworn in where he was. After taking the oath, King was determined to go home to exercise the powers of the office he had sought for a decade and a half. Although very feeble, he left Cuba in early April and reached his plantation, "King's Bend," in Alabama on April 17. He died the very next day.

## SOVIET DOUBLE PLAY ON INF

Mr. DOLE. Mr. President, 3 weeks ago, Mikhail Gorbachev sparked nothing short of wild glee in certain Western circles by implying an agreement on intermediate range nuclear forces [INF] was right around the corner. We all welcomed any sign of true progress toward a good agreement, but it was not altogether clear that Gorbachev's February 28 speech was such a sign. I advised then that we keep our feet on the ground. Soviet pronouncements this month only underscore the need for caution.

Right now it appears the Soviets are more interested in generating friction within NATO and scoring some propaganda points than in reaching an INF agreement.

What is Gorbachev's real game? On February 28, he removed an obstacle which he had created. Let us recall that it was the Soviets who first linked an INF agreement to agreement on strategic weapons and crippling of SDI. Then, at the Geneva summit in 1985, Gorbachev delinked. That good news lasted until Reykjavik, when he once again linked them all. Western leaders of left, right, and center booed him, so on February 28 he, once again, delinked. Essentially, we are back where we were at the Geneva summit.

Soon after the General Secretary's speech, Soviet officials embarked on phase 2 of the setup. Their claim was that the United States was now blocking an INF agreement with its "new" demands on verification and shorter-range INF missiles. That's just baloney! Their only purpose is to generate pressure in Western Europe, and here at home, for us to fall off positions we have held since 1981.

What these Soviet officials fail to remind you of is their monopoly on these short-range systems, and their impressive modernization before beginning about 1979.

There are two systems which present a considerable threat to NATO. The first is the SS-23, an improvement in every way—range, accuracy, and yield—over the already lethal SCUD. Added to this is the new scaleboard, a follow-on for the SS-12. It, too, represents a big leap in accuracy and yield over its predecessor. With a 900-kilometer range, it can reach London, Paris, and Rome from its East European locations.

The United States has no comparable systems, and that is a situation the Soviets want to freeze. No wonder many of us and our European allies are concerned about any deal which would eliminate our longer-range INF—Pershing 2 and cruise missiles—and leave Europe threatened by SS-23 and scaleboard.

It just will not wash. The United States position since 1981—I repeat, since 1981—has been that we must have the right to match Soviet systems of the SS-23 and scaleboard types. Our allies back us in this all the way.

It is time for the Soviets to come clean. Did Mikhail Gorbachev's speech signal progress, or was it just another cynical pronouncement of the Soviet desire to maintain and build superiority in Europe and to split us from our friends?

Only the Soviets can answer. It is not the United States which is blocking progress. Our proposals are not new. They are, however, necessary for an agreement.

I sincerely hope there can be an agreement, but it must be a good agreement. The old double play is not going to work with this President. After Gorbachev's speech, the President kept our negotiators in Geneva after the end of the round of talks. If the Soviets want progress, they have only to tell our people in Geneva this, and then get down to serious business. America, and our allies, will welcome an agreement which truly enhances European security and stability.

Finally, Mr. President, I am sure that my colleagues are aware that our chief negotiator, Max Kampelman, was hospitalized late last week, and that they would join me in wishing him a speedy and full recovery. Max is doing well, and may be home by the weekend. After some rest, he should be back on the job where we need him.

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

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

Mr. DOLE. I yield.

Mr. BYRD. Mr. President, I join the minority leader in wishing a speedy and complete recovery for our chief negotiator, Max Kampelman. He has been doing a great piece of work at Geneva, and it is unfortunate that he has had this heart attack, which is considered to be minor.

All of us, I am sure, on both sides of the aisle join in hoping that Mr. Kempelman makes a complete and early recovery and in congratulating him on the work he is doing.

## URGENT RELIEF FOR THE HOMELESS ACT

Mr. BYRD. Mr. President, would the distinguished Republican leader have any objection if I asked unanimous consent that the Urgent Relief for the

Homeless Act, which I introduced on my behalf and on his behalf yesterday, with the cosponsorship of several other Senators on both sides of the aisle, be placed directly on the calendar?

Mr. DOLE. I have no objection.

Mr. BYRD. Mr. President, I thank the Republican leader. I make that request.

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

Mr. BYRD. While the Republican leader is on the floor, I wonder if we could transact just a little bit of business that I understand is cleared for action and it will be very brief, may I say to other Senators?

## THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar orders numbered 61 and 62 on the calendar, that the Senate proceed to consider them en bloc—neither has an amendment, one has a preamble—that the preamble be agreed to, and that the motion to reconsider en bloc be laid on the table.

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

## NATIONAL POW/MIA RECOGNITION DAY

The joint resolution (S.J. Res. 49) to designate September 18, 1987, as "National POW/MIA Recognition Day," was considered.

Mr. DOLE. Mr. President, many times in our Nation's history, special groups of our men and women have been called upon to make uncommon sacrifices for their country. Defending the freedoms that you and I might have the tendency to take for granted, many Americans have paid the ultimate price on foreign soil. Still others suffered unimaginable physical and mental hardships while captives of America's enemies; many never returned. It's the spirit of these unselfish Americans that we must perpetuate. We must continue to remember their dedication and this legislation today goes far in keeping that spirit alive.

It gave me great pleasure to host last year's congressional observance of National POW/MIA Recognition Day. My relationship with the POW/MIA issue is one in which I take particular pride. In continuing that relationship, I want to emphasize that we not only honor our POW's and MIA's, but we should also renew our promise to the courageous families of these special Americans. A grateful nation will never rest until we gain a full accounting of those still listed as missing and unaccounted for.

Mr. President, my colleagues have enthusiastically supported this legislation. To date, I have added 64 cosponsors to this noteworthy legislation. This is a clear indication of the importance that Senators attach to the settlement of the POW/MIA issue and their genuine concern for those fine Americans who returned from serving their country under such adverse conditions. I would also call on my colleagues once again, as well as all major veterans' organizations, to encourage nationwide participation this September in increasing awareness of the POW/MIA issue. We will never forget these special Americans; their memories shall remain forever in our consciousness.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 49

Whereas the United States has fought in many wars;

Whereas thousands of Americans who served in such wars were captured by the enemy or are missing in action;

Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war and many prisoners of war died from such treatment;

Whereas many Americans are still listed as missing and unaccounted for and the uncertainty surrounding their fates has caused their families to suffer acute hardship; and

Whereas the sacrifices of American prisoners of war and Americans missing in action and their families are deserving of national recognition: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That September 18, 1987, shall be designated as "National POW/MIA Recognition Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

## NATIONAL ORGAN AND TISSUE DONOR AWARENESS WEEK

The joint resolution (S.J. Res. 89) to authorize and request the President to issue a proclamation designating April 26, through May 2, 1987 as "National Organ and Tissue Donor Awareness Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 89

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is authorized and requested to issue a proclamation designating April 26 through May 2, 1987 as "National Organ and Tissue Donor Awareness Week".

## NATIONAL DIGESTIVE AWARENESS MONTH

Mr. BYRD. Mr. President, I ask unanimous consent that in the engrossment of Senate Joint Resolution 67, the National Digestive Diseases Awareness Month, passed by the Senate on March 20, the clerk make the following correction which I send to the desk.

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

## ORDER FOR STAR PRINT—S. 806

Mr. BYRD. Mr. President, I ask unanimous consent that there be a star print of S. 806, the corrections of which I now send to the desk.

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

Mr. METZENBAUM. I introduced S. 806 on March 20, 1987 to make the antitrust laws applicable to air transportation. The bill should have made an exception for foreign air transportation. Instead it referred to overseas air transportation and grandfathered in the current sunset date for overseas air transportation. The star print makes this correction and makes a corresponding correction to the effective date provision.

Mr. BYRD. Mr. President, I am going to yield to the distinguished mniority leader to make a request on behalf of Mr. THURMOND.

## ORDER FOR STAR PRINT—S. 698

Mr. DOLE. Mr. President, I ask unanimous consent that there be a star print of S. 698, at the request of Senator THURMOND, the distinguished Senator from South Carolina.

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

## NATIONAL POW RECOGNITION DAY

Mr. BYRD. Mr. President, I understand that Calendar Order No. 44 has been cleared on the other side of the aisle. I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 44.

The ACTING PRESIDENT pro tempore. The joint resolution will be stated by title.

The assistant legislative clerk read as follows.

A joint resolution (S.J. Res. 47) to designate "National POW Recognition Day."

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

AMENDMENT NO. 42

Mr. BYRD. Mr. President, I send to the desk an amendment on behalf of Senators CRANSTON and MURKOWSKI.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD) for Mr. CRANSTON and Mr. MURKOWSKI, proposes an amendment numbered 42.

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

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

The amendment is as follows:

On page 2, line 3 of the resolved clause insert the word "Former" before POW.

NATIONAL FORMER POW RECOGNITION DAY

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee and as the sponsor, along with the committee's ranking minority member, the Senator from Alaska [Mr. MURKOWSKI], of Senate Joint Resolution 47, a resolution to designate April 9, 1987, as "National Former POW Recognition Day," I rise in strong support of passage of this resolution to honor those of America's veterans who were prisoners of war.

Mr. President, over the many years I have served on the Veterans' Affairs Committee, both as the committee's chairman from 1977 to 1981 and now again, as well as its ranking minority member from 1981 to 1987, I have formed a deep appreciation for those of our Nation's veterans who made enormous sacrifices and endured extreme hardships as prisoners of war. Their strength, courage, and commitment to our national security and democratic ideals and institutions helped to preserve our country, and we truly owe them a debt that can never be fully repaid.

In a Veterans' Administration study undertaken as a result of legislation I authored in Public Law 95-479, the VA found that, although the particular type and source of hardship differed significantly according to place and time of internment, American POW's from each of the three most recent wars—World War II, the Korean conflict, and the Vietnam conflict—were subjected to widespread hardships that often included extreme malnutrition, great psychological stress and abuse, inadequate medical care, brutal living conditions, and, very frequently, physical and psychological torture.

Mr. President, as my colleagues know, April 9, 1942, is the day that marks the fall of Bataan, the site where thousands of American soldiers were taken prisoner by enemy troops in the Philippines and forced to march long distances under extremely brutal conditions to prisoner of war camps, where they suffered further hardships and deprivations. Many of those men did not survive that harrowing ordeal, and those that did were often permanently disabled. April 9 is thus, sadly, an appropriate day to honor our Nation's former POW's.

Mr. President, this resolution is cosponsored by all the members of the Veterans' Affairs Committee, including the Senators from Hawaii [Mr. MATSUNAGA], Arizona [Mr. DECONCINI], Maine [Mr. MITCHELL], West Virginia [Mr. ROCKEFELLER], and Florida [Mr. GRAHAM], as well as the Senator from Wyoming, who is himself a former chairman of the committee [Mr. SIMPSON], and the Senators from South Carolina [Mr. THURMOND], Vermont [Mr. STAFFORD], and Pennsylvania [Mr. SPECTER].

Mr. President, April 9, 1987—the day that would be designated as "National Former POW Recognition Day" by this resolution—is fast approaching. As one expression of our Nation's continuing gratitude to our Nation's former POW's, I urge all of my colleagues to join today in support of passage of this resolution.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 42) was agreed to.

The ACTING PRESIDENT pro tempore. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 47

Whereas the United States had fought in many wars;

Whereas thousands of Americans who served in such wars were captured by the enemy:

Whereas many American prisoners of war were subjected to brutal and inhumane treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war, and many such prisoners of war died or were disabled as a result of such treatment; and

Whereas the great sacrifices of American prisoners of war and their families are deserving of national recognition: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That April 9, 1987, shall be designated as "National Former POW Recognition Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to commemorate such day with appropriate activities.

Mr. BYRD. Mr. President, on behalf of Mr. CRANSTON and Mr. MURKOWSKI, I send an amendment to the title to the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

Amend the title so as to read: Joint resolution to designate "National Former POW Recognition Day."

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

## STAFF VACANCIES

Mr. BYRD. Mr. President, on behalf of myself and Mr. FORD, I send to the desk a Senate resolution and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 173) to amend Senate Resolution 458, 98th Congress, to allow the Secretary of the Senate to fill staff vacancies occurring during the closing of the office of a Senator in the case of the death or resignation of such Senator.

There being no objection, the Senate proceeded to consider the resolution.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution was agreed to, as follows:

S. RES. 173

*Resolved,* That subsection (a) of the first section of Senate Resolution 458, 98th Congress (agreed to October 4, 1984) is amended by—

(1) inserting "(1)" after "(a)"; and

(2) adding at the end thereof the following:

"(2) If an employee of a Senator continued on the Senate payroll pursuant to paragraph (1) resigns or is terminated during the period required to complete the closing of the office of such Senator, the Secretary of the Senate may replace such employee by appointing another individual. Any individual appointed as a replacement under the authority of the preceding sentence shall be subject to the same terms of employment, except for salary, as the employee such individual replaces.".

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

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader for his cooperation, and I yield the floor.

## ORDER OF PROCEDURE

Mr. DOLE. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Republican leader has 3 minutes and 46 seconds.

Mr. DOLE. I wonder if I might divide that time equally between the Senator form New Mexico and the Senator from Connecticut.

Mr. DOMENICI. Before the minority leader does that I wonder if the minority leader has any additional time under his control?

Mr. DOLE. Yes.

Mr. DOMENICI. I think I will need 5 minutes.

Mr. WEICKER. I need about 8 minutes.

Mr. PRYOR. If I could I would like about 6 minutes more.

Mr. DOLE. Whatever leader time I yield to the Senator from New Mexico plus an additional 1 minute and 30 seconds or whatever it is to make 5 minutes and then 8 minutes to the distinguished Senator from Connecticut from our time.

Mr. BYRD. I yield 6 minutes to Mr. PRYOR.

## TO PROVIDE PERMANENT AUTHORIZATION FOR A WHITE HOUSE CONFERENCE ON SMALL BUSINESS

Mr. DOMENICI. Mr. President, I send to the desk legislation that is designed to assist America's small businesses.

Last year, more than 1,800 persons who own and operate small businesses came to our Nation's Capital as delegates to the White House Conference on Small Business.

These men and women came from across our Nation, on their own time and at their own expense, to discuss mutual concerns in operating a small business, and to offer solutions to these problems.

The result was a report with 60 recommendations. One of these recommendations, drafted by the New Mexico conference delegates, was to authorize a White House Conference on Small Business every 4 years. The White House Conference on Small Business has been held two times to date, first in 1980, then in 1986. The New Mexico delegates said there should be a permanent forum for small business owners to address common businesss concerns.

When New Mexico delegates brought this to my attention last year, I was pleased to support it on the behalf of all small business owners. I introduced that concept as S. 2588 last year.

Today, I am pleased to reintroduce that legislation.

The owners of America's small businesses have accepted the challenge of running their own business. With this challenge, they bring efficiency, dedication, hard work, optimism, ingenuity, and an entrepreneurial spirit.

A major concern of the 100th Congress is comeptitiveness. Although our Nation has experienced impressive economic growth during the past 5 years, we must continue to look for ways to sustain and improve this growth. We need to increase productivity, reduce unemployment, and strengthen America's position in the international marketplace.

The time has come to address many of these problems. Based on what we have seen and heard so far, numerous proposals and solutions have been submitted. Some say create a Department of Trade. Others want to improve technology transfer, or to negotiate with foreign nations to open their markets to American exports. Still others want to subsidize domestic industries involved in export activities.

Many of these proposals are worthy of consideration. But we can strengthen America's standard of living in other ways. America can become more competitive right in its own backyard, by addressing the needs and concerns of small business.

Small business in America means jobs for today, and investment for our future. Not only do small businesses provide jobs for almost one-half of our private-sector work force, they also provide on-the-job training for our youth. These men and women are risktakers in today's ever-changing marketplace, and are providing leadership for our Nation.

Since the first White House Conference on Small Business was held in 1980, approximately two-thirds of the recommendations reported by the national conference have been enacted. It is obvious that many sound ideas have emerged from these conferences.

By authorizing a White House Conference on Small Business once every 4 years, my bill would help to assure that our Government recognizes the importance of, and need for, a healthy, competitive small business environment.

This legislation would provide these business owners an opportunity to have a direct voice in many of the legislative and administrative decisions that have a direct impact on their livelihood.

The issues and factors that confront our small business entrepreneurs are always changing. A conference each Presidential term would provide a forum during which small business owners can bring their Government up to date on their concerns.

I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that a copy of the bill be printed at this point in the RECORD.

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

S. 818

*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 "White House Conference on Small Business Authorization Act".

AUTHORIZATION OF CONFERENCE

SEC. 2. (a) The President shall call and conduct a National White House Conference on Small Business (hereinafter referred to as the "Conference") once during each 4-year period following a Presidential election, to carry out the purposes described in section 3 of this Act. The Conference shall be preceded by State and regional conferences with at least one such conference being held in each State.

(b) Participants in the Conference and other interested individuals and organizations are authorized to conduct conferences and other activities at the State and regional levels prior to date of the Conference, subject to the approval of the Administrator of the Small Business Administration, and shall direct such conferences and activities toward the consideration of the purposes of the Conference described in section 3 of this Act in order to prepare for the National Conference.

PURPOSE OF CONFERENCE

SEC. 3. The purpose of the Conference shall be to increase public awareness of the essential contribution of small business; to identify the problems of small business; to examine the status of minorities and women as small business owners; to assist small business in carrying out its role as the Nation's job creator; to assemble small businesses to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and encouraging the economic viability of small business and, thereby, the Nation; and to review the status of recommendations adopted at the preceding White House Conference on Small Business.

CONFERENCE PARTICIPANTS

SEC. 4. (a) In order to carry out the purposes specified in section 3 of this Act, the Conference shall bring together individuals concerned with issues relating to small business. No small business concern representative may be denied admission to any State or regional conference, nor may any fee or charge be imposed on any small business concern representative except an amount to cover the cost of any meal provided to such representative plus a registration fee of not to exceed $10.

(b) Delegates, including alternates, to the National Conference shall be elected by participants at the State conference. In addition—

(1) each Governor and each chief executive official of the political subdivisions enumerated in section 4(a) of the Small Business Act may appoint one delegate and one alternate;

(2) each Member of the United States House of Representatives, including each Delegate, and each Member of the United States Senate may appoint one delegate and one alternate; and

(3) the President may appoint one hundred delegates and alternates.

Only individuals from small businesses shall be eligible for appointment pursuant to this subsection.

PLANNING AND ADMINISTRATION OF CONFERENCE

SEC. 5. (a) All Federal departments, agencies, and instrumentalities are authorized and directed to provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(b) In carrying out the provisions of this Act, the Administrator of the Small Business Administration—

(1) shall provide such assistance as may be necessary for the organization and conduct of conferences at the State and regional levels as authorized under section 2(b) of this Act; and

(2) is authorized to enter into contracts with public agencies, private organizations, and academic institutions to carry out the provisions of this Act.

(c) The Chief Counsel for Advocacy shall assist in carrying out the provisions of this Act by preparing and providing background materials for use by participants in the Conference, as well as by participants in State and regional conferences.

(d) Each participant in the Conference shall be responsible for his or her expenses related to attending the Conference and shall not be reimbursed either from funds appropriated pursuant to this Act or the Small Business Act.

(e)(1) The President is authorized to appoint and compensate an executive director and such other directors and personnel for the Conference as he may deem advisable, 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 relating to classification and General Schedule pay rates.

(2) Upon request by the executive director, the heads of the executive and military departments are authorized to detail employees to work with the executive director in planning and administering the Conference without regard to the provisions of section 3341 of title 5, United States Code.

REPORTS REQUIRED

SEC. 6. Not more than six months from the date on which the National Conference is convened, a final report of the Conference shall be submitted to the President and the Congress. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement the recommendations of the Conference. The final report of the Conference shall be available to the public.

FOLLOWUP ACTIONS

SEC. 7. The Small Business Administration shall report to the Congress annually during the three-year period following the submission of the final report of the Conference on the status and implementation of the findings and recommendations of the Conference.

AVAILABILITY OF FUNDS

SEC. 8. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, and they shall remain available until expended. New spending authority or authority to enter contracts as provided in this Act shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

(b) No funds appropriated to the Small Business Administration shall be made available to carry out the provisions of this Act other than funds appropriated specifically for the purpose of conducting the Conference. Any funds remaining unexpended at the termination of the Conference, including submission of the report pursuant to section 6, shall be returned to the Treasury of the United States and credited as miscellaneous receipts.

WHITE HOUSE CONFERENCE ON SMALL BUSINESS AUTHORIZATION ACT

Mr. CHAFEE. Mr. President, I am pleased to join with my esteemed colleague, Senator DOMENICI, in introducing this bill to make permanent the White House Conference on Small Business.

This conference has proved to be an exceptional forum for men and women, representing small businesses of every description, to identify and discuss the problems faced by small businesses across the Nation. Past conferences have produced a wealth of legislative recommendations, over two-thirds of which have been enacted. This record of accomplishment is outstanding testimony to the tremendous talent of the individuals involved and to the vitality of the conference itself.

Small businesses account for nearly half of our Nation's private employment, and are our greatest resource of new ideas for innovative products and services. The unique entrepreneurial spirit which flows through these small businesses represents the truest form of the American character. It is a spirit that should be used as a model throughout the economy to help deal with the onslaught of foreign competition.

The challenge of foreign competition is changing the way America does business. In order to meet the challenge, large corporations retain legions of accountants, financial experts, public relations specialists and marketing professionals. The owners and operators of small businesses know no such luxury. Each must act in all of these capacities simultaneously, making countless decisions affecting every facet of operations. Yet, small businesses continue to form the core of a strong and vital marketplace, accounting for over two-thirds of the newly created jobs in this country each year.

Small businesses cannot afford armies of lobbyists to assault the Capitol. The diverse men and women who have created and manage our Nation's 15 million small businesses speak for themselves. They understand their contributions and problems best, and are their own most eloquent advocates. This great diversity of interests, however, makes it increasingly difficult for any single voice to be heard.

The White House conference creates that voice. It provides a forum for small business men and women to speak with one voice, a voice which has produced a number of initiatives resulting in changes beneficial to our economy. This conference gives these men and women the opportunity to tell legislators firsthand what is needed to encourage growth in the small business sector, and how to engender the development of the entrepreneurial spirit.

Mr. President, the White House Conference on Small Business has in the past been organized on an ad hoc basis. This bill calls on the President to hold a White House Conference on Small Business once during each Presidential term. We have before us a real opportunity to create an institution which will give this Nation's small business men and women a voice in public policy commensurate with their contribution to our economy. I urge all my colleagues to join me in support of this legislation.

Mr. DIXON. Mr. President, I rise today in support of the bill introduced by Senators DOMENICI and HOLLINGS authorizing a White House Conference on Small Business once every Presidential term. Small business is the primary employment generator for the economy of the United States. It creates almost 80 percent of all new jobs, generating almost 40 percent of the GNP. Small businesses employ 48 percent of the private work force.

Given these overwhelming statistics, the need for a forum in which the issues crucial to the viability of this economic sector can be reviewed becomes obvious. The White House Conference on Small Business serves as a platform to assist small business in developing an agenda for action, to enlighten the public and government agencies as to the contributions and needs of small business, and to bring representatives of this sector together to formulate recommendations for the executive and legislative branches of government to assure the continuance of their economic growth.

Our Nation was founded by small businesses. They gave birth to our economy. Today's entrepreneur seeks to maintain this true economic independence. Free enterprise is more than an economic theory for them; it is a practical necessity. This is a segment that must be acknowledged for its contributions to this Nation's economic well-being, as well as for its maintenance of our image as "the land of opportunity."

The range of issues affecting small business is broad. Their goals are often at odds with those of bigger businesses. Small business needs our attention and support. The White House Conference on Small Business provides a forum for identification and understanding of actions necessary to continue the development and growth of our work force and economy.

## URGENT RELIEF FOR THE HOMELESS ACT

Mr. DOMENICI. Mr. President, I am most pleased to be an original sponsor of the Urgent Relief for the Homeless Act, and I commend the majority leader [Mr. BYRD] and the Republican leader [Mr. DOLE] for their leadership.

This bill addresses many of the basic needs of the homeless. It provides several forms of housing assistance, outreach for food stamps, health and mental health services, case management for residents of shelters, and it establishes an interagency council to oversee and improve the Federal efforts on behalf of America's homeless population.

All of those are worthy, important goals.

I am particularly pleased that this bipartisan bill includes services for those among the homeless who are mentally ill. Yet, I remain concerned. It is important that we authorize more than 2 years of assistance for this fragile population. It is also important that we provide some form of transitional housing that will serve to enhance their treatment and improve their chances for better mental health.

On March 18, 1987, Senators SIMON, BURDICK, and I introduced S. 763, the "Services for Homeless Mentally Ill Individuals Act of 1987." We have since been joined by Senators HATFIELD, NUNN, and GORE as original sponsors.

S. 763 addresses our concerns using a solid approach that has the formal endorsements of the leading organizations dealing with the mentally ill who are homeless:

National Alliance for the Mentally Ill [NAMI], National Mental Health Association, Mental Health Law Project, American Psychiatric Association, American Psychological Association, National Council of Community Mental Health Centers, National Association of State Mental Health Program Directors, and the American College of Neuropsychopharmacology [ACNP].

Letters from all but the last group listed were included in the CONGRESSIONAL RECORD of March 18, 1987, page S3317. I am including ACNP's letter in today's statement, and I ask unanimous consent that it be printed in the RECORD following my statement.

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

(See exhibit 1.)

Mr. DOMENICI. With the strong backing of these and other mental health support groups, Mr. President, I am today introducing the Domenici-Simon bill as an amendment to the Senate bipartisan omnibus bill, S. 809. In addition, I will propose the same amendment to S. 811, the Senate bipartisan health, mental health, and job training for the homeless bill.

The amendments I am offering are identical to S. 763, as introduced, with three minor exceptions.

First, I modified the years of authorization to include fiscal year 1987, at $80 million. I also deleted 1993, which would have been the seventh year of authorization, including 1987.

The amendment thus authorizes our program for the mentally ill homeless for the remainder of 1987, plus 5 additional years, 1988 through 1992.

Second, the formula has been corrected to reflect my description of it in my statement of March 18, 1987. The intention is to provide small States with at least one-quarter of 1 percent of the total appropriation—$500,000 at a $200 million appropriation.

This approach makes minimal deductions from the more populous States, while providing each State with enough money to operate programs for this target population. I am including a HUD computer printout of our Community Development Block Grant formula, as modified in our bill and this amendment. I ask unanimous consent that this sample run of $200 million be included in the RECORD.

Third, the allocation of $8 million per year to the National Institute of Mental Health is corrected to reflect authorization for 5 fiscal years, 1988 through 1992. I see no need to begin evaluation and training activities in the remainder of fiscal year 1987, but this training and review needs to be in place for the 5 full years of authorized assistance.

Mr. President, I have done a fairly complete analysis of the differences between the Domenici-Simon bill for the homeless mentally ill and the Byrd-Dole provisions covering this same group.

My major concern remains the provision of what we call transitional housing. This is housing that serves as a transition from the sidewalks to a more stable life. The mental health support groups named above, and the National Institute of Mental Health, agree that without such housing, there is little hope of improving the lives of the mentally ill.

Unless we stablilize them physically in some sort of group home or shared apartment, the homeless who are mentally ill have little chance of even showing up for psychiatric or psychological treatment, much less benefiting from such treatment or related medications.

While the bipartisan bill as introduced acknowledges the importance of housing as a vital service element, it provides no specific funds nor any formal link to transitional housing.

The fact that transitional housing as authorized in the bipartisan bill is only obtained through competitive grants means that there is a small likelihood that such housing will be matched with services.

Of course, the State or local government could pay for such housing from its own sources. I remain skeptical, however, of the ability of the States or local governments undertaking this without our assistance.

The Domenici-Simon bill mandates transitional housing and provides a source of funds. I believe this is absolutely essential to serving the homeless who have serious mental illnesses.

On the other four service elements, the two bills are quite similar. Both provide for outreach. Both provide treatment. Both provide case management. And both provide training.

There is agreement, Mr. President, on the need and the way to serve the homeless who are mentally ill. By amending this bipartisan bill, we can take a large step forward in providing the mix of services we know will be relevant and helpful to the homeless mentally ill.

I ask unanimous consent that my analysis of the differences in the bipartisan bill as introduced, and the Domenici-Simon bill, be made a part of the RECORD.

Finally, Mr. President, I would like to remind my colleagues that we have a responsibility to pay for the services that we need and want to provide for the homeless people of America.

As ranking member of the Senate Budget Committee, I will be watching carefully to see that appropriations to fund any or all of the bipartisan bill for the homeless have equal off-sets from the Federal budget.

I have often stated the need for a firm new public policy of "trade-in to trade-up."

There is enough room in our national budget to appropriate fully the funds needed for these vital programs to help the homeless by trading in funding for less important programs.

I am pleased to be part of the process for identifying the specific changes needed in our national priorities. I call upon each Member of this body to help set our national priorities, and to help set them in a way that will assure funding for the homeless.

I am convinced that the American people will gladly stand behind our efforts for the homeless, if they know we are being fiscally responsible in doing so. I am pleased to be a part of this noble effort. I hope my colleagues will join me in becoming a part of this most important effort, while staying within our budget.

(The text of the amendments submitted by Mr. DOMENICI appear in today's RECORD under "Amendments Submitted".)

EXHIBIT I

FINLEY, KUMBLE, WAGNER, HEINE, UNDERBERG, MANLEY, MYERSON & CASEY,
*Washington, D.C., March 17, 1987.*

Hon. PETE A. DOMENICI,
*Dirksen Senate Office Building, Washington, DC.*

DEAR SENATOR DOMENICI: On behalf of the American College of Neuropsychopharmacology (ACNP), I would like to extend the College's appreciation to you for the concern you continue to demonstrate for the needs of people with schizophrenia and other major mental illnesses, as demonstrated by your bill to provide services to the homeless mentally ill. As a select, interdisciplinary organization of over 400 recognized scientists doing research in the course of and treatments for major mental illnesses, ACNP is actively involved in seeking to address the needs of individuals and their families confronting the disabling affects of major mental illness, and your efforts to address one of the most serious societal problems facing them and often exacerbating the course of the illness through lack of services and shelter must be seen as a major contribution to the needs in this area.

In particular, ACNP would like to underline the importance of encouraging an interface between research, particularly clinical research, and the delivery of services. As progress is made in treatment, not only in the area of therapeutic modalities, but also in terms of diagnosis and knowledge about the nature and course of serious mental illnesses, it is important that the information be disseminated to practitioners in the field. The provisions of your legislation calling for the dissemination of information concerning research and treatment relating to serious mental illness to programs to be funded under this legislation is an important component, and its inclusion is appreciated. In addition, the authorization given the Secretary to coordinate activities and information exchange will hopefully provide a broad mechanism to encourage a significant interface between research and service delivery projects and activities.

ACNP is, of course, primarily an organization of biomedical researchers. As ACNP learned of your interest in schizophrenia and the major mental illnesses, the governing Council established a task force to draft a document to outline the current opportunities for research in schizophrenia. It is ACNP's hope to have that document to you within a few weeks. ACNP looks forward to continuing to work with you to attain progress and understanding in treating schizophrenia and other major mental illnesses, in this effort to assist the homeless mentially ill, and in efforts to mount a major research initiative, for which we believe the time is ripe.

Sincerely yours,

JAMES M. KULIKOWSKI,
Counsel to ACNP

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TOTAL ALLOCATION $200 MILLION, MINIMUM TOTAL AMOUNT $500K, MINIMUM PLACE GRANT $100K

[In thousands of dollars]

| State | Metro grants ($200M) | States ($200M) | Total ($200M) |
|---|---|---|---|
| Alaska | 111 | 389 | 500 |
| Alabama | 1,138 | 2,021 | 3,159 |
| Arkansas | 132 | 1,504 | 1,636 |
| Arizona | 1,374 | 552 | 1,926 |

TOTAL ALLOCATION $200 MILLION, MINIMUM TOTAL AMOUNT $500K, MINIMUM PLACE GRANT $100K—Continued

[In thousands of dollars]

| State | Metro grants ($200M) | States ($200M) | Total ($200M) |
|---|---|---|---|
| California | 15,072 | 5,365 | 20,437 |
| Colorado | 775 | 967 | 1,742 |
| Connecticut | 1,012 | 1,282 | 2,294 |
| District of Columbia | 1,150 | | 1,150 |
| Delaware | 343 | 157 | 500 |
| Florida | 5,601 | 2,369 | 7,970 |
| Georgia | 1,807 | 2,300 | 4,107 |
| Hawaii | 778 | 154 | 932 |
| Iowa | 377 | 1,863 | 2,240 |
| Idaho | | 500 | 500 |
| Illinois | 7,968 | 2,890 | 10,858 |
| Indiana | 1,700 | 2,218 | 3,918 |
| Kansas | 433 | 1,118 | 1,551 |
| Kentucky | 1,069 | 1,815 | 2,884 |
| Louisiana | 1,711 | 2,064 | 3,775 |
| Massachusetts | 3,346 | 2,684 | 6,030 |
| Maryland | 2,590 | 647 | 3,237 |
| Maine | 130 | 825 | 955 |
| Michigan | 4,669 | 3,436 | 8,105 |
| Minnesota | 1,679 | 1,567 | 3,246 |
| Missouri | 2,569 | 1,702 | 4,271 |
| Mississippi | 212 | 1,949 | 2,161 |
| Montana | | 500 | 500 |
| North Carolina | 565 | 3,041 | 3,606 |
| North Dakota | | 500 | 500 |
| Nebraska | 277 | 804 | 1,081 |
| New Hampshire | 109 | 497 | 606 |
| New Jersey | 4,868 | 1,576 | 6,444 |
| New Mexico | 255 | 649 | 904 |
| Nevada | 330 | 170 | 500 |
| New York | 17,892 | 3,409 | 21,301 |
| Ohio | 5,709 | 3,709 | 9,418 |
| Oklahoma | 526 | 1,151 | 1,677 |
| Oregon | 868 | 789 | 1,657 |
| Pennsylvania | 9,554 | 3,414 | 12,968 |
| Puerto Rico | 3,651 | 3,318 | 6,969 |
| Rhode Island | 524 | 454 | 978 |
| South Carolina | 156 | 2,023 | 2,179 |
| South Dakota | | 500 | 500 |
| Tennessee | 1,387 | 1,799 | 3,186 |
| Texas | 6,372 | 5,415 | 11,787 |
| Utah | 557 | 498 | 1,055 |
| Virginia | 1,437 | 1,816 | 3,253 |
| Vermont | | 500 | 500 |
| Washington | 1,913 | 915 | 2,828 |
| Wisconsin | 1,267 | 2,288 | 3,555 |
| West Virginia | 273 | 1,191 | 1,464 |
| Wyoming | | 500 | 500 |
| Total | 116,236 | 83,764 | 200,000 |

*Estimated grants to metro cities/urban counties, minimum grant $100,000*

[In thousands of dollars]

| State | *ESG87 ($200M)* |
|---|---|
| Alaska: Anchorage (subtotal) | 111 |
| Alabama: | |
| Birmingham | 465 |
| Huntsville | 103 |
| Mobile | 194 |
| Montgomery | 182 |
| Jefferson County | 194 |
| Subtotal | 1,138 |
| Arkansas: Little Rock (subtotal) | 132 |
| Arizona: | |
| Mesa | 103 |
| Phoenix | 616 |
| Tucson | 304 |
| Maricopa County | 224 |
| Pima County | 127 |
| Subtotal | 1,374 |
| California: | |
| Anaheim | 158 |
| Berkeley | 186 |
| Compton | 145 |
| El Monte | 129 |
| Fresno | 236 |
| Glendale | 119 |
| Inglewood | 112 |

[In thousands of dollars]—Continued

| State | *ESG87 ($200M)* |
|---|---|
| Long Beach | 356 |
| Los Angeles | 3,797 |
| Oakland | 511 |
| Oxnard | 128 |
| Pasadena | 121 |
| Pomona | 109 |
| Riverside | 129 |
| Sacramento | 243 |
| San Bernadino | 117 |
| San Diego | 716 |
| San Francisco | 1,202 |
| San Jose | 449 |
| Santa Ana | 265 |
| Stockton | 153 |
| Alameda County | 141 |
| Contra Costa County | 192 |
| Fresno County | 271 |
| Kern County | 287 |
| Los Angeles County | 2,019 |
| Marin County | 106 |
| Orange County | 317 |
| Riverside County | 403 |
| Sacramento County | 306 |
| San Bernardino County | 469 |
| San Diego County | 389 |
| San Joaquin County | 154 |
| San Mateo County | 170 |
| Santa Clara County | 184 |
| Sonoma County | 143 |
| Ventura County | 140 |
| Subtotal | 15,072 |
| Colorado: | |
| Colorado Springs | 136 |
| Denver | 531 |
| Adams County | 108 |
| Subtotal | 775 |
| Connecticut: | |
| Bridgeport | 235 |
| Hartford | 266 |
| New Britain | 113 |
| New Haven | 258 |
| Waterbury | 140 |
| Subtotal | 1,012 |
| District of Columbia: Washington (subtotal) | 1,150 |
| Delaware: | |
| Wilmington | 179 |
| New Castle County | 164 |
| Subtotal | 343 |
| Florida: | |
| Fort Lauderdale | 145 |
| Hialeah | 261 |
| Jacksonville | 475 |
| Miami | 812 |
| Miami Beach | 130 |
| Orlando | 122 |
| St. Petersburg | 187 |
| Tallahassee | 101 |
| Tampa | 275 |
| Brevard County | 102 |
| Broward County | 385 |
| Dade County | 1,014 |
| Hillsborough County | 266 |
| Orange County | 249 |
| Palm Beach County | 298 |
| Pasco County | 129 |
| Pinellas County | 180 |
| Polk County | 216 |
| Seminole County | 112 |

[In thousands of dollars]—Continued

| State | ESG87 ($200M) |
|---|---|
| Volusia County | 142 |
| Subtotal | 5,601 |
| Georgia: | |
| Albany | 106 |
| Atlanta | 654 |
| Augusta | 124 |
| Columbus | 158 |
| Macon | 133 |
| Savannah | 158 |
| Cobb County | 123 |
| De Kalb County | 225 |
| Fulton County | 126 |
| Subtotal | 1,807 |
| Hawaii: Honolulu (subtotal) | 778 |
| Iowa: | |
| Des Moines | 254 |
| Sioux City | 123 |
| Subtotal | 377 |
| Illinois: | |
| Chicago | 5,742 |
| Cicero | 115 |
| East St. Louis | 151 |
| Evanston | 109 |
| Oak Park | 102 |
| Peoria | 109 |
| Rockford | 117 |
| Cook County | 712 |
| Du Page County | 225 |
| Lake County | 155 |
| Madison County | 186 |
| St. Clair County | 145 |
| Will County | 100 |
| Subtotal | 7,968 |
| Indiana: | |
| Evansville | 179 |
| Fort Wayne | 176 |
| Gary | 231 |
| Hammond | 145 |
| Indianapolis | 557 |
| South Bend | 184 |
| Terre Haute | 123 |
| Lake County | 105 |
| Subtotal | 1,700 |
| Kansas: | |
| Kansas City | 134 |
| Topeka | 117 |
| Wichita | 182 |
| Subtotal | 433 |
| Kentucky: | |
| Covington | 114 |
| Lexington-Fayette | 148 |
| Louisville | 624 |
| Jefferson County | 183 |
| Subtotal | 1,069 |
| Louisiana: | |
| Baton Rouge | 302 |
| New Orleans | 938 |
| Shreveport | 205 |
| Jefferson Parish | 266 |
| Subtotal | 1,711 |
| Massachusetts: | |
| Boston | 1,272 |
| Cambridge | 200 |
| Fall River | 174 |
| Lawrence | 124 |

[In thousands of dollars]—Continued

| State | ESG87 ($200M) |
|---|---|
| Lowell | 134 |
| Lynn | 169 |
| Medford | 101 |
| New Bedford | 175 |
| Newton | 127 |
| Quincy | 125 |
| Somerville | 180 |
| Springfield | 264 |
| Worcester | 301 |
| Subtotal | 3,346 |
| Maryland: | |
| Baltimore | 1,566 |
| Anne Arundel County | 146 |
| Baltimore County | 273 |
| Montgomery County | 241 |
| Prince Georges County | 364 |
| Subtotal | 2,590 |
| Maine: Portland, (subtotal) | 130 |
| Michigan: | |
| Dearborn | 136 |
| Detroit | 2,935 |
| Flint | 285 |
| Grand Rapids | 229 |
| Kalamazoo | 112 |
| Lansing | 100 |
| Pontiac | 104 |
| Saginaw | 162 |
| Genesee County | 149 |
| Oakland County | 224 |
| Wayne County | 233 |
| Subtotal | 4,669 |
| Minnesota: | |
| Duluth | 178 |
| Minneapolis | 860 |
| St. Paul | 461 |
| Hennepin County | 180 |
| Subtotal | 1,679 |
| Missouri: | |
| Kansas City | 602 |
| St. Joseph | 118 |
| St. Louis | 1,497 |
| St. Louis County | 352 |
| Subtotal | 2,569 |
| Mississippi: Jackson (subtotal) | 212 |
| North Carolina: | |
| Charlotte | 236 |
| Greensboro | 111 |
| Raleigh | 103 |
| Winston Salem | 115 |
| Subtotal | 565 |
| Nebraska: Omaha (subtotal) | 277 |
| New Hampshire: Manchester (subtotal) | 109 |
| New Jersey: | |
| Atlantic City | 125 |
| Bayonne | 118 |
| Camden | 225 |
| East Orange | 106 |
| Elizabeth | 150 |
| Jersey City | 491 |
| Newark | 730 |
| Paterson | 227 |
| Trenton | 208 |
| Bergen County | 577 |
| Burlington County | 134 |
| Camden County | 143 |

[In thousands of dollars]—Continued

| State | ESG87 ($200M) |
|---|---|
| Essex County | 349 |
| Gloucester County | 110 |
| Hudson County | 313 |
| Middlesex County | 113 |
| Monmouth County | 184 |
| Morris County | 141 |
| Ocean County | 122 |
| Union County | 302 |
| Subtotal | 4,868 |
| New Mexico: Albuquerque (subtotal) | 255 |
| Nevada: | |
| Las Vegas | 129 |
| Clark County | 201 |
| Subtotal | 330 |
| New York: | |
| Albany | 244 |
| Babylon Town | 105 |
| Binghamton | 147 |
| Buffalo | 1,122 |
| Islip Town | 156 |
| Mount Vernon | 123 |
| New York | 12,130 |
| Niagara Falls | 176 |
| Rochester | 577 |
| Schenectady | 155 |
| Syracuse | 391 |
| Tonawanda Town | 106 |
| Troy | 126 |
| Utica | 189 |
| Yonkers | 220 |
| Erie County | 147 |
| Monroe County | 118 |
| Nassau County | 768 |
| Onondaga County | 112 |
| Orange County | 123 |
| Rockland County | 112 |
| Suffolk County | 262 |
| Westchester County | 283 |
| Subtotal | 17,892 |
| Ohio: | |
| Akron | 440 |
| Canton | 187 |
| Cincinnati | 860 |
| Cleveland | 1,669 |
| Columbus | 455 |
| Dayton | 445 |
| Lakewood | 112 |
| Springfield | 131 |
| Toledo | 434 |
| Youngstown | 295 |
| Cuyahoga County | 209 |
| Franklin County | 124 |
| Hamilton County | 204 |
| Montgomery County | 144 |
| Subtotal | 5,709 |
| Oklahoma: | |
| Oklahoma City | 298 |
| Tulsa | 228 |
| Subtotal | 526 |
| Oregon: | |
| Portland | 536 |
| Clackamas County | 113 |
| Multnomah County | 105 |
| Washington County | 114 |
| Subtotal | 868 |
| Pennsylvania: | |
| Allentown | 162 |
| Altoona | 126 |

[In thousands of dollars]—Continued

| State | ESG87 ($200M) |
|---|---|
| Chester | 115 |
| Erie | 212 |
| Harrisburg | 159 |
| Johnstown | 111 |
| Lancaster | 106 |
| Philadelphia | 3,551 |
| Pittsburgh | 1,145 |
| Reading | 198 |
| Scranton | 217 |
| Upper Darby Township | 119 |
| Wilkes-Barre | 122 |
| York | 105 |
| Allegheny County | 884 |
| Beaver County | 215 |
| Berks County | 160 |
| Bucks County | 153 |
| Chester County | 160 |
| Delaware County | 204 |
| Lancaster County | 195 |
| Luzerne County | 291 |
| Montgomery County | 212 |
| Washington County | 257 |
| Westmoreland County | 221 |
| York County | 153 |
| Subtotal | 9,554 |
| Puerto Rico: | |
| Toa Baja Municipo | 186 |
| Aguadilla | 155 |
| Arecibo | 244 |
| Bayamaon Municipio | 393 |
| Caguas Municipio | 287 |
| Carolina Municipio | 329 |
| Guaynabo Municipio | 159 |
| Humacao Municipio | 134 |
| Mayaguez Municipio | 239 |
| Ponce Municipio | 514 |
| San Juan Municipio | 895 |
| Trujillo Alto Mun | 116 |
| Subtotal | 3,651 |
| Rhode Island: | |
| Pawtucket | 123 |
| Providence | 401 |
| Subtotal | 524 |
| South Carolina: Greenville County (subtotal) | 156 |
| Tennessee: | |
| Chattanooga | 156 |
| Knoxville | 158 |
| Memphis | 735 |
| Nashville-Davidson | 338 |
| Subtotal | 1,387 |
| Texas: | |
| Amarillo | 104 |
| Austin | 321 |
| Beaumont | 103 |
| Brownsville | 176 |
| Corpus Christi | 249 |
| Dallas | 850 |
| El Paso | 551 |
| Fort Worth | 342 |
| Houston | 1,480 |
| Laredo | 195 |
| Lubbock | 154 |
| McAllen | 110 |
| San Antonio | 980 |
| Waco | 106 |
| Bexar County | 122 |
| Harris County | 369 |

[In thousands of dollars]—Continued

| State | ESG87 ($200M) |
|---|---|
| Tarrant County | 160 |
| Subtotal | 6,372 |
| Utah: | |
| Provo | 103 |
| Salt Lake City | 262 |
| Salt Lake County | 192 |
| Subtotal | 557 |
| Virginia: | |
| Newport News | 108 |
| Norfolk | 311 |
| Portsmouth | 114 |
| Richmond | 272 |
| Roanoke | 106 |
| Virginia Beach | 147 |
| Arlington County | 136 |
| Fairfax County | 243 |
| Subtotal | 1,437 |
| Washington: | |
| Seattle | 775 |
| Spokane | 232 |
| Tacoma | 167 |
| Clark County | 112 |
| King County | 301 |
| Pierce County | 186 |
| Snohomish County | 140 |
| Subtotal | 1,913 |
| Wisconsin: | |
| Madison | 114 |
| Milwaukee | 1,040 |
| Racine | 113 |
| Subtotal | 1,267 |
| West Virginia: | |
| Charleston | 133 |
| Huntington | 140 |
| Subtotal | 273 |
| Total | 116,236 |

COMPARISON OF DOMENICI-SIMON BILL, S. 763 WITH THOSE PROVISIONS OF S. 809 (SECTION 521) THAT ASSIST THE HOMELESS WHO ARE MENTALLY ILL

On March 18, 1987, Senators Domenici, Simon, Burdick, Hatfield, Nunn, and Gore introduced S. 763, "Services for Homeless Mentally Ill Individuals Act of 1987."

Subsequently, on March 23, an omnibus homeless bill was introduced by Senators Byrd and Dole as S. 809. S. 809, in part, also contains provisions to assist those who are mentally ill among the homeless population.

The following is a comparison that highlights the differences between S. 763 and that portion of S. 809—Section 521—focused on Mental Health Services. S. 811—Section 121—is the identical bill referred to the Committee on Labor and Human Resources.

GENERAL COMMENTS

The major differences in services to the homeless mentally ill in these two bills involve: Long-term commitment, authorized dollar levels, and the role of transitional housing.

The Domenici amendment offered today provides authorization for the remainder of fiscal year 1987, plus five additional years through fiscal year 1992. The bipartisan bill authorizes mental health services for two years, fiscal year 1987 and fiscal year 1988.

The Domenici amendment provides $1.130 billion over five years in new authorization levels, money directly solely to the homeless mentally ill. Section 521 of S. 809 authorizes $55 million to be spent in fiscal year 1987 for the homeless who are mentally ill, plus an open-ended "such sums" in fiscal year 1988.

The longer-term commitment and the higher, specified funding level are two hallmarks of the Domenici-Simon bill.

A major reason for the higher spending in S. 763 is that bill's strong commitment to transitional housing.

It is assumed that about half the S. 763 funding will be used to pay for transitional housing. Without a housing component that is woven into the heart of the bill, experts say there is little chance of reaching and treating successfully the homeless who are mentally ill.

A stable living environment is essential, or case management and psychosocial rehabilitation will not prove effective. Just the simple and routine taking of prescribed medication can stabilize many homeless people suffering schizophrenia or manic-depression.

On the streets, those who are fortunate enough to obtain prescribed medicines are often robbed. Having an identifiable and constant place to live can be the key element for many possible improvements in daily living.

While S. 809 recognizes this fact, it fails to provide direct funding or special set-asides for housing for the mentally ill. The separate transitional housing title in S. 809 could, if locally coordinated, add this vital dimension to the service program.

S. 763 makes certain of that link.

S. 809 would require case managers to help find housing. It also acknowledges the importance of housing, but leaves the actual funding up to mayors and governors. There is a possibility of some funding from the housing title of S. 809, but the competitive grant process and the other uses of the housing funds (for the homeless without mental illness) diminish the reality of much Federal funding.

By providing the funding in one block grant, Domenici-Simon emphasizes the high priority of this important service.

Both bills require local innovation to coordinate the required service elements. The high numbers of homeless who are mentally ill and their dependence on a place to live for their possible recovery, speak for a specific pool of Federal funds to help provide transitional living services.

The Domenici-Simon approach clearly ties transitional living to the other service elements. This linkage provides a solid basis for beginning a long road to recovery.

Mayors and governors will have an easier time coordinating services from one block grant in S. 763 as opposed to a block grant and a competitive housing program in S. 809. This is even truer when the competitive grant program must serve many more subgroups at a lower authorization of $60 million. S. 763 provides up to one-half of $200 million, or $100 million, specifically for housing for the homeless mentally ill.

Some of the other differences in the two bills are discussed below in more detail.

AUTHORIZATION

The omnibus bill, S. 809, authorizes $55 million for fiscal year 1987 and such sums as are necessary for fiscal year 1988 for services to the homeless mentally ill. The Domenici amendment to S. 809, authorizes $80 million for the remainder of fiscal year 1987. It then provides $200 million in fiscal year 1988 and goes up in increments of $5

million each year for 5 full years. The fiscal year 1992 authorization is $220 million.

S. 763 provides $8 million to the National Institute of Mental Health (NIMH) per year for five years for evaluation of the national program and training of local staff. In addition $2 million is added to the Community Support Program (CSP) at NIMH. S. 809 provides no new funds for either NIMH or CSP.

ALLOTMENTS

Both bills use a modified Community Development Block Grant (CDBG) formula to allocate funds to mayors and governors for the homeless mentally ill. S. 763 has a minimum of one-quarter of one percent per State; S. 809 provides one-half of one percent minimum per State.

As seen in the attached distribution tables of $200 million under the Domenici-Simon bill, one-quarter of one percent provides $500,000 to several small States. By using one-quarter of one percent, S. 763 avoids the problem of excessive reductions from large population States in order to fund the small States.

The omnibus bill's formula for services to the mentally ill would provide a minimum of $275,000 to small States if fully funded. Large States would be unnecessarily penalized with reductions in their allocations to allow each small State to have the minimum of one-half of one percent.

Domenici-Simon requires a minimum allocation of $100,000 to cities and urban counties. Amounts generated by the formula that are less than $100,000 are shifted to the State to be administered. With no similar provision, S. 809 will generate many very small allocations to cities—5, 23, 10, or even just 2 thousand dollars.

The CDBG formula is designed for an allocation of about $3 billion, and applying it to $55 million with no minimum amounts will generate hundreds of very small allocations to metropolitan areas and urban counties.

Allocations of less than $100,000 to cities would lead to very small program efforts, given the service elements required in both bills. With housing included, Domenici-Simon provides $100,000 as the minimum allocation to metropolitan area and urban counties.

Domenici-Simon requires a local match of 25 percent from local sources, 15 percent cash and 10 percent in kind. There is no match requirement in S. 809.

As explained below, the non-housing uses of funds are very similar in both S. 763 and S. 809.

USE OF NON-HOUSING ALLOTMENTS

1. Outreach.—Both bills provide for outreach services to those who are homeless. S. 809 adds those "who are at risk of becoming homeless."

2. Treatment.—Treatment is similar. S. 809 uses "partial hospitalization" and "habilitation and rehabilitation" where S. 763 refers to "medical services" and "group counseling, family therapy, and psychosocial rehabilitation services." S. 809 adds treatment services for individuals "who are at risk of becoming homeless."

3. Case management.—Both versions contain a plan of care, coordination of social services, transportation, and housing. Where S. 763 has job training, S. 809 has "prevocational and vocational services." Both contain provisions to assist in securing available income support, food stamps, and supplemental security income.

S. 763, in addition to the differences above, adds "obtaining State assistance" and "consultation with families" as functions of case management (not included in S. 809).

4. Training.—The training requirements for shelter personnel and others who directly serve the homeless mentally ill are very similar. S. 809, however, does not expand the ability of NIMH to provide the training as S. 763 does with $8 million for the closely related evaluation and training functions. In addition, S. 763 expands the Community Support Program by $2 million (from about $1.6 million to $4 million) to encourage more demonstrations.

MONITORING AND EVALUATION

The Domenici-Simon bill, S. 763, specifically requires NIMH to evaluate the program for the mentally ill homeless. These evaluations are expected to strengthen the staff training component, which is required in both S. 763 and S. 809.

In S. 809, there is a general program evaluation required that would cover all aspects of homelessness. NIMH could presumably conduct this evaluation, but no additional funds are authorized. S. 763, as mentioned, authorizes $8 million for evaluation and training. Both bills require a report to Congress.

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

## PROCEDURES FOR LICENSING ARMS EXPORTS

Mr. PRYOR. Mr. President, it was with a great deal of interest that I recently read the report prepared by the Tower Commission concerning the Iran-Contra controversy.

In that report, the three-man commission basically concluded that the manner in which the National Security Council and other White House officials handled the whole affair was merely an "aberration" and did not justify any fundamental revision of our national security decisionmaking process.

I found that remark to be of particular interest in light of what I and other members of the Senate Governmental Affairs Committee learned at a February 20 hearing at which we took a close look at the Federal licensing procedures for arms exports.

The Tower Commission may believe that recent NSC activities were based on an "aberration" which requires no basic remedies. However, I believe we have found serious problems concerning our overall arms export policy—not just the events leading to the Iran-Contra affair—which amount to much more than an aberration and which require tough congressional oversight and systematic reforms.

Mr. President, once you take a look at the procedures by which the Government claims to regulate arms exports, you can hardly be surprised by the revelations which surfaced in the Iran-Contra affair concerning middlemen passing around our most modern weapons and charging exorbitant fees.

The U.S. Government is more involved in the encouragement, merchandising and funding of international arms sales than Adnan Khashoggi. To a disturbing degree, we are facilitating, not regulating, the international sale of arms.

Mr. President, at our February 20 hearing, the committee heard testimony from the head of the Office of Munitions Control, also known as OMC. The OMC is the State Department agency which licenses commercial arms sales.

That testimony was as alarming as it was disappointing:

The Office of Munitions Control testified that it approved $14.9 billion in munitions sales last year, compared with only $4.6 billion in 1979.

OMC said it received requests to license more than 49,000 separate transactions last year and it rejected only 641 of them.

OMC stated it had registered more than 4,000 arms suppliers—and they said there were no minimum qualifications for arms exporters and that a past criminal record—even a conviction for treason—is not grounds for disapproval of a license to export arms anywhere in the world.

Quite simply, Mr. President, a convicted felon is not allowed to buy a handgun in many States, but that same convicted felon is still eligible to be an arms dealer under the laws of the Federal Government and under the policies of the State Department.

This is preposterous. It is a state of affairs which amounts to an unbelievable void of checks and balances which we must now correct.

The Office of Munitions Control also testified that they only had seven full-time licensing officers to review the 49,000 applications received last year. This is as many people as the OMC had to review 24,000 applications in 1976.

We also asked about the OMC's enforcement division—the people who are supposed to make sure arms dealers comply with the law and don't send weapons anywhere but where they are supposed to. The OMC testified that its enforcement division consisted of three people—one professional and two paralegals. It is nothing short of absurd to pretend that such a meager force can uphold the State Department's responsibilities to police the worldwide transport of arms.

OMC's enforcement chief assured us the amount of illegal arms trafficking out of the United States was not nearly at the level that press accounts would have us believe.

However, Customs Service officials—who are out there in the field every day trying to deal with all sorts of illegal shipments—later testified that they believed the illegal U.S. arms traffic was "pretty substantial"—to the tune of 400 U.S. arms export seizures last year alone.

But inefficient regulation is not the only way our Government actually assists and promotes arms sales.

We provide almost $6 billion worth of grants and loans to finance arms transfers a year—three times the amount we financed in 1981—and we provide indirect subsidies for many sales that are called "cash" sales.

Mr. President, our hearing uncovered these things and much more. For example, "commercial sales," for which arms dealers and middlemen can charge unlimited fees, are increasing at a sweltering pace, while Government cash sales—which carry a $50,000 cap on fees—are declining. At the same time, there appears to be flagrant circumvention of the requirement to report these fees to the U.S. Government, as is required by law.

Mr. President, section 1 of the Arms Export Control Act states that it is the policy of the United States to exert leadership in the world community to bring about arrangements for reducing the international trade in implements of war.

It also dictates that U.S. programs governing the export, sale, or grant of defense items "shall be administered in a manner which will carry out this policy."

What the Governmental Affairs Committee has found thus far does not amount to a country exerting leadership to reduce the world arms trade. It amounts to the very opposite.

We need to bring our policies into compliance with the law. Accordingly, there is great need to pursue this subject much more and to hold more public hearings. I intend to seek bureaucratic and policy changes in the executive branch and I will introduce major new legislation to promote competent and adequate regulation and safeguards of the U.S. share of the world's arms trade.

Until these things are done, none in this body can rest assured that another "aberration" involving our arms export "controls" is not brewing as I speak.

Mr. President, I ask unanimous consent that a letter I am mailing today to the Honorable George Shultz, Secretary of State, asking him particular questions about safeguards and controls and arms licenses be printed in the RECORD.

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

U. S. SENATE,
*Washington, DC, March 24, 1987.*

Hon. GEORGE P. SHULTZ,
*Secretary of State,*
*Department of State, Washington, DC.*

DEAR MR. SECRETARY: At my request, on February 20, the Senate Government Affairs Committee initiated hearings on the federal government licensing procedures for arms sales. The lead off witness for our first hearing was Mr. William Robinson of the State Department's Office of Munitions Control.

In the face of rigorous and unsympathetic questioning, Mr. Robinson and his staff testified in a most informative and professional manner. Among a number of things, they made it very clear that the Office of Munitions Control lacks adequate staff and other support resources. In this regard, I am anxious to see to it that the federal government's arms licensing procedures will in the future receive full and adequate support. Accordingly, I am interested to know the State Department's short and long range plans to upgrade support resources for the Office of Munitions Control and to review, with an eye toward tightening, existing State Department programs and policies concerning the registration of arms exporters, the licensing of individual arms exports, investigatory capabilities, and enforcement of existing and planned regulations and policies.

To follow up our February 20 hearing, the Government Affairs Committee is submitting written questions for the Office of Munitions Control. Additional issues were brought up at the hearing that prompted questions more appropriate to other bureaus and offices of the State Department. Accordingly, responses to the enclosed questions would be appreciated in order to complete the record of our hearing.

Thank you for your cooperation.

Sincerely,

DAVID PRYOR.

Mr. PRYOR. Mr. President, I ask unanimous consent that further questions in writing to the Department of State witness of February 20 be printed at this point in the RECORD.

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

QUESTIONS SUBMITTED BY SENATOR PRYOR TO DEPARTMENT OF STATE

The Department of State has broad authority to bar commercial sales for reasons of foreign policy and national security. Is it considered in the interests of U.S. foreign policy and national security to have no prohibition against convicted felons, debarred or suspended manufacturers or individuals under investigation being registered exporters or receiving approved licenses for the export of munitions list items? Please explain why no such prohibition apparently exists in State Department policy guidance.

If it is correct that aid and FMS sales are prohibited for internal security forces of foreign governments, why are commercial sales of weapons and other munitions list items permitted to foreign internal security forces?

Would the Department of State find it useful to know what agent fees and political contributions may have been paid to or by any party in connection with a FMS or a commercial sale?

In what instances since 1981 have bureaus or agencies in the Department of State recommended to the Office of Munitions Control that a specific license application for a commercial sale be rejected? That a debarment be ordered? That sales to specific purchasers be prohibited or specifically investigated?

In what instances since 1981 have representatives of the Department of State exercised any form of diplomatic pressure with regard to a foreign country in connection with presumed violations of the ITAR or U.S. arms export legislation?

Mr. PRYOR. Mr. President, I ask unanimous consent that a letter I am sending to Charles A. Bowsher, Comptroller General of the United States General Accounting Office, be printed in the RECORD, which asks the GAO to do a more comprehensive study on how licenses are granted by our Government to arms exporters.

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

U.S. SENATE, COMMITTEE ON GOVERNMENTAL AFFAIRS, SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE,
*Washington, DC, March 23, 1987.*

Hon. CHARLES A. BOWSHER,
*Comptroller General of the United States General Accounting Office, Washington, DC.*

DEAR MR. COMPTROLLER GENERAL: On February 20th I chaired a hearing of the Governmental Affairs Committee with the concurrence of Chairman John Glenn on the "Procedures for Licensing Arms Exports." I believe that the hearing was tremendously informative but raised a number of concerns about the adequacy of munitions exports controls.

The Government Affairs hearing turned up a number of things which imply that a fundamental breakdown of arms exports controls exists. From the Customs Service the Committee learned about a substantial amount of illegal U.S. arms shipments abroad. The State Department's Office of Munitions Control did not recognize this as a significant problem and apparently does little background analysis on license applications to identify high risk exporters and consignees. It is not clear what compliance functions are fulfilled by O.M.C. and how such activities are factored into the licensing process. Added to this is the apparent lack of written procedures governing the license review process.

In light of this situation, I am calling on the G.A.O. to conduct a review of several aspects of our nation's arms export control apparatus. The review should:

Review and identify weaknesses in the procedures for reviewing registrant and license applications at the Office of Munitions Control.

To what extent does O.M.C. in its license reviews confirm end-use associated with proposed exports?

Determine how long it takes O.M.C. to accept or reject individual license applications.

Examine and explain the disparity between the large value of export licenses approved and the small reported value of exports that actually occur.

Determine whether O.M.C. is obtaining complete information concerning the extent of agent's fees and political contributions from license applicants, as required by law.

Review the compliance activities of the O.M.C. What administrative actions are taken against export law violators? How could this be improved? What support is provided to the Customs Service by O.M.C. in the area of enforcement? What weaknesses exist in this area?

Examine O.M.C.'s proposed three year plan to meet its growing workload. What are its strengths and weaknesses?

List concerns raised by government officials during the course of your review re-

garding shortfalls of interagency coordination and cooperation.

I would like your response to be in a form as our staffs may agree is most appropriate and expedient. The results of this review will help me to formulate remedial legislation that I would like the Congress to begin considering before its July 4th recess. Accordingly, I request that the report be presented to me by June 22. In order to meet this tight deadline and in light of the likelihood of a congressional hearing on remedial legislation, I further request that you forgo obtaining formal agency comments on the results.

Thank you for your help and attention to this matter.

Sincerely,

DAVID PRYOR,
*Chairman, Subcommittee on Federal Services, Civil Service and Post Office.*

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

## NICARAGUA ACCOUNTING

Mr. BYRD. Mr. President, the Senate yesterday voted by a 46-to-45 majority to require the President to provide an accounting of the funds which have been raised for the purpose of aiding the Contras. We are not talking about inconsequential amounts of money. The Contras have been very well assisted. At least one country which was enlisted in this financial campaign, Saudi Arabia, is reported to have given $1 million per month for some undetermined period, to the cause. There are reports that some $10 million was netted from the Sultan of Brunei, and so far undetermined amounts from other nations.

No one seems to know how many millions were raised from private sources. The investigating committee under the leadership of Messrs. INOUYE and RUDMAN are trying hard to find out in particular how much money came from the diversion of funds from sales of arms to Iran.

Where did all this money go? Did the Contras get part of it? Did they get most of it? Did they get all of it? If they did, how did they spend it? How far down the garden path do we have to be dragged before we dig in our heels, stop short, and say that the American people are entitled to have the answers to these obvious questions?

It seems to me a little foolish to ask the American people to foot additional millions of dollars—an additional $40 million—before we find out what was served up, by whom, and to whom in this operation involving aid to the Contras.

When agency and departmental heads are called up before the committees of the Congress and required to testify on behalf of their agency budgets, those individuals have to be prepared to say how the money that was appropriated for the last fiscal year was spent:

What did you get for it? How many additional personnel did you get on board? Did you buy equipment with it? What results are you showing for your stewardship? What are the results of the expenditures that you have made thus far in this program and that program and another program?

If those agency heads cannot satisfy the questions asked by the members of the committees, it is not likely that the requested new appropriations will be forthcoming. Why should we not have the same answers here, the same requirement, even though we are talking about private funds, and funds that have been raised through other governments and by other governments, and funds that have been reportedly diverted from the sale of arms to Iran, a terrorist government that has humiliated the United States and the American people?

Why not have an accounting of these funds? Why all the resistance? Why the roadblocks? Why the stonewalling?

I hope that we can get a clear majority of this body today to vote for an accounting, and to stop the filibuster. Such an accounting will help our investigating committee. It would shorten the time for the investigations if we could get some of these answers.

There is a diplomatic track underway in Central America. It has been invigorated by the President of Costa Rica, President Arias—not, apparently, with much enthusiastic support from the administration.

In May, the Central American negotiators and Presidents will meet in Guatemala to advance this proposal and we should throw our support behind the effort and, in addition, open up a second bilateral track with the Sandinistas to reach a security agreement, including the elimination of Soviet advisers and Soviet influence from Central America.

Mr. President, we all want to see Soviet influence eliminated from Central America. The American people want Soviet influence eliminated from Central America. But the American people do not support this Contras program. They want Soviet influence eliminated, but they do not support the Contras program. Why? Because it is not working. It is not working.

When will the administration learn that, unless it has the support of the American people for its foreign policy, that policy is not likely to succeed?

I hope, Mr. President, the Senate can vote a solid majority for an accounting of these funds and that a more balanced approach to the Central American problem will be adopted finally by the administration.

Mr. President, I thank the distinguished senior Senator from North Carolina for yielding me the additional time.

I yield 2 minutes to Mr. CRANSTON.

Mr. CRANSTON. Mr. President, I thank our leader. Let me say this about the form of government we have: One of the virtues of open government is that people can see how decisions are made. It should always be clear in an accountable government who has accountability, where that lies, and who does not. That is what we really are now debating in terms of this filibuster and the measure that lies behind it—accountability for money squandered, unaccounted for, in Central America.

The filibuster is waged by those who do not want an accounting, do not want to have a vote and reveal things. They are unwilling to have an accounting on where all that money went. The Contra suppliers obviously have a weakness, they do not want a vote. They know the majority of the Senate wants accountability, just as a majority of the House of Representatives voted for accountability.

What type of government is it, what type of administration is it that spends money and does not want to account for it but wants more money? Why do the Contras need more money now if they got so much from illicit, illegal sources, tens of millions unaccounted for?

Congress was told by the administration a while ago that the Contras were desperate for another $20, $30, $50 million, when they were getting tens of millions on the side that we were not aware of at that time, but that the administration had orchestrated.

That is why we are pressing this issue. The Contra proponents, the people who support the Contras, continue to hide on this issue. All we want is an end to this debate and a vote for accountability.

Those who fail to conform to the requirements of accountability at this time will not be able to duck this issue in the fall. It will come to a head then, when the administration wants more money. At that time, it will only take 51 votes in this body and a majority of 1 in the other body and we will cut off money to the Contras, cut off backing a terrorist war, and stop steps which could lead to American military involvement and Americans fighting in Nicaragua. That is the logical end of this policy if we do not stop it now. For that reason, let us vote to end this debate and get to accountability and bring a halt to this policy.

Mr. BYRD. Mr. President, I yield the remaining 3 minutes to Mr. KENNEDY.

Mr. KENNEDY. Mr. President, I thank my leader. I see my colleague from Massachusetts. I shall be glad to divide the time with him.

Mr. KERRY. Mr. President, I thank my colleague. I would just as soon listen to him.

Mr. KENNEDY. Mr. President, I thank the Senator from West Virginia.

Yet again, the supporters of President Reagan's runaway Contra policy are filibustering to prevent the Senate from imposing a moratorium on further funds for the Contras until past funds have been accounted for. The reason for these tactics of delay is clear. Contra supporters are desperately trying to hide the truth about the aid already provided.

Obviously, there is more to tell. Congress has only discovered the tip of the iceberg in the scandal of Contra funding. We are only beginning to understand the full range of illegal tricks used to send untraceable cash to the administration's hand-picked thugs in Nicaragua—and this filibuster is the last resort to keep the pipeline of assistance open before the truth comes out.

Those whose hands are tarnished in this scandal are hiding from public testimony. Those who are willing to talk can't seem to remember what went on. But the facts are slowly emerging anyway, and each day it is becoming increasingly clear why the supporters of Contra aid are afraid to disclose the truth.

The emerging details of the Iran fiasco reveal an intricate and increasingly embarrassing scheme to divert aid not simply to the Contras but also to the most dangerous and radical elements in the Middle East. The revelations that millions of dollars went as kickbacks to Iranian leaders, to terrorists holding our hostages in Lebanon—not to mention into Contra bank accounts in Switzerland—shed new light on why the administration wants no accounting for the funds.

We are also learning how we extorted and bribed our friends into providing aid to the Contras, when U.S. law specifically banned such indirect assistance. Two million dollars a month was extracted from Saudi Arabia, and the Sultan of Brunei donated $10 million. We even threatened to cut off aid to Costa Rica unless that country allowed us to build a secret landing strip to supply the Contras.

Contrary to the letter and spirit of the law, administration officials were up to their ears in private fundraising for the Contras, including the use of tax exempt organizations as fronts for their illegal schemes. Out of his web of Cayman Islands and Swiss bank accounts, Oliver North came up with $7,000 a month for Arturo Cruz and $10,000 a month for Alfonso Robelo—both of whom have since jumped the Contra ship.

Contra supporters in the Senate have good reason to fear this moratorium. The American people already overwhelmingly reject the administration's policy of wider war in Central America.

That policy is not working—and those who vote to sustain this filibuster know it. The CIA's so-called spring offensive proves the point. Holding no territory, having no support from the Nicaraguan people, and with no hope of military victory, the Contras, with blueprints from the CIA, are preparing to spend the next few months engaged in terrorist bombing attacks on civilian installations in Nicaragua.

As a show of strength, the United States plans to send 50,000 troops to Honduras for military exercises to coincide with the CIA's spring offensive. The exercises are called Solid Shield, but they are no protection against the leaky sieve of Contra aid.

And at the same time, the Reagan administration is quietly stifling the constructive efforts of the Central American democracies—led by President Arias of Costa Rica—to prevent a wider war and negotiate a peaceful settlement in the region.

The spring offensive is no threat to the Sandinistas. It will only serve as a reminder to the people of Nicaragua that the United States is behind the terrorist attacks. And Solid Shield should more properly be called thin veil, because it is a transparent cover for what is clearly a dry run for a United States invasion of Nicaragua.

To continue this fiasco is folly for the Senate. If nothing else comes out of Iranscam, we should have learned the wisdom of finding the facts before committing U.S. aid. That is all this resolution is asking. The administration's policy is a sinking ship that ought to be abandoned now; it cannot be bailed out with $40 million more.

Mr. KERRY. Mr. President, yesterday, I detailed some of the reasons why it is vital that we carefully examine what happened to previous U.S. funds to the Contras before we permit the President to spend anything more in connection with this fundamentally flawed policy.

Joint Resolution 175 places a moratorium on U.S. assistance to the Contras until there has been a "full and adequate accounting for previous assistance." That means not just the $60 million which we have spent on military support for the Contras over the past year, not just the $23 million we spent on supposedly humanitarian assistance the year before, but all assistance we have provided.

Yesterday, I examined some of the case histories involving Contra corruption and other abuses in connection with prior funding for the Contras, including State Department contracts for International Business Communications, Inc., a company which allegedly was funneling funds to the Contras for military purchases at a time when that was illegal, and various frauds in connection with the disbursement of funds from the NHAO.

Today, I would like to review just a few of the recent articles which have suggested that further investigation will only uncover further evidence of corruption, fraud, and financial misappropriation in the handling of Contra funds.

Let me begin with the article which appeared today in the Washington Post, headlined "State Department Helped Contractor Aiding Contras—Normal Procedures Bypassed to Speed 'Emergency' Payment."

According to this article, State Department officials, citing White House concern, bypassed normal procedures in 1985 to bail out a financially strapped company that was aiding the Nicaraguan Contras, as revealed in a State Department memo.

The company, International Business Communications, Inc., had been awarded noncompetitive State Department contracts to publicize the Contra cause in the United States. During the same period, according to the article, the company also was involved in funneling privately raised money to aid the Contras. Further, IBC was listed on the chart prepared by Oliver North, contained in the Tower Commission report, describing his network of funding mechanisms for the Contras. An employee of Carl "Spitz" Channel, Jane McLaughlin, has told the New York Times and ABC that funding for the Contras went to an account called "toys," which she understood was to buy weapons for the Contras in apparent violation of at least the Neutrality Law, quite possibly the Arms Export Control Act, and also the Boland amendment to the extent that North and other officials involved with the fundraising were doing so for the purpose of raising funds to support Contra military efforts.

The article quotes the chairman of the House Foreign Affairs Committee as saying that IBC has "apparently been involved in the funneling of money to secret Swiss bank accounts." And I have received other information suggesting strongly that IBC has simultaneously engaged in lobbying efforts directed at particular members of the Contras at the time of the vote last spring on Contra aid.

Mr. President, it is illegal for the State Department to enter into contracts with anyone for the purpose of lobbying Congress. My staff has asked the State Department just what services IBC performed pursuant to the contracts it had with the State Department, and to date, the State Department has replied that it doesn't know the details and can't tell us.

Nor can the State Department tell us why the major contract it entered into with IBC for more than $276,000 was classified "secret," and declassified only when after inquiries by my office prompted a review of this con-

tract, which was apparently never advertised in the Commerce bulletin as ordinary contracts would be.

The article in the Washington Post quotes a State Department memo from Frank Gardner, then an official of the Department's Office of Public Diplomacy for Latin America and the Caribbean, requesting that the "usual timing of 25 to 30 days be set aside to make an emergency payment" to IBC. The memo said:

This action is of utmost importance, not just to the Department, but to the White House, and the NSC so that IBC, which finds itself temporarily in dire financial straits, may have funds in days ahead to intensify its efforts * * * on behalf of the President's East peace proposal for Nicaragua.

That peace proposal, Mr. President, was to provide the rebels with nonlethal equipment unless the Nicaraguan Government entered into serious negotiations with the Contras on national reconciliation. The proposal was part of a package designed to win congressional support for funding the Contras. What the funds to IBC apparently were for was nothing less than lobbying, an activity precluded for State Department funds by law.

Mr. President, I have asked the State Department to provide my staff and the staff of the Foreign Relations Committee with a detailed accounting on its contracts with IBC. My staff was told yesterday, that no list existed today of the services which IBC performed under the contract, that the State Department didn't know who at the Department of State chose IBC for the series of noncompetitive, sole source purchase orders and contracts, didn't have a record of what services were actually performed by IBC under the purchase orders and contracts, couldn't provide us with copies of materials drafted by IBC pursuant to these contracts for State, and couldn't say why the major contract was classified "secret" or why disclosure of the information in the contracts would cause "serious damage to the national security," the only proper standard for classifying it secret in the first place.

It is clear to me that the IBC situation needs to be fully investigated and that it is but one of many examples of abuse connected with U.S. support for the Contras. Mr. President, Rafael Flores, program director for IBC pursuant to the State Department contract, was simultaneously public relations director for Carl Channel's companies at a time when Channel was targeting individual Senators and Congressmen in political campaigns. Flores was working for Channel and for the State Department on Central American issues simultaneously while Oliver North was allegedly helping Channel prepare television advertisements on the Contra issue generally, and in some cases directed at individual Congressmen.

I can think of few more serious situations than the situation we may have here, Mr. President, where the State Department is keeping a business afloat which is in "dire financial straits" to quote the State Department memo, which has as its program director a person who simultaneously is engaged in not just lobbying, but active attempts to target Senators and Congressmen opposed to the administration's policies in Central America.

Mr. President, the IBC situation is only one of the abuses that have recently been uncovered. For example, the Philadelphia Inquirer revealed this Sunday that humanitarian aid was illegally used to buy weapons for the Contras, according to State Department records and interviews.

To quote the Philadelphia Inquirer story:

Records and interviews show that the State Department hired retired Air Force Col. Richard B. Gadd to deliver most of the humanitarian aid at the same time he was setting up a secret, supposedly private weapons supply network—and that he used his State Department contracts to offset his weapons delivery costs.

The March 22 article by Steve Stecklow details some of the methods that the NSC-directed network used the State Department's humanitarian assistance program to help the weapons supply, in apparent violation of the law, from paying for parachutes used to drop weapons to the Contras, to paying for the cost of shipping planes down to Central America which were then used for weapons drops.

In direct contradiction to testimony given by Assistant Secretary of State Elliott Abrams before the Senate Foreign Relations Committee, the article quotes State Department officials as acknowledging that loads of humanitarian assistance were sometimes mixed with arms in Central America. Mr. Abrams and the State Department as recently as last month have formally denied to the committee that this took place.

The Philadelphia Inquirer quotes another State Department official as saying he knew at the time that Gadd was involved in arms deliveries when he was handling humanitarian shipments. Yet other State Department officials, including Mr. Abrams, continue to contend that they were ignorant of the Gadd operation, and were as suprised as anyone that Hasenfus was not a private soldier of fortune, but had been paid for by the U.S. Government.

Mr. President, is it credible to believe that the State Department chose to pay Mr. Gadd $609,000 to transport humanitarian assistance and didn't know he was shipping arms to the Contras, and weren't involved in helping him? How was Mr. Gadd selected for shipping this aid? Why did the State Department insist on his company doing the work? Why did Mr. Gadd contract with Southern Air Transport to carry the humanitarian aid, when Southern Air had also engaged in shipping weapons to the Contras? Why was Gadd chosen when his company had no planes of its own and reported assets at the time of minus $56.18? Is the Congress supposed to believe the assurances of Mr. Abrams in the face of the evidence to the contrary that the $609,000 didn't help the Contra military supply operation in violation of the law?

Of course not. But the truth is, we don't have the answers today, and that is exactly why we should demand a moratorium until a full accounting of past expenditures is made.

Mr. President, I ask unanimous consent that the article which appeared in the Washington Post and the article which appeared in the Philadelphia Inquirer be placed in the RECORD.

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

[From the Washington Post, Mar. 24, 1987]

STATE DEPT. HELPED CONTRACTOR AIDING CONTRAS—NORMAL PROCEDURES BYPASSED TO SPEED "EMERGENCY" PAYMENT

(By Larry Margasak)

State Department officials, citing White House concern, bypassed normal procedures in 1985 to bail out a financially strapped company that was aiding the Nicaraguan contras, a department memo shows.

The company, International Business Communications Inc., had noncompetitive State Department contracts to publicize the contra cause in the United States.

During the same period, the company also was involved in funneling privately raised money to aid the contras. IBC is a Washington public relations firm that has "apparently been involved in the funneling of money to secret Swiss bank accounts" used in aiding the rebels, said Rep. Dante B. Fascell (D-Fla.), chairman of the House Foreign Affairs Committee.

The State Department memo from Frank Gardner, then an official of the department's Office of Public Diplomacy for Latin America and the Caribbean, was addressed to an official in the comptroller's office.

"This is to request the usual timing of 25 to 30 days be set aside to make an emergency payment of $12,858 to IBC in response to its bill dated 41185," said the memo, which was dated the same day as IBC's bill.

"This action is of utmost importance, not just to the department, but to the White House, and the NSC [National Security Council] so that IBC, which finds itself temporarily in dire financial straits, may have funds in days ahead to intensify its efforts . . . on behalf of the president's Easter peace proposal for Nicaragua."

President Reagan's proposal was to provide the rebels with nonlethal equipment unless the Sandinista government entered into serious negotiations with the contras on national reconciliation.

The State Department memo reveals the Reagan administration's interest in IBC at a crucial time for the contras.

This interest flowed from two parallel developments between January and April 1985. First, U.S. government aid to the contras had run out and "elements of the NSC staff focused their efforts on strategies for repackaging the contra program to increase support on Capitol Hill," according to the Tower commission.

At the same time, Lt. Col. Oliver L. North, the NSC staff member who was later fired as a result of his involvement with secret arms sales to Iran and aid to the rebels, was working on contingency plans to continue private assistance should the aid package fail.

A report last week by Fascell's committee said that IBC and one of its principals had six noncompetitive contracts with the State Department from 1984 to 1986.

During some of that period, the firm also was retained by Washington fund-raiser Carl R. (Spitz) Channell to help conduct a pro-contra public relations campaign and funnel privately raised money to the contras.

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[From the Philadelphia Inquirer, Mar. 22, 1987]

CONTRA FUNDING DIVERTED—HUMANITARIAN AID USED TO BUY ARMS

(By Steve Stecklow)

WASHINGTON.—Money from a $27 million program of "humanitarian" aid to the Nicaraguan contras was used to supply weapons to the rebels at a time when all U.S. military assistance was banned, State Department records and interviews show.

Congress strictly prohibited using any of the $27 million to help the contras obtain weapons and ammunition when it approved the humanitarian assistance program in 1985. But records and interviews show that the State Department hired retired Air Force Col. Richard B. Gadd to deliver most of the humanitarian aid at the same time he was setting up a secret; supposedly private weapons supply network—and that he used his State Department contracts to offset his weapons delivery costs.

Among the ways that supposedly humanitarian aid helped the weapons supply network:

The State Department acknowledged that Gadd was paid for parachutes that a member of the contra supply network said were used to drop weapons to Nicaraguan rebels. The crew member, Lain Crawford, said that he sold the parachutes to Gadd for $11,751 and that he later attached them to crates of weapons he pushed out of a cargo plane to contra units. A State Department official, who requested anonymity, confirmed paying Gadd for parachutes. If they were used for some other purpose, he said, that was not the State Department's responsibility.

Gadd partially offset the costs of a weapons flight by piggybacking it on a delivery of humanitarian aid. The State Department paid Gadd's company, Airmach Inc., to deliver nonlethal supplies from New Orleans to El Salvador last April 9. After the supplies were unloaded, the plane was filled with seven tons of weapons, according to crewmen, who said they parachuted the arms to contra units during a secret mission two nights later. The crewmen said that Gadd paid for the weapons drop but that their network had been spared the $26,900 cost of flying the plane to Central America.

Gadd was paid more than $487,000 to transport humanitarian assistance between Jan. 17 and April 11, 1986, according to State Department records. He got the contract even though his company had no planes of its own and reported assets at the time of minus $56.18. The State Department kept Gadd as contractor even after it found a competing company that could perform the services better for less money, according to Mario Calero, a top contra official in charge of buying the humanitarian supplies—such things as food, clothing and medicine.

Gadd, through his attorney, Kenneth Lazarus, declined to comment.

Congressional committees now are investigating the ties between the humanitarian aid program and the covert arms supply network. One question is whether the State Department steered humanitarian assistance business to Gadd as a way of helping pay for the clandestine weapons shipments.

The House and Senate committees investigating the Iran-contra arms affair voted Wednesday to grant Gadd immunity from prosecution, in an effort to compel him to testify.

State Department officials deny any wrongdoing. Robert Duemling, a career diplomat who directed the department's Nicaraguan Humanitarian Assistance Office (NHAO), said in an interview that he did not know that Gadd was involved in delivering arms to the contras.

Asked about the parachutes, he said that congressional oversight committees had approved spending NHAO funds on "any kind of delivery system," including parachutes.

But former Rep. Michael Barnes, who at the time was chairman of the House Foreign Affairs subcommittee on Western Hemisphere Affairs, which oversaw the spending of the humanitarian aid funds, said NHAO officials never asked for permission to buy parachutes for weapons drops.

"If in fact they were purchasing equipment to facilitate the shipment of weapons, then they were clearly undermining what Congress intended," he said.

Another State Department official, who requested anonymity, acknowledged that the parachutes were probably used for weapons drops—and that loads of humanitarian assistance were sometimes mixed with arms in Central America. The official maintained, however, that the department had not violated congressional restrictions on the humanitarian assistance.

A third State Department official said he knew at the time that Gadd was involved in arms deliveries when he was handling humanitarian shipments.

The $27 million humanitarian aid program has been the subject of intense controversy since the funds were first approved in 1985. The General Accounting Office, Congress' auditing agency, reported last year that it could not verify how millions of dollars had been spent under the program.

The GAO also found that $25,870 had been spent on uniforms, ammunition and grenades, in violation of the program's provisions. The money spent for weapons was later recovered from the contras by the State Department.

Gadd, 46, a former air commando, specialized in providing air transport and aircraft maintenance for the Pentagon through American National Management Corp., a company based in Vienna, Va., according to business associates who requested anonymity. They said Gadd held classified defense contracts to provide unmarked civilian planes and civilian crews with high security clearances enabling them to fly anywhere in the world, on 12-hour notice. He usually used the services of Southern Air Transport, a Miami-based airline once owned by the CIA but which denies any current ties to the agency.

How Gadd came to work for the humanitarian aid program is not clear. At the State Department, Duemling declined to comment.

Calero, procurement chief for the contras in the United States, said in an interview that Gadd first contacted him in December 1985 about delivering the State Department's nonlethal aid to the contras.

At the time, the humanitarian aid program, which began operations in the fall of 1985, was plagued by delivery problems. The Honduran government, then headed by former President Roberto Suazo, had seized the initial shipments and then halted all delivery flights.

The dispute was resolved in early 1986 after Honduras' current president, Jose Azcona, took office. But by then the nonlethal aid had backed up, and Calero said he and the State Department decided to replace Conner Airlines of Miami with a new carrier that had larger planes.

Calero said he had never heard of Gadd or Airmach. When they met in New Orleans in December 1985, Calero said Gadd already knew the type of planes Calero wanted and how many weekly flights had been authorized to Central America.

"Where he found out I can't tell you," Calero said. "He surprised me."

Calero said he suggested that the State Department hire Gadd because he offered to fly planes to Central America for several thousand dollars less per flight than another airline he had contacted, Transamerica.

On Jan. 3, 1986, the State Department authorized Airmach to deliver nonlethal aid to Central America, department records show. Between Jan. 17 and April 11, Airmach flew 15 flights to Central America, according to a source at Southern Air Transport in Miami. That company provided the planes for the humanitarian aid deliveries and at least one weapons drop.

At the same time Gadd was transporting humanitarian aid for the State Department, he was deeply involved in organizing the secret contra weapons supply operation, crewmen involved in the operation said.

The crewmen said they believed that Gadd was working for retired Air Force Maj. Gen. Richard V. Secord, with whom he had long been associated in the military and private business. The Tower commission and the Senate Intelligence Committee have said that Secord worked with former National Security Council aide Oliver L. North to keep the contras armed during the time U.S. military aid to the rebels was banned by Congress.

The contra supply network delivered tons of arms until one of its cargo planes was shot down during a weapons run into southern Nicaragua last Oct. 5.

Crewmen said that Gadd began recruiting them in December 1985 and that between then and the downing of the C-123K, Gadd purchased supplies, set up a radio network and helped arrange the purchase of cargo planes. Southern Air assisted in the purchase of four cargo planes, provided thousands of dollars used by crewmen to pay for fuel and spare parts, and provided maintenance services and personnel.

Crawford, the weapons supply crewman, said Gadd told him that the weapons network was a "spinoff" of the humanitarian assistance program.

Crawford said that at the time Gadd hired him, "we were going to work for a spinoff of Project Hope." As part of the humanitarian aid program, the State Department gave a $3.75 million grant to Project Hope to provide medical supplies to the contras. Airmach was contracted to deliver most of the material.

The State Department went out of its way to keep Gadd under contract, according to interviews.

In mid-February 1986, when Gadd could not provide enough planes for three deliveries in one week, Calero said he arranged through a broker for Markair of Anchorage, Alaska, to provide a flight to El Salvador.

Calero promised that Markair would get at least three flights, according to Jim Mueller, a Connecticut broker who negotiated the flight, and Ed Rogers, director of cargo sales at Markair.

But after Markair sent a plane to New Orleans for a second flight and filled the plane with supplies, they said, an order was given to unload the plane. The goods were then reloaded on a Southern Air Transport plane contracted by Gadd, which flew the mission, according to Mueller and Rogers.

Mueller said he complained to Calero and an NHAO official at the State Department but was told by both men that the order had come from higher-ups in Washington.

Duemling confirmed that the State Department had ordered the Markair plane unloaded, saying that Calero had made promises to Markair "against the specific instructions of this office." Duemling would not discuss, however, why the State Department preferred to use Gadd and Southern Air, even through Calero said that Markair provided better service than Gadd.

Moreover, Calero and another State Department official said that Markair charged less and eventually took over from Gadd.

This happened after a dispute between the State Department and Airmach over its bill, according to State Department records. Airmach billed the Department $609,700 for its 15 flights. But the department at first paid Airmach only $487,600. The department refused to pay for extra risk insurance that Southern Air, which was flying the supplies for Airmach, said it had to pay when its insurer learned that the airline was flying to Central America.

The dispute was later "amicably terminated," with the State Department agreeing to make an additional payment, according to Southern's attorney, David Kirstein. He declined to disclose the settlement.

## CLOTURE MOTION

The ACTING PRESIDENT pro tempore. One hour having passed since the Senate convened, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of House Joint Resolution 175, a joint resolution to impose a moratorium on United States assistance for the Nicaraguan democratic resistance until there has been a full and adequate accounting for previous assistance.

Robert C. Byrd, Alan Cranston, Kent Conrad, Quentin Burdick, Timothy E. Wirth, Daniel Moynihan, Jeff Bingaman, John D. Rockefeller, Claiborne Pell, John F. Kerry, Patrick Leahy, David Pryor, Albert Gore, Jr., Wendell Ford, Tom Daschle, and Edward M. Kennedy.

## VOTE

Mr. BYRD. Mr. President, there will be no other rollcall votes today.

The ACTING PRESIDENT pro tempore. By unanimous consent, the quorum call has been waived. The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of House Joint Resolution 175, a joint resolution to impose a moratorium on United States assistance for the Nicaraguan democratic resistance until there has been a full and adequate accounting for previous assistance, shall be brought to a close. The yeas and nays are automatic under the rule. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. DIXON). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 50, nays 50, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—50

| | | |
|---|---|---|
| Adams | Ford | Moynihan |
| Baucus | Fowler | Packwood |
| Biden | Glenn | Pell |
| Bingaman | Gore | Proxmire |
| Bradley | Harkin | Pryor |
| Bumpers | Hatfield | Reid |
| Burdick | Inouye | Riegle |
| Byrd | Kennedy | Rockefeller |
| Chafee | Kerry | Sanford |
| Conrad | Lautenberg | Sarbanes |
| Cranston | Leahy | Sasser |
| Daschle | Levin | Simon |
| DeConcini | Matsunaga | Specter |
| Dixon | Melcher | Stafford |
| Dodd | Metzenbaum | Weicker |
| Durenberger | Mikulski | Wirth |
| Exon | Mitchell | |

NAYS—50

| | | |
|---|---|---|
| Armstrong | Grassley | Nickles |
| Bentsen | Hatch | Nunn |
| Bond | Hecht | Pressler |
| Boren | Heflin | Quayle |
| Boschwitz | Heinz | Roth |
| Breaux | Helms | Rudman |
| Chiles | Hollings | Shelby |
| Cochran | Humphrey | Simpson |
| Cohen | Johnston | Stennis |
| D'Amato | Karnes | Stevens |
| Danforth | Kassebaum | Symms |
| Dole | Kasten | Thurmond |
| Domenici | Lugar | Trible |
| Evans | McCain | Wallop |
| Garn | McClure | Warner |
| Graham | McConnell | Wilson |
| Gramm | Murkowski | |

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 50, three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

## ORDER THAT CLOTURE VOTE OCCUR AT 12 NOON TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on cloture on tomorrow occur at the hour of 12 o'clock noon.

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

Mr. BYRD. Mr. President, there will be no further rollcall votes today.

## MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business not to extend beyond 30 minutes and that Senators may be permitted to speak therein for not to exceed 5 minutes each.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

## SMALL BUSINESS

Mr. DOMENICI. Mr. President, I want to take just a few minutes of the Senate's time to discuss three matters. I started two of these a while back but I was kind of limited in time. Today I introduced a couple of measures that I would like to talk for just a moment about the one on small business.

Twenty-four Senators have joined me in a bill that I think is rather significant. As we all know, small business is the backbone of this country. They have two successful small business conferences in this Nation in the past 6 years, but there is no legislative mandate that these small business conferences take place.

So one of the proposals that came out of the small business conference—I am very proud and pleased that it happened to have been suggested by the New Mexico delegation to the national conference—but one of the suggestions was that we just not take these national conferences for granted and that we legislate that one will occur at least every 4 years, meaning that it will not be left either up to the whim of the Congress from time to time in the future or even up to the whim of the Chief Executive from time to time.

So the measure is a simple one. It has now been referred to the Small Business Committee of the U.S. Senate. Its counterpart hopefully will work its way through the House. But I think it makes eminent sense, if we are concerned about our economic future and if we are willing to admit that under our system the real backbone for innovativeness, the real backbone for flexibility in difficult times, that

which makes us so capable during transition periods is the small business community of America, then I think the least we can do is take one of those suggestions—we are following many of them—but take that one that says: "Why don't you mandate that we have a small business conference every 4 years and make it law?" I hope that the rest of the Senators that did not get a chance to cosponsor it—24 did—I hope they will join. I thank everyone that did, and particularly those who are members of the Small Business Committee.

## THE HOMELESS WHO ARE MENTALLY ILL

Mr. DOMENICI. Mr. President, I would like to take a couple more minutes to discuss the homeless and, in particular, the homeless who are seriously mentally ill.

Some may ask: "Why is Senator DOMENICI, a Senator from New Mexico, a rural State"—obviously, we have no New York cities, we have no Philadelphias, we have no Chicagoes in New Mexico; our largest city is my home city of Albuquerque—some may say: "Why is a Senator from New Mexico involved in this issue of the mentally ill that are homeless?"

Well, let me say to the Senate, about 3 or 4 years ago, for matters personal to my family, I acquired a very serious and deep interest in mental illness, especially the kinds that are called serious mental illnesses. As a result, I have been very active in the Appropriations Committee in an area that I thought I could do some good.

What was that area? That area was the woeful inadequacy of America's commitment to research on serious mental illness under the auspices of the National Institutes of Mental Health. I will not tonight bore the Senate with the facts, other than to say that there is no illness—and I stress "illness," if you want to call it disease, sickness—there is no illness in the United States that is more debilitating than serious mental illness.

In what respect? There are more people occupying hospital beds in the United States of America as a result of serious mental illness than any other single disease. There is more economic loss in this country due to serious mental illness—schizophrenia, manic depression and hybrids of those—more economic loss per day than any other illness in America.

There are more homes in America torn apart by having some young member of their family the victim of this tremendous disease called schizophrenia. And we are now reaching a point—thank God; it has taken a long time—where we do not hide serious mental illness any more as if it is some medieval disease that comes upon us because of the devil or some kind of thing that we are all embarrassed about.

I guarantee you, Mr. President, it strikes all kinds of households. It strikes mothers and fathers whose children have had the best of everything; it strikes mothers and fathers of children who are poor; it strikes mothers and fathers who do not even know what to do when they find their youngster with this kind of illness. And it goes from one crisis to another, such that we now have the President of the National Association for the Mentally Ill, a marvelous man from California, come and testify before the Senate—a successful man, who has done everything he could for his family—sit there and tell us: "I have two sons. Both have schizophrenia. One is in prison and the other one will be there pretty soon because we don't know what to do about it. Because when they are sick, when they are going through those episodes, their conduct is totally irrational and we have changed our policy with reference to institutionalization and they are now on the streets."

So this Senator said, "Why don't we put more research money into serious mental research? Why don't we commit to the scientists of this country that this is indeed one of our serious problems, and we invite you to join in the research, and it will not be for a lost cause because there will be money there to fund your projects?"

So our goals were twofold: Quit hiding it, and begin to put some real money into research.

How good it is to be able to say to the Senate that the leaders in research today—those who have joined associations such as the National Association for the Mentally Ill, and one of their characteristics is that a member of the family must be ill. How good it is to hear that it is the fastest-growing organization in the United States because they are trying to help each other, and how good it is that they can now testify that there is no longer an embarrassment to tell one's neighbor that their child is sick rather than to hide, and second to hear the great scientists say we are getting the best of America's scientists applying for grants through NIMH to find a cure for this incredible disease.

It is logical, if the Senator from New Mexico learned about that, that I was utterly and totally shocked as I walked the streets in my home city, as I read about those who walked the streets of New York, as I read the reports of those who were trying to tell us something about this phenomenon called "the homeless" or "the street people" or "the grate sleepers," and to read one study after another, say a huge proportion of those people are seriously mentally ill.

Mr. President, the smallest percentage I have seen in any study—Americans should know this because they are watching television at night, and there is nothing that is working at their hearts more than this issue of homelessness—and they should know that those people sleeping on the grates, those people sitting on a park bench staring at the sky, or saying and talking strange kinds of languages are ill. They do not want to be there. They do not know any better because they are sick. No less than 35 percent, I found, of those who are homeless are ill, and have one of the dread diseases of serious mental illness.

Having found that, and having done a little bit to say we are going to find a cure one of these days, I began to ask those who are trying to help the street people who are mentally ill what should we do about it? And I found that a few States—and herein I compliment New York—put a little bit of seed money through their State legislatures into programs to experiment, for lack of a better word, with ways and means of helping. And what we have found now from the experts is that there is no simple, easy way. We can have 15 emergency bills for the homeless pass here in the U.S. Congress, and we could take our turn over 4 or 5 months when the cold hits the streets to hit the floor of the Senate, or hit the floor of some committee, and say, "Let's spend some money on the homeless," and we are not going to solve the problem of the 35 to 50 percent of the seriously mentally ill who are in that group called "homeless America."

So obviously the person occupying the chair and some others helped last year to change some laws. That was a simple first step. It is simple. It is as simple as saying you cannot deny people entitlements such as welfare, food stamps, or veterans benefits because they do not have a residence. It is clear, and as patent as the glasses on my face. How can you ask homeless people for their home address before they are entitled to help? So that started its way down the road to getting for those people something they need and are entitled to.

But now with the help of the experts, the help of those who are in the field relying upon some of the models that are working, we put in a homeless bill the other day. We will call it, for purposes of this discussion, the Domenici-Simon bill, Senate bill 763.

Mr. President, it acknowledges that the only way we are going to help is to have at least five ingredients. First, you have to go look for them. So we are going to have to have outreach. Second, you are going to have to take care of them once you entice them to come and get help. So you have to have case workers. And they have to be helped in some very basic fundamental things. Part of that requires

that we have medical assistance. Some of our modern drugs are performing miracles in terms of calming these deranged, sorrowful people that are sad and sick. We have to help with medical care once we have talked them into joining. But we also have to provide shelter. We call it transitional living.

So they are there to get that kind of work, to get that kind of work up, and get that kind of medical help.

Then without any question we have to have some more training for the kind of people that are going to provide it. Then we have to monitor to make sure they are getting the very best in terms of modern treatment.

Mr. President, I have now heard of cases today that I can tell you of a man in one case who for 22 years was literally catatonic with schizophrenia, allegedly. That means a basket case for 22 years. And with modern medicine, in 6 months the 22 years are lost. But the person is up and around, ambulatory, and almost able to take care of himself. And I have heard of another recently, believe it or not, that after 38 years is receiving the kind of medical care, and the kind of modern drugs such that after 38 years of being literally lost is practically well. We are going to have to provide that, and monitor it. And this bill that I am referring to says let us let our best monitor, and give advice. Then last but not least, we need the local units of government to do something so that it is theirs.

So we have a 75 to 25 percent match in this program and it goes out under a formula that we think is eminently fair to the large States and the small States. And the reason I am speaking is because this bill is not part of the emergency bill that we are considering. Pieces of it are, but are woefully inadequate in my opinion.

So today I put an amendment in that says when you are considering that emergency bill please take a look at taking all of the measures that deal with the mentally ill out of that bill, putting them in a separate section, and using this approach. If you cannot afford the whole program of $200 million a year, which I think we should start spending next year, at least get this started as part of either the emergency program or the long-term program that is being referred to the committees.

I am convinced it has a chance of helping. I am not convinced that there is any total solution to the problem. But I am equally convinced that we are not going to solve it at all unless we begin to address it in somewhat that way.

## THE BUDGET

Mr. DOMENICI. Mr. President, in my last comments here this evening, and I thank the Chair and the Senate for their indulgence, I want to talk for a moment about the budget. I will not take long.

Obviously, the budget of the United States and the budget process is not quite as much in the minds of the American people as a few years ago. I think that is a very sad state of affairs. The budget deficit is serious, significant, and dangerous, but nonetheless it is not high on anyone's priority list of that which the politicians of America ought to resolve.

Thank God, however, that the leadership still thinks it is a serious problem, and that we ought to begin to solve it. Some are asking the Senator from New Mexico as the ranking minority member who for 6 years had to put budgets together sometime with the help of the minority, sometime without their help, where are you? What are you going to do, Some have asked where is the President? What is he going to do? Some have said why does the President not have a summit? Why does he not call the leadership over there?

Why do we not begin to talk about a deal? This past Saturday, in the President's radio address, he alluded to this. I am not sure of his exact words and I do not have the text here, so what I am going to say is not verbatim. But essentially, I think the President said something like this: "I have been asked to negotiate. Why should I negotiate with a budget process that is in a state of chaos and shambles, that does not have much credibility? You do not know whom you make the bargain with. You make it once with the Budget Committee and then, 4 months later, the appropriators do it another way. You think you have an agreement to get rid of three or four programs because you assumed it in a budget resolution; they find their way into the appropriations and nobody knows anything about it."

You set a target for defense in a budget resolution only to find that we never reach it and that is the will of the institution, and I am not complaining; although I think we have cut defense too much in the last 2 years. But whatever we cut, after having made a deal with the President, we spend somewhere else. Then we end up with these processes called reconciliation, a strange word. It is a process to force, allegedly, savings.

And what do we find? I do not think anybody really can teach the Senator from New Mexico much about reconciliation. I decided it should be used to carry out the first part of Ronald Reagan's administration program in its change in domestic policy. So the largest reconciliation bill in history passed here—modifying, changing, forcing committees to change bills. But with the passage of 6 years, I have come to the conclusion that you can get just about as much bad as you get good out of reconciliation any more. Because in the first year, you do your savings, but in the second, third, and fourth years of that same bill, there is no requirement that there be savings. So you can spend in 1 year and add in the next year in the same bill and call it reconciliation.

As a matter of fact, you can even add whole new programs that you could not otherwise pass. And we have tried to ameliorate that practice, but it is not working. There is no question about it, it is not working.

So, where do I stand? I say the time is now to fix the budget process, to fix the appropriations process, to modify the rules so that we put some degree of common sense, reasonableness, reliability, credibility into our processes of budgeting, appropriating, and restraining government.

When we passed the Budget Impoundment Act, we had a couple of other interesting things in it called rescissions and deferrals. They were aimed at something very logical in America. That is, historically, we never have given our Presidents the line-item veto. Governors may have it. I have heard the distinguished occupant of the chair, who is a proponent of it, say his Governor has it, Illinois has it. I think I have heard him say it saves them immeasurable numbers of millions because Governors can remove pork or Governors can remove special-interest expenditures.

But we are not going to give Presidents of the United States line-item vetoes. It is just a little more than Congress wants. It gives Presidents not only a little more power than we want to give them, but essentially, perhaps it gives them too much leverage over Senators and Congressmen on other matters—matters unrelated to budget and appropriations items. But nobody can doubt that the pendulum is balanced too much the other way now, because we put rescissions and deferrals in, intending that Presidents have some way of deleting from appropriated budgets in an effort to save things that Presidents truly thought were either excessive or we put too much in a program, more than you can spend, or that the program was not needed.

Essentially, current deferral and rescission is dead. We have watered it down, plus a Supreme Court decision interpreting the two-house approach has made it almost a nullity, such that he sends us rescissions and they are considered only in a committee in a perfunctory manner, and I think it is safe to say that over 4 or 5 years, not over 1½ percent of the rescissions recommended by the President have ever been adopted.

Mr. President, I believe we have to be fair. We are saying, "Mr. President, why don't you negotiate?" Some might

even be saying to Republicans—on the minority side now—why do we not work out a budget? It seems to me it is just about right to say to all of us, Democrats and Republicans, why do we not fix the process up? We may have a lot more converts to putting a budget together if it had a lot more credibility in it, if you could believe in it and trust it, and if it were not so arcane and difficult to understand.

I could say to any new Senator who has joined this body recently, if they want to get into the action around here, they ought to make sure they go and hire a budget process expert, because you cannot even amend around here without knowing that process. In some cases, it is subject to a point of order, in others, it is not. In some cases, you have to be neutral; in other cases not. In some cases, you need 60 votes; in others you do not. In some cases, in the U.S. Senate, you have to worry about outlays coming from a program; in the House, they do not worry about it.

Let us be honest about it: The time has come to fix this. There is just no doubt about it. So what I am recommending is that there be more detail, that we have 2-year appropriations and 2-year budgets. I have had most of the department circularized and how interesting it is: Huge percentages of every department's appropriations are repetitious from one year to another. I cannot tell the chair and other Senators how much yet, but I am going to bet that over 85 percent of an appropriations bill for 1986 is identical to the one in 1987. But we are going to go through it each year.

We are supposed to get 13 of them. It just seems to me that the time has come, since we have 2-year Congresses under our Constitution, that we take 1 year to budget and appropriate and 1 year to do other things.

Then there is another part of this process that is very, very strange: continuing resolutions. I will take my share of responsibility as former chairman of the Budget Committee for delays that have precluded the passage of appropriations bills on time. But I do not take the blame as former chairman of the Budget Committee for the use of continuing resolutions and their growth in use such that, last year, we passed all 13 permanent bills—if not all 13, close to it—not as bills but as a continuing resolution, most of which is, therefore, reference rather than bills, and all packaged in one and sent to the President, and he is told to take it or leave it: the whole of Government or none.

I think it is time that we figured out a process which makes it almost impossible—or let men put it in a milder way—where the exception would be not to pass appropriations bills in a freestanding manner. I think we can find ways to do that. I think we can find ways to put discipline on ourselves such that we are forced to consider appropriations bills one at a time and that is part of the reform that I am proposing.

Now, there will be more detail on it tomorrow. I will circulate it to most people who have indicated an interest. I will send it to Members of the House on the Republican side. I suspect there will be some Democrats who are equally interested in the other body and we will get them at least a bill that I will introduce and a summary of it. I may have left out a few of the points that will be in it, but it will be about six or seven or eight points in terms of reform.

I urge the Senate and the House seriously consider that the time is ripe to do it now; that if we are going to say "Let us refer it to the committees, let us study it," it will never happen.

I submit some kind of a special task force or the like, bipartisan and bicameral in nature, could, indeed, accomplish this in very short order, at least significant portions of it. I urge that it be given serious thought.

So that gets me back to answering the hypothetical that I asked of myself. Some say, "Where are you on the budget? Is this a year when it will be bipartisan?" I have tried my best to tell my friend, the chairman of the committee, that I really do not know, but I can say there will be an awful lot more support for putting together a budget with onerous provisions in it if we can get some of these reforms worked out.

Now, in closing I will just give you my last and best evaluation.

I have seen budgets from Democrats, from Republicans, from terrorists, from people at Brookings Institute, and from others saying, "Here is how you can put it together this year." And I have seen an item called new revenues, taxes, anywhere from a high of $40 billion in some to as low as $15 billion, $16 billion, $17 billion in others. And that, say the proponents, coupled with reducing expenditures, gives you a chance of getting to Gramm-Rudman-Hollings totals.

Frankly, Mr. President, I have no way of telling anyone, citizens, New Mexicans who I represent, fellow Senators, that the budget would truly and really and dramatically be affected downward 3 years from now by the amount of new taxes which one suggests this year. As a matter of fact, I have no way of saying there is a high probability that if you do that you will have had a permanent effect, such that you can expect the deficit to be that many dollars less 3 years from now than if you did not do it, because the processes and the way we do it is just as apt to be effective in reducing the deficit as it is in doing nothing, perhaps being neutral, because by hook or crook we find some way to make it ineffective or less effective because the processes just do not work.

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

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

The assistant 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.

## EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the period for morning business be extended, under the same restrictions, not to exceed 10 minutes.

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

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

## THE ABM TREATY DEBATE

Mr. QUAYLE. Mr. President, in the past few days, we have heard a great deal about the ABM Treaty and what it does or does not allow.

We have heard hours of detailed discussions about the meaning of this or that article in the treaty and intepretations of what was or was not understood during the Senate ratification hearings.

The problem with this debate, however, is that it has been waged without any serious reference to the Mutual Assured Destruction assumptions we used to give birth to the ABM Treaty in the first place.

In addition, we have not heard how Soviet actions since 1972 suggest that they have their own broad interpretation of the treaty.

I believe, it is time we looked at these questions. Not only do they help explain our current confusion over the ABM Treaty's proper interpretation, but they also help explain the pronounced differences in Soviet and United States strategic military policy.

To put it bluntly, the United States naively hoped that by signing the ABM Treaty and its companion treaty—SALT I—the Soviets would adopt the mutual assured destruction theory, dismantle their strategic defense and limit their offensive arsenals.

Instead, as even a cursory review of history reveals, the Soviets rejected Mutual Assured Destruction and used both the ABM and SALT Treaties as an opportunity to catch up to the United States in defensive technologies while simultaneously overtaking us in the offensive realm.

While agreeing in principle not to build defensive systems, the Soviet have nevertheless liberally interpreted the ABM Treaty for years because they clearly place a high premium on strategic defenses.

In fact, the Soviets' desire to develop strategic defenses was obvious before the ABM Treaty was even signed.

Soviet Prime Minister Aleksei Kosygin, for instance, said at the start of the ABM talks that "a defensive system, which prevents attack, is not a cause of the arms race but represents a factor preventing the death of people."

Nor did the Soviets leave any doubt about their intention to push ahead in defensive technology development once the treaty was signed.

It was Soviet Defense Minister Andrei Grechko who observed in 1972 that the ratified treaty "imposes no limitation on the performance of research and experimental work aimed at resolving the problem of defending the country against nuclear attack."

The Soviets have also have backed up such words with action.

In the 1960's, for instance, the United States outspent the Soviet Union in ballistic missile defense development 2 to 1. By 1980, after the ABM Treaty had been signed, the Soviets were outspending us in this area 5 to 1.

It is also worth noting that, since 1972 and the signing of the ABM treaty, the Soviets have spent more on strategic defenses than on strategic offenses. They have indeed spent more on their defensive capability from a strategic basis than on the offensive weapons which have been much of the discussion here today.

And what did the United States hope to accomplish under the treaty? What has it gotten for its trouble in the years since?

Although it is now abundantly clear that the Soviets never accepted the MAD concept of mutual deterrence through mutual vulnerability, this did not stop the United States from forging ahead blindly on faith in the Soviets' good intentions.

While the Soviets deployed extensive strategic air defenses, we dismantled ours.

While they developed and deployed two separate generations of ABM systems around Moscow, we dismantled our one and only system.

While they developed antitactical missile systems to counter U.S. strategic ballistic missiles, we canceled our original plans to give American antiaircraft missile systems such capabilities.

And while they hardened their military assets and trained their population in civil defense, we abandoned our own efforts to harden missile silos and dismantled our own civil defense program.

Mr. President, as I hope this brief historical review makes clear, the Soviets have never adopted the same MAD premise which the United States has always assumed.

Instead, the Soviets have insisted for more than a decade that strategic defenses are critical to stability and that their own ABM Treaty negotiators agreed to nothing that would in any way restrict their research and testing of such defenses.

So, given the Soviets' history of liberally interpreting the ABM Treaty to further their own strategic defenses, is it not just a little bit ridiculous to limit our interpretation of that very same treaty in defensive areas where the Soviets do not now have an advantage?

When our own President looked at this history and concluded that the ABM Treaty allows us to research and test futuristic space-based defensive systems, it was sound policy. It also seems totally in line with what the Soviets have said and done.

In fact, there is clear evidence that the Soviets understood that the ABM Treaty did not limit research and testing of exotics and space-based defenses.

There is even evidence—evidence I intend to present in a later address before the Senate—indicating that the Soviets actually wanted to close this loophole with a new agreement once it became clear in the mid-1980's that we were serious about perfecting such defenses of our own.

Mr. President, there are a number of issues still unresolved in this debate. For this reason, it is essential that the Senate proceed with more caution. The administration, on its part, should declassify the negotiating record so all the facts can be presented.

For I firmly believe that once all the facts on this matter are made public, it will be clear that a broad, legal interpretation of the ABM Treaty is not only plausible but one the Soviets both advocated and acted on. The Soviets have always believed in the broad interpretation until they were convinced of our commitment and moving forward with our own strategic defense initiative. Now they want to restrict us, which is understandable from their viewpoint, but not a viewpoint that is acceptable to us.

Mr. President, I yield the floor.

## THE UNITED STATES-ISRAEL RELATIONSHIP

Mr. DECONCINI. Mr. President, two recent events have focused attention on United States-Israeli relations: First, Israel's role in the arms-for-hostages deal with Iran; second, the introduction of Israeli spy, Jonathan Jay Pollard, into the American intelligence network. Certainly, in the past we have had disagreements with Israel, going back to the Suez crisis in 1956 when Israel invaded Egypt and only withdrew when President Eisenhower threatened to cut off aid. But while differences are natural, especially between free and democratic nations, depending upon differing perceptions of national interest, there are limits which should not be exceeded. Israel exceeded them. Israel has made a mistake and admitted it. Israel is now going through the embarrassing experience of exposing and rectifying this error.

Prime Minister Yitzhak Shamir has announced a probe into the Israeli role in the Pollard affair, appointing an investigative team and a parliamentary subcommittee. This is comparable, as I understand, to the current inquiries of the United States legislative investigations of the Iran arms deal. I firmly believe that Israel, as an ally and a smoothly functioning democracy, will have the resolve, credibility, and faith to address this unfortunate affair.

In the ensuing weeks, we will hear and read about the Israeli role in the arms deal with Iran and the Pollard affair. We will discover new details, some of them shocking and some disappointing. There will be those who may question our relationship with Israel. The details and issues raised by these open investigations and legislative committees are important, but must not overshadow our vital friendship and solidarity with Israel.

The U.S. intelligence community discovered this security leak and acted to eliminate it. There is no question that damaging information was released to a foreign government. United States law was violated. The U.S. judicial system acted promptly to deliver its verdict for an act of espionage—a life sentence in prison. This is a just term for Mr. Pollard is a spy and a thief. Let me assure you, Mr. President, that this Senator condemns espionage in the strongest terms. We should not tolerate this and the United States cannot afford compromising its national security. As a former Arizona county prosecutor and a current member of the Senate Select Committee on Intelligence, I recognize the damage but commend our judicial system and intelligence community for its quick response.

While all Americans are disappointed in Israel's role, it is important to recognize the larger context of Israel and United States relations. I have been a member of the Appropriations Foreign Operations Subcommittee and was just recently appointed to the Intelligence Committee. From this vantage point I have seen the myriad of benefits accrued by the United States from the longstanding alliance with Israel. The facts speak for themselves. Israel is a very unique and crucial ally. Israel influences political develop-

ments in the Middle East which cause the Soviets military difficulties and embarrassment. It serves as a vital area by which Americans would have access to the Persian Gulf, Suez Canal, and the Mediterranean Sea, all strategic sea lanes. This is true especially in light of conflicts in Iran, Iraq, and Afghanistan. Israel provides the United States with intelligence information in the region and saves the United States defense costs through innovations and modifications of United States weaponry. Some may argue that the assistance we provide Israel is a strain on the United States Treasury, yet the types of benefits we derive more than compensate for United States aid. This is especially true for the tens of billions of dollars we give to NATO and the few billion we provide for Israel. This truly is a bargain for our national defense in these austere budgetary times. A hard look at the potential United States allies in the Middle East presents further utility for strong United States-Israel relations. Israel's value as a regional and global ally are unquestioned.

Despite the compelling logic of Israel's past and present utility to the United States strategic interests and the major benefits to be gained from increased cooperation between the two countries, criticisms of Israel's role in the above mentioned affairs will make news. It should. They have made a mistake, as we did in supplying arms to Iran and the Contras, and must answer for it. But we must keep all this in perspective. Mr. President, Israel is a friend and will continue to be. As President Reagan said: "The fall of Iran has increased Israel's value as perhaps the only remaining strategic asset in the region on which the United States can truly rely."

## IRANIAN STUDENTS

Mr. DECONCINI. Mr. President, to say nothing about my feelings regarding the current regime in Iran, I would like to briefly address the presence of Iranian students in the United States. I am concerned about the possibility of Iranian students, posing as students when in fact they might be terrorists or subversives, gaining entrance into the United States. As you may recall, when the Iranians confiscated the American Embassy back in 1979, a group took over the visa processing machine. While the Department of State acted quickly to cancel all current visas and reissue new ones with a different format, the potential for danger is always present.

On March 2, 1987, I discussed on the Senate floor the recent student demonstrations in Mexico, South Korea, France and China. These student demonstrations are not identical, although there are common themes which unite them. Some are dissatisfied with government policies access to higher education. Some are dissatisfied about diminishing economic opportunities. Still others are supporting greater democratic freedoms and fair elections. But the students which concern me are those which are merely tools of the far left or far right. They are not truly dedicated to the ideals of courage and untempered faith in the right to dissent, but the opportunity to disrupt and terrorize.

Mr. President, please do not misunderstand me. I genuinely support the privilege of foreign students to study in this country. Students in the Philippines, Mexico, South Korea and Chile have studied here and experienced the exhilaration of democracy in this country. They often convey this back home in order to broaden their country's freedoms and rights. This is a worthy and just program. However, we must also seek to protect our citizens from those tools of the far left and far right which only seek to disrupt, terrorize, and abuse this privilege.

Mr. President, the Department of State has indicated to me that there is a special clearance process for nationals from Syria, Libya, and Iran who are applying for student visas to insure that they are not terrorists. Also, Iranian students are given single entry visas which restrict their reentry once they leave. Each student applying for a visa is personally investigated to look at their background and history. As another check, these students are processed through Washington, DC, unlike other nationals.

If students from these countries are involved in public disturbances or other activities contrary to U.S. interests, they are subject to deportation. U.S. schools are also required to notify the INS if foreign nationals drop out of school or are pursuing less than full-time course instruction. The INS seems to keep a watchful eye on these students, as evidenced by the Department of State requirements.

Mr. President, Iranian student admittance into the United States has dropped from 3,661 in 1985 to 1,986 in 1986. While I am enthusiastic about the open door policy by the United States to expose foreign nationals to democracy and excellent educational benefits, I am encouraged by this cautious trend of decreased Iranian presence. This is a matter we must continue to carefully monitor.

## PRIVATE VOLUNTARY AGENCIES APPEAL FOR CAMBODIAN REFUGEES, PROTEST CLOSING OF KHAO-I-DANG REFUGEE CAMP

Mr. PELL. Mr. President, the private voluntary organizations assisting Indochinese refugees in Thailand have sent me an urgent message expressing their deep concern about the expected closing of the Khao-I-Dang refugee camp and the effect this will have on the status and security of all Khmer refugees and displaced persons in Thailand, including the refugees at Khao-I-Dang itself.

The message comes from some of the most experienced refugee organizations in Southeast Asia. Some of them have spent 10 years in the region helping the refugees who continue to flee from the Communist-dominated states of Indochina. When these seasoned refugee workers tell us that the situation is deteriorating sharply, we have no choice but to listen, to pay attention, and to act.

Their message tells us that some of the so-called unregistered Khmer in Khao-I-Dang are attempting desperate measures to avoid being sent to the border, where they would face eventual return to Cambodia—and in the short run would be subject to attacks from Vietnamese forces and harassment from other groups. These are people who fled to Khao-I-Dang for refuge from persecution and violence. Their fate now is to be sent back to the fate they sought to flee.

Mr. President, the text of this message has been sent to the Secretary of State, and to Deputy Secretary John Whitehead and the U.S. Coordinator for Refugee Affairs, Ambassador at Large Jonathan Moore. That is the right place to address this message, for these are the people in a position to work with Thailand to aid the refugees and others affected by the closure of Khao-I-Dang and by the continuing vulnerability of the border.

The organizations involved—among them several representing other countries—have asked that the text also be brought to the attention of the Senate, and that it reach a wider audience through publication in this RECORD. I am doing so at their request. Action is needed so that the latter stages of the Southeast Asian refugee situation will be handled in a way that lives up to the noble record set by the United States and other countries in earlier stages of the Indochinese refugee crisis.

Mr. President, on March 23 I was honored to join with the distinguished senior Senator from Oregon, Mr. HATFIELD, in sponsoring a proposed Indochinese Resettlement and Protection Act of 1987, which sets forth an innovative approach to accomplishing the actions needed to aid the Khmer and other displaced persons and refugees in Southeast Asia. The proposed legislation states a recommitment to Indochinese refugees—to their assistance and protection, and, where needed, to a renewed commitment for third country resettlement. The Senator from Oregon [Mr. HATFIELD] placed a number of newspaper articles in the RECORD describing the plight of the

Khmer in Thailand and along the Thai-Cambodian border. Many of the articles are written by the very able New York Times correspondent in the region, Barbara Crossette, who deserves high commendation for her intelligence and resourcefulness in covering this story, and bringing the plight of the Khmer to our continuing attention.

On March 24, the New York Times added its editorial voice to Ms. Crossette's distinguished reporting, calling for a "Recommitment to Indochinese Refugees." I ask that this editorial and the statement from the voluntary agencies in Thailand be printed in the RECORD.

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

RECOMMITMENT TO INDOCHINESE REFUGEES

Thailand, seeing no end to providing asylum for Indochinese refugees, has turned against them with acts of extortion, brutality and now life-endangering forced repatriation. The Thais have committed the acts, yet the United States must share the blame; its declining role in this long-playing refugee story has contributed to the Thai frustration. A humane ending requires a recommitment to these helpless people from both Bangkok and Washington.

To the Thais, the West appears to have stopped honoring its pledge to resettle hundreds of thousands of Indochinese refugees to whom Thailand has given first asylum. The Thais have reacted sharply, closing camps, pushing would-be entrants away and now, worst of all, forcing some refugees back to their homelands. Thirty-eight Hmong tribesmen in a camp under United Nations protection were returned last week against their will to Laos, where their lives are clearly endangered.

Thailand's contention is that the Hmong were not refugees but anti-Communist guerrillas. But the guerrillas took first steps to become refugees once they entered the camps and laid down their arms. Moreover, reports abound that extortion fees have become the norm, and that Thais are giving refugees little opportunity to prove their bona fides.

The immediate need is for U.S. Embassy officials in Bangkok and United Nations officials to assure protection for the remaining refugees. The longer-term need is to reaffirm the American commitment. The Thais have seen the number resettled in the U.S. decline steadily. If the United States would commit itself to sustaining the current level of around 30,000 Indochinese refugees for several years, Thailand would be assured that it will not be left to manage this problem alone.

In return, Thailand needs to maintain adequate first asylum. With continued international support, it must insure orderly entry procedures, adequate protection and decent living conditions. For Thai and American officials, this is a matter that has run on exasperatingly long, long enough so that they may forget something crucial: For the refugees, it remains a matter of life or death.

STATEMENT SENT TO SECRETARY OF STATE GEORGE P. SHULTZ FROM BANGKOK ON MARCH 16, 1987

In recent weeks, the Royal Thai Government (RTG) has embarked on its stated policy to close Khao-I-Dang Holding Center (KID). This closure affects the status, protection and security of all displaced Khmer in Thailand, as well as the future of the refugees in KID. We, the private voluntary agencies, feel deeply concerned that a human solution should continue to be sought for this vulnerable population.

The implementation of this policy by the RTG has started with the identification and detention of the camp's unregistered residents (also referred to as illegals). These are individuals, who at great risk to themselves, have entered KID surreptitiously and have not received official KID resident status. They have entered KID to seek asylum—asylum from persecution, political oppression, and violence.

In a desperate effort to evade detection, many unregistered KHMERS have developed a network of crudely designed subterranean hideaways throughout the camp. The fact that families seek refuge in these confined, inadequately ventilated spaces for hours on end is an indication of the profound fear they feel about being returned to the border encampments.

On Sunday March 1, 214 unregistered Khmers were relocated from KID by the RTG to site B on the Thai-Kampuchean border. Of this number, no more than seven individuals elected to go voluntarily. On the evening of March 4, a search for unregistered KID residents was conducted by Thai authorities which revealed a number of tunnels in the camp's medical compound. Three Khmer refugees—a woman, her small daughter, and a young adult male—were found hiding in a hole under one of the buildings. They were imprisoned in the camp jail and the building in which they were found was ordered to be demolished the following day.

Since this event, detentions of additional unregistered KID residents have continued. It has been announced over the camp radio by the Thai authorities that the remaining unregistered have until March 15 to turn themselves in, after which time they will be relocated to the border. Thereafter, any refugee found hiding or otherwise assisting the unregistered will be punished.

Mr. Secretary, we, the voluntary agencies, recognize the sovereign rights of the Royal Thai Government with respect to all displaced persons in Thailand. We believe that the recent actions undertaken by the RTG are the direct result of the ITS perception that the international donor community is no longer living up to its commitment to assist Thailand with its refugee burden until a humane solution has been found. Therefore, we turn to the U.S. Government, which hitherto has taken the lead in advocating on behalf of the Khmer, to once again seize the initiative to ensure that those deserving of asylum, as defined by the United Nations High Commissioner's (UNHCR) mandate, are granted these rights.

Mr. Secretary, we, the undersigned, urge you to request the U.S. Embassy in Bangkok to initiate prompt dialogue with the RTG, the United Nations High Commissioner for Refugees (UNHCR), and the International Committee of the Red Cross (ICRC) in order: (1) To maximize resettlement of the remaining KID population and (2) to ensure that the UNHCR's protection mandate is maintaned for the inhabitants of this camp until a durable solution has been found.

In conclusion, Mr. Secretary, we recognize the complexity of this issue for which there are no simple solutions. Specific recommendations on how to ameliorate conditions for all KHMERS seeking asylum in Thailand have been proposed by the Ray Commission, the Lawyers Committee on Human Rights (seeking shelter), and Refugees International (the Dilemma of Khmer in Thailand: An Opportunity for Action). We, the undersigned, have faith that your good offices will influence discussions which will ensure that the remaining Khmer refugees in KID continue to be afforded the complete protection of the UNHCR.

Please accept the expression of our sincere gratitude for your consideration of this matter.

Adventist Development and Relief Agency; American Refugee Committee; Co-Operative for American Relief Everywhere, Inc.; Christian Outreach; International Rescue Committee; Jesuit Refugee Service; Mennonite Central Committee; Medecins Sans Frontieres; Norwegian Refugee Council; Operation Handicap Internationale; The Save the Children Fund; World Concern International; World Vision Foundation of Thailand; Youth With a Mission.

## MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on March 24, 1987, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 2. An act to authorize funds for construction of highways, for highway safety programs, and for mass transportation programs, to expand and improve the relocation assistance programs, and for other purposes.

## MEASURES PLACED ON THE CALENDAR

The following bill was ordered read the first and second times by unanimous consent, and placed on the calendar by unanimous consent:

S. 809. A bill to provide urgently needed assistance to protect and improve the lives and safety of the homeless.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-846. A communication from the Chief of the Forest Service, transmitting, pursuant to law, the 1986 Annual Report of the Forest Service; to the Committee on Agriculture, Nutrition, and Forestry.

EC-847. A communication from the Assistant Secretary of Defense transmitting, pursuant to law, the annual reports on Inde-

pendent Research and Development and Bid and Proposal costs; to the Committee on Armed Services.

EC-848. A communication from the Assistant Secretary of Defense transmitting, pursuant to law, a report on Independent Research and Development and Bid and Proposal costs; to the Committee on Armed Services.

EC-849. A communication from the General Counsel of the Department of Defense transmitting, a draft of proposed legislation to make permanent the special pay for enlistment and reenlistment bonuses; to the Committee on Armed Services.

EC-850. A communication from the Deputy General Counsel of the Department of Transportation transmitting, pursuant to law, the fiscal year 1988 budget request of the FAA; to the Committee on Commerce, Science, and Transportation.

EC-851. A communication from the Secretary of the Interstate Commerce Commission transmitting, pursuant to law, notice of an extension of time for a final decision in United Transportation Union versus Burlington Northern Railroad Co. and Houston Belt & Terminal Railway Co.; to the Committee on Commerce, Science, and Transportation.

EC-852. A communication from the Assistant Secretary of Commerce transmitting, pursuant to law, a report on a decision to convert certain commercial-type functions at the Assessment and Information Services Center of NOAA to performance under contract; to the Committee on Commerce, Science, and Transportation.

EC-853. A communication from the Secretary of the Interior transmitting, pursuant to law, a report on a lease sale on the Outer Continental Shelf, Central Gulf of Mexico; to the Committee on Energy and Natural Resources.

EC-854. A communication from the Secretary of Energy transmitting, pursuant to law, the annual report under the Powerplant and Industrial Fuel Use Act; to the Committee on Energy and Natural Resources.

EC-855. A communication from the Assistant Secretary of the Interior transmitting a draft of proposed legislation to authorize appropriations to the Secretary of the Interior for the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts; to the Committee on Environment and Public Works.

EC-856. A communication from the Secretary of State transmitting, pursuant to law, a determination on the responsiveness of the Government of Peru to U.S. concerns on drug control and the authorization for continued assistance to Peru; to the Committee on Foreign Relations.

EC-857. A communication from the Administrator of the Agency for International Development transmitting, pursuant to law, the Agency's 1986 Annual Report; to the Committee on Foreign Relations.

EC-858. A communication from the Assistant Secretary of State transmitting a draft of proposed legislation to authorize appropriations for the conduct of foreign affairs for fiscal year 1989; to the Committee on Foreign Relations.

EC-859. A communication from the Administrator of the Veterans' Administration transmitting, pursuant to law, a report on an amended Privacy Act system of records; to the Committee on Governmental Affairs.

EC-860. A communication from the Administrator of the General Services Administration transmitting, pursuant to law, GSA's annual report on competition; to the Committee on Governmental Affairs.

EC-861. A communication from the Director of the Office of Personnel Management transmitting a draft of proposed legislation to reform the Civil Service Retirement System; to the Committee on Governmental Affairs.

EC-862. A communication from the Director of the Office of Information Resources Management, Department of the Interior, transmitting, pursuant to law, a report on an altered Privacy Act system of records; to the Committee on Governmental Affairs.

EC-863. A communication from the Chairman of the Christopher Columbus Quincentenary Jubilee Commission transmitting a draft of proposed legislation to amend Public Law 98-375; to the Committee on the Judiciary.

EC-864. A communication from the Administrator of the Veterans' Administration transmitting a draft of proposed legislation to improve veterans' educational assistance; to the Committee on Veterans' Affairs.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Daryl Arnold, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Singapore.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Daryl Arnold.

Post: U.S. Ambassador to Singapore.

Contributions, amount, date and donee:

1. Self: Daryl Arnold, $1,000, January 6, 1981, President's Inaugural Committee; $120, February 2, 1981, UNIPAC; $50, February 2, 1981, Republican National Committee; $50, February 8, 1981, Republican National Committee; $50, February 25, 1981, Republican National Committee; $1,000, July 22, 1982, Pete Wilson for U.S. Senator; $50, December 21, 1982, Republican National Committee; $100, January 31, 1983, UNIPAC; $50, April 1, 1983, Republican National Committee; $401 October 24, 1983, UNIPAC; $100, February 3, 1984, UNIPAC; $250, June 12, 1984, The Senator's Club; $1,000, June 19, 1984, President's Luncheon; $100, September 10, 1984, UNIPAC; $2,000, October 9, 1984, UNIPAC; $1,000, January 17, 1985, Helms for Senate; $250, November 1, 1985, Californian's for Senator Pete Wilson; $1,000, January 17, 1986, California Unity Fund; $1,000, February 21, 1986, Californian's for the Republic; $1,000, June 18, 1986, Citizens for American Values; $250, October 2, 1986, Californian's for Senator Pete Wilson.

2. Spouse: Shirley Arnold, $300, November 11, 1982, Pete Wilson for U.S. Senator.

3. Children and Spouses: Larry Arnold, $150, 1984, Pete Wilson; Lori Arnold, $150, 1985, Pete Wilson, $60, 1986, Bruce Herschenson; Gary Arnold, none; Mary Arnold, none; Ann Arnold Thompson, none; Jeff Thompson, none.

4. Parents (Laurence Franklyn Arnold (deceased); Names: Etta Coe Arnold, no contributions.

5. Grandparents' names: Clarence Coe (deceased); Laura Bauder Coe (deceased); Percy Arnold (deceased); Phoebe Arnold (deceased).

6. Brothers' and spouses' names: no brothers.

7. Sisters' and spouses' names: Madyne Foster; Stanley C. Foster, no contributions.

James Keough Bishop, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Liberia.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: James Keough Bishop.

Post: Ambassador to Liberia.

Contributions, amount, date, and donee:

1. Self: James Keough Bishop, none.

2. Spouse: Kathleen M. Bishop, none.

3. Children's and spouses' names: Timothy, none; Lynn, none; Melanie, none; Rebecca, none; Anne-Marie Wehrly, none; Elizabeth Wehrly, none.

4. Parents' names: James and Dorothy Bishop, $200, August 21, 1981, Westchester Federal Savings Political Action Committee (WFSPAC); $250, August 30, 1982, WFSPAC; $25, October 20, 1982, Friends of Jon Fossell for Congress; $100, July 9, 1984, WFSPAC; $150, May 4, 1986, People for DioGuardi; $31.24, May 19, 1986, Jeremiah Denton for Senate; $120, May 29, 1986, The Republican Presidential Task Force.

5. Grandparents' names: Patrick and Anne Bishop (deceased); Timothy and Catherine O'Keefe (deceased).

6. Brothers' and spouses' names: John and Judy Bishop, $50, 1984, Senator Bradley, Thomas and Katherine Bishop, none; other brothers died as infants.

7. Sisters' and spouses' names: Sisters died as infants.

Alfred Hugh Kingon, of New York, to be the Representative of the United States of America to the European Communities, with the rank and status of Ambassador Extraordinary and Plenipotentiary, vice J. William Middendorf II, resigning.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Alfred H. Kingon.

Post: Representative of U.S. to European Communities.

Contributions, amount, date, and donee:

1. Self: $25, March 1, 1982, Republican Nat'l Committee; $200, March 22, 1982, New Yorkers for Lew Lehrman; $500 March 22, 1982, Bell for Senate Committee, $100, May 28, 1982, Bell for Senate Committee; $200, May 28, 1982, The Senate Club (D'Amato); $250, September 7, 1982, New Yorkers for Lew Lehrman; $100, October 25, 1982, NYFPAC (N.Y. Federal Political Action Committee; $25, June 23, 1983, Republican Nat'l Committee; $250, September 23, 1983; Tom Cantrell for Congress; $25, October 2, 1983, Reagan Bush Reunion; $25, December 2, 1983, Republican Nat'l Committee; $100, January 10, 1984, Reagan Bush Anniversary Ball; $25, December 15, 1984, Republican Nat'l Committee; $25 December 21, 1985, Republican Nat'l Committee; $100 June 25, 1986, Linda Chavez for Senate; $25, June 25, 1986, Republican Nat'l Committee.

2. Spouse: Jacquelene, none.

3. Children and spouses names: Michael, none.

4. Parents names: Nathan Kingon, none; Grace Kingon, none.
5. Grandparents names: None.
6. Brothers and spouses names: None.
7. Sisters and spouses names: None.

Stephen R. Lyne, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ghana.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Stephen Richard Lyne.
Post: Accra Ghana.
Contributions, amount, date, and donee:
1. Self: None.
2. Spouse: None.
3. Children and spouses names: Richard Lyne, none, Deborah Lyne, none.
4. Parents names: Horace Lyne, none, Anne Lyne, none.
5. Grandparents names: Harry Bromley, Annie Bromley, John Lyne, Edith Lyne, none alive.
6. Brothers and spouses names: None.
7. Sisters and spouses names: None.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I report favorably a nomination list in the Coast Guard which was printed in its entirety in the CONGRESSIONAL RECORD of March 10, 1987, and, to save the expense of reprinting them on the Executive Calendar, I ask unanimous consent that they may lie at the Secretary's desk for the information of Senators.

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

## 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. DOMENICI (for himself, Mr. WEICKER, Mr. HOLLINGS, Mr. HEFLIN, Mr. PACKWOOD, Mr. GORE, Mr. DODD, Mr. DURENBERGER, Mr. DIXON, Mr. COHEN, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. GARN, Mr. INOUYE, Mr. LUGAR, Mr. MATSUNAGA, Mr. BENTSEN, Mr. PRYOR, Ms. MIKULSKI, Mr. EXON, Mr. BURDICK, Mr. CRANSTON, Mr. HECHT, Mr. MITCHELL, Mr. MCCONNELL, Mr. DOLE, and Mr. RIEGLE):

S. 818. A bill to provide permanent authorization for White House Conferences on Small Business; to the Committee on Small Business.

By Mr. PRESSLER:

S. 819. A bill to amend the Internal Revenue Code of 1986 to permit taxpayers to elect to deduct either State and local sales taxes or State income taxes; to the Committee on Finance.

By Mr. DASCHLE:

S. 820. A bill to amend titles 38 and 10, United States Code, to provide veteran's educational assistance benefits for flight training; to the Committee on Veterans' Affairs.

By Mr. WEICKER:

S. 821. A bill to establish the National Oceanic and Atmospheric Administration as an independent establishment of the Government of the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG:

S. 822. A bill to provide financial assistance to the States for computer education programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BENTSEN:

S. 823. A bill for the relief of Kathy Butler and Charlette James; to the Committee on the Judiciary.

By Mr. SPECTER:

S. 824. A bill to establish clearly a Federal right of action by aliens and United States citizens against persons engaging in torture or extrajudicial killing, and for other purposes; to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. 825. An original bill to amend and extend certain laws relating to housing, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. DASCHLE:

S. 826. A bill to amend the Internal Revenue Code of 1986 to permit taxpayers to deduct 80 percent of State and local sales taxes, income taxes, and personal property taxes; to the Committee on Finance.

By Mr. PACKWOOD:

S. 827. A bill to promote the diversity and quality of radio and television programming by repealing the fairness doctrine and certain other program restrictions; to the Committee on Commerce, Science, and Transportation.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself and Mr. FORD):

S. Res. 173. Resolution to amend Senate Resolution 458, 98th Congress, to allow the Secretary of the Senate to fill staff vacancies occurring during the closing of the office of a Senator in the case of the death or resignation of such Senator; considered and agreed to.

By Mr. DECONCINI:

S. Res. 174. Resolution expressing the sense of the Senate condemning the Soviet-Cuban buildup in Angola and the severe human rights violations of the Marxist regime in Angola; to the Committee on Foreign Relations.

By Mr. D'AMATO:

S. Con. Res. 37. Concurrent resolution recognizing Father Terry Attridge and the DARE program for their contributions to the fight against drug and alcohol abuse; to the Committee on Labor and Human Resources.

By Mr. ARMSTRONG (for himself and Mr. WIRTH):

S. Con. Res. 38. Concurrent resolution to recognize the International Association of Fire Fighters and the National Fallen Fire Fighter Memorial in Colorado Springs, CO; to the Committee on Rules and Administration.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself, Mr. WEICKER, Mr. HOLLINGS, Mr. HEFLIN, Mr. PACKWOOD, Mr. GORE, Mr. DODD, Mr. DURENBERGER, Mr. DIXON, Mr. COHEN, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. GARN, Mr. INOUYE, Mr. LUGAR, Mr. MATSUNAGA, Mr. BENTSEN, Mr. PRYOR, Ms. MIKULSKI, Mr. EXON, Mr. BURDICK, Mr. CRANSTON, Mr. HECHT, Mr. MITCHELL, Mr. MCCONNELL, and Mr. DOLE):

S. 818. A bill to provide permanent authorization for White House Conferences on Small Business; to the Committee on Small Business.

(The remarks of Mr. DOMENICI and the text of the bill appear earlier in today's RECORD.)

By Mr. PRESSLER:

S. 819. A bill to amend the Internal Revenue Code of 1986 to permit taxpayers to elect to deduct either State and local sales taxes or State income taxes; to the Committee on Finance.

INTERNAL REVENUE CODE AMENDMENT

Mr. PRESSLER. Mr. President, the Tax Reform Act of 1986 has been the law of the land for less than 6 months. Yet, I find it most interesting that already well over a dozen bills have been introduced to change certain sections of the new law. These deal with many subjects, ranging from capital gains to excise taxes. This movement should tell us something about what we have created.

The law can and should be improved upon. It can be fairer. It is for this reason that I rise today to introduce legislation which would correct one of the most patently unfair aspects of the law. My bill would reinstate the deduction for State and local sales tax expenses. It is a simple bill. In an effort to mitigate the revenue loss which would result from an outright reinstatement of the deduction, I propose that we allow taxpayers the choice of deducting either State and local sales or income tax expenses.

This is not a bill for some special interest group, and it is not solely for the benefit of the people of South Dakota. No, Mr. President, it is being introduced in the interest of fairness. Every citizen of this Nation deserves to be treated fairly. Every citizen deserves to be treated equally.

During Senate consideration of the tax reform bill last year, I asked this body to restore the deduction. I cosponsored amendments which would have done so. Those of us supporting the deduction did not carry the day. In the end, I voted against the bill because of this and other inequities which exist in the law. Today I am continuing my efforts to restore fairness to the law.

All types of State and local taxes have been deductible since income taxes were first enacted. By extending this deduction to all major types of State and local taxes, revenue sources of the States were protected from the effect of double taxation. In addition, State and local governments were allowed to develop their own tax structure free from Federal interference. The new tax law has changed all that.

My home State of South Dakota has no income or personal property taxes. The people of the State have chosen to fund their government mainly through real property and sales taxes. The new Federal Tax Code penalizes them for this decision. Federal interference in State decisions on tax policy is not sound tax reform.

Under the new Tax Code, a South Dakota taxpayer and a taxpayer from another State which does not rely so heavily on sales taxes are no longer treated equally. They may pay an identical amount of taxes to their respective State and local governments, but because of the loss of this deduction, the South Dakotan will, in effect, be subsidizing the Federal income tax bill of his or her counterpart.

Would eliminating the deduction increase Federal revenues? Those who opposed efforts to restore the deduction last year never proved that it would. In fact, a study by former Chairman of the Council of Economic Advisers, Martin Feldstein, suggests that the selective loss of deductions for various types of State and local tax expenses might very well result in a revenue loss because tax burdens might simply be shifted to those types of taxes which remain deductible. Common sense should tell us this is quite possible.

All we are likely to achieve is the disruption of State and local tax systems. In addition, if States shift more of the burden to property taxes, which is an extremely viable option for South Dakota, it would create an additional burden for taxpayers such as our senior citizens who already are struggling to make ends meet.

Throughout last year's debate, we heard how the grassroots citizenry of America supported the 1986 tax bill. I have here a list of South Dakota school board members who advocate the full deductibility of State and local sales taxes. Roughly 29 percent of South Dakota's sales tax revenue is used to fund public education. These people serve their constituencies at the local level and, Mr. President, you don't get much more grassroots than that.

The list includes 204 school board members representing 31,125 South Dakota students in 56 school districts. These numbers may not look like much when stacked up against the more than 600 companies and national organizations which supporters of the tax bill had behind them last year. But, let me tell you, they mean more to me than 600 or 6,000 big organizations.

I urge our colleagues to become cosponsors of this bill. Following more than a year of work on tax legislation—a year full of long sessions, late nights, and weekend work—we may be tempted to take the easy road and simply put the tax reform process behind us. However, we must journey down the right road, not the easy one. We set out to achieve fairness. We are not there yet. Enacting this bill into law brings us closer.

Mr. President, I ask unanimous consent that the list of school board members of South Dakota, along with the bill, be printed in the RECORD.

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

S. 819

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

SECTION 1. RESTORATION OF DEDUCTION FOR STATE AND LOCAL SALES TAXES.

(a) REPEAL OF PROVISION ELIMINATING STATE AND LOCAL SALES TAX DEDUCTION.—

(1) IN GENERAL.—Section 134 of the Tax Reform Act of 1986 is hereby repealed.

(2) APPLICATION OF INTERNAL REVENUE CODE OF 1986.—The Internal Revenue Code of 1986 shall be applied and administered as if such section 134 (and amendments made by such section) had not been enacted.

(b) ELECTION TO DEDUCT STATE INCOME TAXES OR STATE AND LOCAL SALES TAXES.—

(1) IN GENERAL.—Paragraph (4) of section 164(b) of the Internal Revenue Code of 1986 (relating to deduction for taxes) is amended to read as follows:

"(4) At the election of the taxpayer, either—

"(A) State and local income taxes, or

"(B) State and local sales taxes.".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (3) of section 164(a) of such Code is amended by striking out "State and local, and foreign" and inserting in lieu thereof "Foreign".

(B) Section 164(b)(2)(D)(ii) of such Code is amended by striking out "subsection (a)(4)" and inserting in lieu thereof "subsection (a)(4)(B)".

(C) Paragraph (5) of section 164(a) of such Code (as designated by section 1432(a)(1) of the Tax Reform Act of 1986) is redesignated as paragraph (6).

(D) Paragraph (4) of section 164(b) of such Code (as designated by section 1432(a)(2) of the Tax Reform Act of 1986) is redesignated as paragraph (6).

(E) Paragraph (5) of section 164(a) of such Code (as added by section 516(b)(2)(A) of P.L. 99-499 (the Superfund Amendments and Reauthorization Act of 1986)) is redesignated as paragraph (7).

(F) Paragraph (a) of section 164 of such Code is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, any tax (not described in the first sentence of this subsection) which is paid or accrued by the taxpayer in connection with an acquisition or disposition of property shall be treated as part of the cost of the acquired property or, in the case of a disposition, as a reduction in the amount realized on the disposition."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

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SOUTH DAKOTA SCHOOL BOARD MEMBERS ADVOCATING FULL DEDUCTIBILITY OF STATE AND LOCAL TAXES

| *School District/School Board* | *Enrollment* |
|---|---|
| Hill City School District 51-2, Hill City, SD | 530 |
| Johnson, Curt; President, Associated School Boards of South Dakota | |
| Henderson, Norma | |
| Koevenig, Eugene J. | |
| Larson, Grayce | |
| Robbins, William L. | |
| Vermillion School District 13-1, Vermillion, SD | 1,400 |
| Kaufman, Fern; Vice President, Association of School Boards of South Dakota | |
| Huber, Joseph D. | |
| Maeir, Fran E. | |
| Agar School District 58-1,[1] Agar, SD. | 60 |
| Schreiber, Albert W. | |
| Alcester School District, Alcester, SD | 300 |
| Kratockuil, Jerry | |
| Andes Central School District, Lake Andes, SD | 400 |
| Soulek, Sharon M. | |
| Baltic School District 49-1,[1] Baltic, SD | 349 |
| Aspaas, Lynn | |
| Burkhart, Jeanette | |
| Haagenson, Gene | |
| Korgstad, Ordell | |
| Nelson, Keith | |
| Bennett County School District 3-1, Martin, SD | 561 |
| Fanning, Daniel T. | |
| Ireland, Sam H. | |
| Kocourek, Randy | |
| Louder, Keith | |
| Simmons, Earl L. | |
| Beresford School District 61-2,[1] Beresford, SD | 700 |
| Bogue, David | |
| Bonesteel-Fairfax School District, Bonesteel, SD | 293 |
| Bailey, Harriet L. | |
| Bentz, Darrell | |
| Divine, Kathy | |
| Parker, Ronald | |
| Schochenmaier, Michael G. | |
| Bridgewater School District 43-6, Bridgewater, SD | 239 |
| Hofer, Calvin | |
| Bristol School District, Bristol, SD | 186 |
| Benson, Dorothy | |
| Bury, Kathryn K. | |
| Halvorsen, Paul | |
| Olson, David | |
| Sidgestad, David | |
| Canistota Public School District 43-1,[1] Canistota, SD | 175 |
| Buseman, Leland | |
| Fligge, Douglas | |
| Johnson, Robert | |
| Korkow, Nancy | |
| Scott, Alvin | |
| Canova School District, Canova, SD. | 52 |
| Skoglund, David | |
| Canton Independent School District, Canton, SD | 1,000 |
| Chaon, Jerry | |
| Carthage School District, Carthage, SD | 34 |

| School District/School Board | Enrollment |
|---|---|
| Clites, Maynard | |
| Grogan, Pearl | |
| Legg, Kathy | |
| Madison, Paul L. | |
| Zobel, Joyce E. | |
| Clark School District 12-2, Clark, SD | 554 |
| Healy, Donald | |
| Colome School District 59-1, Colome, SD | 235 |
| Blaine, Frank | |
| Bolton, Brad | |
| Cahoy, Larry | |
| DeMep, Dennis D. | |
| Pochop, Margaret A. | |
| Richey, Jim | |
| Varra, Richard L. | |
| Weidner, Lee O. | |
| Custer School District 16-1, Custer, SD | 1,091 |
| Aman, Freda | |
| Bryant, Frank | |
| Corda, Harold | |
| Nelson, Keith D. | |
| Dell Rapids School District 49-3, Dell Rapids, SD | 650 |
| Christensen, Helen | |
| Crisp, Max | |
| Drew, Carolyn M. | |
| Doerr, Stephen | |
| Heinemann, Floyd | |
| Meyer, Sherrie R. | |
| Randall, Ronald | |
| Edgemont School District 23-1, Edgemont, SD | 306 |
| Anderson, Donald J. | |
| Anderson, Keith | |
| Koller, John W. | |
| Russell, Charles | |
| Elk Point Public Schools 61-3,[1] Elk Point, SD | 578 |
| Jensen, Dennis | |
| Eureka School District 44-1, Eureka, SD | 300 |
| Opp, Glenn | |
| Geddes Community School District, Geddes, SD | 169 |
| Fuerst, John R. | |
| Jaefer, Harold J. | |
| Kriz, Robert | |
| Mushitz, Raymond J. | |
| Petrik, James E. | |
| Steckley, JoAnn | |
| Stluka, Patricia | |
| Grant-Dewel School District 25-3,[1] Revillo, SD | 300 |
| Linberg, Lyndon | |
| Lounsbery, Diane | |
| Roggenbuck, Myron | |
| Tillma, Jerome | |
| Harrisburg School District 41-2,[1] Harrisburg, SD | 586 |
| Bindert, Allen | |
| Kunkel, Donna | |
| Ramstad, Raymond | |
| Sittner, Larry | |
| Thorpe, Dale | |
| Herreid School District 10-1, Herreid, SD | 173 |
| Bauer, Alton | |
| Felsheim, J. Michael | |
| Fuehrer, Morrell M. | |
| Mittleider, Aldine | |
| Mitzel, Saundra | |
| Hot Springs School District 23-2,[1] Hot Springs, SD | 1,076 |
| Cape, Howard J. | |
| Hanison, James | |
| Isted, Lou M. | |
| Lopez, Ruth M. | |
| Petty, Noreen J. | |
| Stuben, John W. | |
| Waxler, Colleen M. | |
| Hurley School District 60-2, Hurley, SD | 171 |
| Andersen, Lowell G. | |
| Bagley, Keith | |
| Boongarder, Marlin | |
| Georgeson, Jim E. | |
| Reiners, James A. | |
| Hyde School District, Highmore, SD | 340 |
| Faulstich, Jim | |
| Klebsch, Willis | |
| Kusser, Philip | |
| Nemec, Benjamin | |
| Oligmueller, Marguerite | |
| Myers, Greg | |
| Ipswich School District, Ipswich, SD | 400 |
| Davis, James C. | |
| Heinz, Frank S. | |
| Kolker, Camilla A. | |
| McFee, Susan | |
| Olson, Robert H. | |
| Lead-Deadwood School District 40-1,[1] Lead, SD | 1,411 |
| Keene, Terryl L. | |
| Lennox School District 41-4, Lennox, SD | 1,300 |
| Braa, William C. | |
| Christner, Bernard W. | |
| Javers, Linda | |
| Laumer, Joel | |
| Reiners, Gaylyn W. | |
| Sweetner, Gordon W. | |
| Smit, Francis G. | |
| Van Ningen, Glenn | |
| Leola School District 44-2,[1] Leola, SD | 312 |
| Erdmann, Marilyn | |
| Feickert, Elvin | |
| Kappas, Milbert | |
| Kolb, Richard | |
| Rott, Earl | |
| McIntosh School District 15-1,[1] McIntosh, SD | 290 |
| Schuh, Robert | |
| Schneider, Darrel W. | |
| Klaudt, Alvin | |
| Mollman, Jonabeth | |
| Milbank School District 25-4, Milbank, SD | 1,223 |
| Fields, Marylynne | |
| Dahle, Allen | |
| Dorsett, Melanie M. | |
| Stevens, Reyneld D. | |
| Mitchell School District 17-2, Mitchell, SD | 3,600 |
| Smith, Gloria A. | |
| Newell School District 9-2, Newell, SD | 483 |
| Eide, Beverly J. | |
| Palo, Joan | |
| Pauley, Robert | |
| Rittberger, Stanley | |
| Schipke, Donna | |
| Turbiville, Charles M. | |
| Voorhees, Don | |
| Oelrichs School District 23-3, Oelrichs, SD | 120 |
| DeBoer, Craig | |
| Fanning, Joel R. | |
| Richenback, Joel S. | |
| Thomsen, Loyd W. | |
| White, James | |
| Parker School District 60-4, Parker, SD | 425 |
| Mack, Marcia L. | |
| Parkston Public Schools, Parkston, SD | 666 |
| Leischner, Tim | |
| Mechtenberg, Gerry | |
| Neugebauer, David | |
| Puetka, Mary | |
| Weber, Thomas | |
| Pollock School District, Pollock, SD | 133 |
| Van Beek, Everett | |
| Kanable, Elaine | |
| Polo School District 29-2, Orient, SD | 37 |
| Birdler, Elwood | |
| Martinmaas, Wanelda | |
| Martinmaas, Max | |
| Schbehter, Lawrence | |
| Sprenger, Gary | |
| Redfield Public Schools, Redfield, SD | 700 |
| Hoffman, Duane | |
| Payant, Jeffrey | |
| Roscoe Ind. School District 22-4,[1] Roscoe, SD | 173 |
| Roesch, Dale | |
| Sioux Valley School District 5-5, Volga, SD | 567 |
| Adee, Richard L. | |
| Brands, Marlene F. | |
| Hesby, Stanley | |
| Siegel, Jerry | |
| Vander Wal, Edward D. | |
| Sisseton Public Schools, Sesseton, SD | 1,350 |
| Pallesen, Steve | |
| Spencer School District, Spencer, SD | 103 |
| Brecht, Archie | |
| Eilts, Melvin | |
| Stanley County School District, St. Pierre, SD | 585 |
| Reuer, Helmet | |
| Summit School District 54-6, Summit, SD | 140 |
| Amdahl, James J. | |
| Christaffinnen, Floyd | |
| Dingsor, Garry | |
| King, Don D. | |
| Miller, Caroll F. | |
| Slaathaug, Emily | |
| Zirbel, Esther | |
| Todd County School District, Mission, SD | 1,900 |
| Potter, William L. | |
| Veblen School District 45-3, Veblen, SD | 148 |
| Aadland, Lorne | |
| Cox, Charles | |
| Hill, Ardell | |
| Holland, Paul | |
| Monsen, Don L. | |
| Waubay School District 18-3, Waubay, SD | 315 |
| Boih, Vincent J. | |
| Breske, Alvin | |
| Philsoee, Dennis | |
| White River School District, White River, SD | 432 |
| Hutchinson, Bobby | |
| Knispel, Charles | |
| Krogman, Jerry | |
| Sinclair, William | |
| Willow Lake School District 12-3,[1] Willow Lake, SD | 230 |
| Symens, Ronald | |
| Burke, Donn J. | |
| Collins, Bryce | |
| Gjerde, Dellas | |
| McFerran, Harley | |
| Winner School District 59-2, Winner, SD | 1,154 |
| Wold, Arnold A. | |
| Wood School District 47-2,[1] Wood, SD | 120 |

| School District/School Board | Enrollment |
|---|---|
| Burnahm, James H. | |
| Harter, Melvin | |
| Kingsbury, Kenneth | |
| Total | 31,125 |

[1] Includes several superintendents acting on behalf of local school boards.

By Mr. DASCHLE:

S. 820. A bill to amend titles 38 and 10, United States Code, to provide veterans' education assistance benefits for flight training; to the Committee on Veterans' Affairs.

EDUCATION ASSISTANCE BENEFITS FOR FLIGHT TRAINING

Mr. DASCHLE. Mr. President, I am introducing legislation today to authorize the pursuit of flight training for active duty service members and reservists who participate in the new GI bill. This refinement, while modest in scope, will have an important positive impact on our Nation's veterans.

As chairman of the House Veterans' Subcommittee on Education, Training, and Employment, I had the opportunity to work extensively on legislation which established and refined one of the best programs available to America's veterans today—the new GI bill. This program is the most cost-effective tool we have to build a strong military by drawing many of the best and the brightest young Americans into the Armed Forces. High-tech weaponry will be necessary to protect our Nation into the 21st century, but if we do not have qualified recruits to operate those modern military machines, their strategic value will be diminished and our national security efforts will be undermined. Equally important, the new GI bill strengthens America by allowing millions of our veterans the opportunity to enrich their lives by obtaining post-secondary education or training.

As good as it is, the new GI bill can be improved. The legislation I am introducing today will expand new GI bill benefits to allow veterans to obtain flight training to prepare them for a career in aviation.

Without a doubt, America needs pilots. During the last 15 years, student pilot starts have dropped by 30 percent, commercial pilot certificates issued have dropped by 58 percent, and instrument rating issuances have dropped by 49 percent. Though Americans continue to fly more and more every year, the average age of commercial pilots has risen 11 percent over the last 15 years, to 42.6 years. These factors, taken together, point to what amounts to a pilot shortage crisis of serious proportions in America. In fact, by 1992, it is estimated that a shortage of 4,000 commercial and instrument pilots is possible.

In addition to this pilot shortage, there is critical employment crisis among our Nation's veterans. It is a national tragedy that one of every three homeless people on the streets on any given night is a veteran. Unemployment rates for those who served our country in Vietnam are tragically high at approximately 26 percent. Certainly, one of the main reasons for homelessness is lack of education and training necessary to secure gainful employment. I am pleased that the 100th Congress has already acknowledged the seriousness of the problem of homelessness and unemployment among veterans and others, and urge that we continue to actively pursue initiatives to address it.

In order to deal with these problems effectively, we need to match the skills and interests of those displaced veterans with vocations currently in demand in this country. I believe there is a major oversight in the new GI bill as currently written in not authorizing flight training as an eligible benefit. Because many veterans already have service-connected flight training, my bill allows them to expand their military training into a civilian vocation that is in serious demand. America desperately wants to get its veterans back to work and we need commercial pilots. That is the basis of the legislation I introduce today.

Quite simply, this bill will allow active duty service members and members of the Selected Reserve to use their new GI bill benefits to obtain vocational flight training. The educational assistance will be 75 percent of established charges for tuition and fees at eligible flight training schools.

I have taken care to craft this bill in such a manner that discourages the use of flight training for avocational purposes. Eligible candidates for flight training benefits must already possess their private pilot's license and must meet the medical requirements for certification as a commercial pilot. Flight training schools' curricula must be approved by the State approving agency, and the training must be judged to be necessary for attainment of a recognized vocational objective. The school's flight training program must also meet the stringent requirements established by the Federal Aviation Administration [FAA]. This bill will not allow the new GI bill to be opened up to those employed veterans who pursue flight training with recreation in mind.

I urge my colleagues to support this legislation. While its enactment will not ensure full employment for veterans or adequate numbers of commercial pilots overnight, it will make a significant contribution toward partially alleviating those problems and it will strengthen what is already one of the best veterans programs around.

By Mr. WEICKER:

S. 821. A bill to establish the National Oceanic and Atmospheric Administration as an independent establishment of the Government of the United States; to the Committee on Commerce, Science, and Transportation.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION INDEPENDENT ESTABLISHMENT ACT

Mr. WEICKER. Mr. President, I rise today to introduce a bill to establish the National Oceanic and Atmospheric Administration as an independent Federal agency.

In response to recommendations from the highly respected Commission on Marine Science, Engineering, and Resources, commonly known as the Stratton Commission, NOAA was created in 1970. Despite the Commission's recommendation that the agency be independent, NOAA was placed in the Department of Commerce.

The creation of NOAA has been acclaimed as a vital first step toward developing the Nation's capabilities for oceanic and atmospheric research, prediction, and resource management. NOAA has done an exceptional job throughout its 17-year history, and this legislation is in no way intended to question the organization's accomplishments. Instead it is designed to give NOAA the attention, autonomy, and increased efficiency it must have to continue its vital role.

Today, NOAA accounts for more than 50 percent of the Commerce Department's budget and employs nearly 40 percent of its work force. NOAA's responsibilities include weather observations and prediction, marine pollution research and monitoring, oceanographic data collection, and atmospheric sciences research. Unfortunately, none of these activities are especially relevant to issues of trade and the economy. NOAA is predominantly a science agency with little relationship to the primary missions of the Department of Commerce.

The benefits of establishing NOAA as an independent agency are several. First, it would demonstrate continued support for the oceans and environmental quality by Congress and the administration. Second, it would improve communication between NOAA and the administration and make NOAA more immediately accountable for its plans and policies. It would also put NOAA on an equal footing with such other science agencies as the National Science Foundation, the Environmental Protection Agency, and the National Aeronautics and Space Administration. Taken together, all of these benefits would improve NOAA's decisionmaking and its ability to coordinate projects with these other executive science agencies by removing the unnecessary bureaucratic layer of the Department of Commerce.

Finally, in this era of policymaking by budgeteers, independence from Commerce would benefit NOAA by placing it under budget examiners for

science and technology within the Office of Management and Budget instead of under the examiners for Commerce, where it now resides. NOAA's budget has deviated significantly from those of the other science agencies of late, and it has been suggested that while this is due in part to priorities within the Department of Commerce, it is mostly due to those of the different examiners at OMB.

There are many examples of such budgetary discrepancies between NOAA and the other Federal science agencies. In general, the administration has proposed significant cuts in NOAA's ocean and fisheries science programs for the last 6 years while it simultaneously proposes to double NSF's budget by 1992. For the research of valuable polymetallic marine mineral deposits, NOAA, NSF, and the U.S. Geological Survey have been working together for the past several years. In the 1988 budget, however, it is proposed that NOAA's program be zeroed out while NSF's and the Geological Survey's continue. NAS has requested $1.5 million for a new marine component to its biotechnology initiative while the Sea Grant Program in NOAA, which has an existing Marine Biotechnology Program, is proposed for elimination. The list goes on, but I think the point is clear.

For all these reasons it is essential that NOAA be made an independent agency. The legislation I introduce today does so in the simplest manner possible.

I realize at the present time there is legislation mandating a reorganization of the Department of Commerce, as a result of which NOAA would be spun off as an independent agency. But I think the time has come to recognize the importance of NOAA, and indeed the overall importance of the oceans to the people of this Nation. And it should not have to wait upon any general reorganization. Rather, it is a freestanding bill that I am offering here, and the issue should be decided independently of any other activities of the Congress vis-a-vis the Department of Commerce.

Let me take another approach and give you some current examples of the status of marine research in the United States. During this past week, the American public had the opportunity to see via television the extraordinary achievements of Dr. Robert Ballard, the men and women of the Woods Hole Oceanographic Institution, and the U.S. Navy, whose activities resulted in the discovery, several miles down, of the *Titanic*.

That is an epic that has gripped the world's imagination over the years since the ship went down. I use this occasion while people are somewhat interested in what lies on the ocean floor to remind my colleagues and the American people that what we know of the oceans, which cover 75 percent of the Earth's surface, or of the rivers and the lakes is almost nothing. As much as I applaud the billions of dollars that we have spent on the exploration of space—and I might add as a young freshman Member of the House of Representatives I was one of those that assisted in the architecture of our space program—I despair that so few dollars have been spent on ocean research.

It is interesting indeed to watch the exploits of a Cousteau, or to watch the exploits of a Ballard. But the fact remains that this greatest and wealthiest of all governments on Earth has done scarce little to enhance its knowledge as to what lies on the ocean floor, or to prepare this Nation for the rational use of ocean resources, which include food, fuel, and so on.

I think it interesting to note that as we watched the robot Jason, and indeed the other aspects of the exploration of the *Titanic* by Dr. Ballard, it must come to mind that the majority of the funds used came from the Navy. They were defense funds. I do not fault the role of the U.S. Navy. Indeed, I say thank God that they participated in that venture because if they had not it would not have come to pass.

But their primary job is of a military nature, and the business of the peaceful exploration of the oceans lies in the hands of NOAA. And what treatment does NOAA get accorded either in this year's budget or previous budgets? Usually there is zero funding of such programs as underwater research, and sea grant. Were it not for the staunch defense by my good friend from South Carolina, Senator HOLLINGS, and an assist by this Senator, those budgets would have been decimated a long time ago.

At the present time on the Island of St. Croix, in the U.S. Virgin Islands, there is being constructed a new habitat system. The habitat system is one where scientists live on the bottom of the ocean floor. They go out daily on their appointed rounds performing oceanographic research of various disciplines. For years that type of an activity was represented by the Hydrolab, which was a NOAA project run by Fairleigh Dickinson University on the island of St. Croix, and hundreds of scientists availed themselves of that opportunity. The Hydrolab now sits in the Smithsonian Institution here in Washington.

I had occasion to make three or four saturation dives in that habitat, lasting from 2 to 3 days. The average mission would last anywhere upward of a week. The new system is designed to be more portable, to go to greater depths, and is far larger than the Hydrolab, allowing far more science to be done.

The new habitat is due to go down to the ocean floor sometime this fall. I hope I will be one of those to participate in that initial venture. But I know this: We have had to beg and borrow—not steal—to get the funds necessary for that project. What science is going to be done from this habitat is going to be done for a few million dollars—not the billions that we associate with other ventures, especially those in space.

The only reason why it is going to be done is because of the extraordinary commitment by many men and women to see that this Nation maintains a lead in underwater research. It will certainly not be by virtue of any overfunding either by the Congress or the President of the United States.

I cite the funding difficulties that we have had with the habitat system in St. Croix, to focus attention on the difficulty that NOAA has had in obtaining support and funding for research that has to be done if we are to learn about our water planet.

For years Senator HOLLINGS, I, and others have tried to make ocean research a priority project of the U.S. Government and for years support for these projects has really been borne on our backs strictly because of our enthusiasm, not because there was any particular knowledge or enthusiasm either by the Congress or by various administrations, Democratic or Republican.

It is my hope that by making NOAA a separate agency, much like NASA, the public will understand that its scientific mission is equally as valuable as that of NASA's, exploring space. There is no question in my mind that well within our lifetime the world is going to have to turn to the ocean both for its food and its fuel. The only question then is: Are we going to race into the oceans and rape them so that they will only last 1,000 years or will we develop our knowledge so that they can serve mankind for tens of thousands of years. It is in order to gain that type of knowledge that I offer this legislation to establish NOAA as an independent agency.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 821

*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 "National Oceanic and Atmospheric Administration Independent Establishment Act of 1987".

FINDINGS

SEC. 2. The Congress finds that—

(1) the National Oceanic and Atmospheric Administration is the lead civilian Federal agency for oceanic and atmospheric science and services;

(2) oceanic and atmospheric research and prediction are critical to understanding the physical, chemical, and biological processes controlling living and nonliving marine resource distribution; marine pollution sources, pathways, and mitigation; and the processes controlling weather and climate;

(3) understanding such processes allows us to rationally manage marine resources, which are major contributors to the Nation's economy and well-being; to forecast the weather, thereby saving lives and property; and to formulate national policy and facilitate decision making to enhance the long term health of our environment, both on national and international fronts; and

(4) establishing the National Oceanic and Atmospheric Administration as an independent Federal Agency enables it to better address these issues in a wise and coherent fashion, gives the agency the recognition and standing it deserves, and the autonomy it needs to carry out its vital missions.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) the term "Administration" means the National Oceanic and Atmospheric Administration established under section 4; and

(2) the term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration appointed under section 5(a).

ESTABLISHMENT

SEC. 4. There is established as an independent establishment of the Government the National Oceanic and Atmospheric Administration. The Administration shall succeed the National Oceanic and Atmospheric Administration of the Department of Commerce in existence on the day before the effective date of this Act.

OFFICERS

SEC. 5. (a) The Administration shall be administered by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall carry out all functions transferred to the Administrator by this Act and shall have authority and control over all personnel, programs, and activities of the Administration. The Administrator shall be compensated at the rate prescribed for level III of the Executive Schedule Pay Rates.

(b)(1) There shall be in the Administration a Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall perform such functions as the Administrator shall prescribe. The Deputy Administrator shall act for and perform the functions of the Administrator during the absence or disability of the Administrator, or in the event of a vacancy in the office of the Administrator. The Deputy Administrator shall be compensated at the rate prescribed for level IV of the Executive Schedule Pay Rates.

(2) There shall be in the Administration an Assistant Administrator for Coastal Zone Management and an Assistant Administrator for Fisheries, who shall be appointed by the Administrator and shall perform such functions as the Administrator shall prescribe. Such Assistant Administrators shall be compensated at the rate prescribed for level V of the Executive Schedule Pay Rates.

(c)(1) There shall be in the Administration a Chief Scientist, who shall be appointed by the President, by and with the advice and consent of the Senate. The Chief Scientist shall be a person who, by reason of scientific education and experience, is knowledgeable in the principles of oceanic, atmospheric, or other scientific disciplines important to the work of the Administration. The Chief Scientist shall be the principle scientific advisor to the Administrator, and shall perform such other functions as the Administrator shall prescribe.

(2) The Chief Scientist shall be compensated at the rate prescribed for level V of the Executive Schedule Pay Rates.

(d) There shall be in the Administration three additional Assistant Administrators, who shall be appointed by the Administrator. The Assistant Administrators shall perform such functions as the Administrator shall prescribe. The Administrator shall designate the order in which the Assistant Administrators, including the Assistant Administrators referred to in subsection (b)(2) of this section, shall act for and perform the functions of the Administrator during the absence or disability of the Administrator, and the Deputy Administrator, or in the event of vacancies in both of those offices. An Assistant Administrator shall be compensated at the rate prescribed for level V in the Executive Schedule Pay Rates.

(e) There shall be in the Administration a General Counsel, who shall be appointed by the Administrator. The General Counsel shall be the chief legal officer for all legal matters arising from the conduct of the functions of the Administration. The General Counsel shall be compensated at the rate prescribed for level V of the Executive Schedule Pay Rates.

(f)(1) There shall be in the Administration a Commissioned Officer Corps, which shall be the Commissioned Officer Corps of the National Oceanic and Atmospheric Administration established by Reorganization Plan No. 4 of 1970.

(2) All laws and regulations applicable to commissioned officers of the National Oceanic and Atmospheric Administration of the Department of Commerce on the day before the effective date of this Act shall be applicable to commissioned officers of the Administration.

(g) The Secretary of the Navy may detail to the Administrator, on an additional-duty basis, a Navy flag officer of the rank of rear admiral, who shall serve and be designated as the Naval Deputy to the Administrator. The Naval Deputy shall—

(1) act as a liaison between the Administrator and the Secretary of the Navy in order to avoid duplication of Federal oceanographic activities;

(2) act to maintain a close relationship between the Administration and the Navy in research and development; and

(3) ensure that national security considerations are addressed by the Administrator in formulating policies.

TRANSFERS AND INCIDENTAL PROVISIONS

SEC. 6. (a) The following are hereby transferred to the National Oceanic and Atmospheric Administration, the independent agency:

(1) All functions vested by law in the National Oceanic and Atmospheric Administration in the Department of Commerce or its Administrator, the Under Secretary of Commerce for Oceans and Atmosphere, together with all functions vested by law in the Secretary of Commerce or the Department of Commerce which are administered through the National Oceanic and Atmospheric Administration or are related to the National Oceanic and Atmospheric Administration.

(2) The functions of the Department of Commerce or the National Oceanic and Atmospheric Administration in the Department of Commerce incidental to, helpful to, or necessary for, the performance of the functions transferred by subsection (a)(1) or which relate primarily to those functions.

(3) So much of the personnel, property, records, funds, accounts, and unexpended balances of appropriations, allocations, and other moneys of the Department of Commerce which are employed, used, held, available, or to be made available in connection with the functions transferred by subsections (a)(1) and (a)(2).

(b) The personnel transferred under this section shall be so transferred without reduction in classification or compensation, except that after such transfer, such personnel shall be subject to changes in classification or compensation in the same manner, to the same extent, and according to the same procedure, as provided by law.

(c) The Administrator of the National Oceanic and Atmospheric Administration, an independent agency, shall exercise all functions transferred by subsection (a) of this title or any other function vested in the National Oceanic and Atmospheric Administration or the Administrator of the National Oceanic and Atmospheric Administration by any law subsequent to enactment of this Act. The Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, employee, or office of the National Oceanic and Atmospheric Administration of such functions.

(d) Members of the Commissioned Officer Corps of the Administration shall be entitled to all rights, privileges, and benefits heretofore available under any law to commissioned officers of the National Oceanic and Atmospheric Administration including those rights, privileges, and benefits heretofore accorded by law to commissioned officers of the former Environmental Science Services Administration and the former Coast and Geodetic Survey.

RULES; REGULATIONS

SEC. 7. In the performance of the functions of the Administrator and the Administration, the Administrator is authorized to make, promulgate, issue, rescind, and amend rules and regulations. The promulgation of such rules and regulations shall be governed by the provisions of chapter 5 of title 5, United States Code.

DELEGATION

SEC. 8. Except as otherwise provided in this Act, the Administrator may delegate any function to such officers and employees of the Administration as the Administrator may designate, and may authorize such successive redelegations of such functions in the Administration as may be necessary or appropriate. No delegation of functions by the Administrator under this section or under any other provision of this Act shall relieve the Administrator of responsibility for the administration of such functions.

PERSONNEL AND SERVICES

SEC. 9. (a) In the performance of the functions of the Administrator and in addition to the officers provided for by section 5, the Administrator is authorized to appoint, transfer, and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Administrator and the Adminis-

tration. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and compensated in accordance with title 5, United States Code.

(b) The Administrator is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(c) The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5, United States Code.

(d) The Administrator is authorized to utilize, on a reimbursable basis, the services of personnel of any Federal agency. With the approval of the President, the Administrator is authorized to enter into cooperative agreements under which members of the Army, Navy, Air Force, and Marine Corps may be detailed by the Secretary of the Army, the Navy, or the Air Force, as the case may be, to assist the Administrator in carrying out the functions of the Administrator. Members of the Army, Navy, Air Force, or Marine Corps detailed to carry out functions under this section shall carry out such functions to the same extent as that to which such members might be lawfully assigned in the Department of Defense.

(e)(1)(A) The Administrator is authorized to accept voluntary and uncompensated services without regard to the provisions of section 1342 of title 31, United States Code, if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The Administrator is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The Administrator is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under paragraph (1)(A) of this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

CONTRACTS

SEC. 10. The Administrator is authorized, without regard to the provisions of section 3324 of title 31, United States Code, to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the functions of the Administrator and the Administration. The Administrator may enter into such contracts, leases, agreements, and transactions with any Federal agency or any instrumentality of the United States, or with any State, territory, or possession, or with any political subdivision thereof, or with any person, firm, association, corporation, or educational institution, on such terms and conditions as the Administrator may consider appropriate. The authority of the Administrator to enter into contracts and leases under this section shall be to such extent or in such amounts as are provided in appropriation Acts.

USE OF FACILITIES

SEC. 11. With their consent, the Administrator may, with or without reimbursement, use the services, equipment, personnel, and facilities of Federal agencies and other public and private agencies, and may cooperate with other public and private agencies and instrumentalities in the use of services, equipment, personnel, and facilities. The head of each Federal agency shall cooperate fully with the Administrator in making the services, equipment, personnel, and facilities of the Federal agency available to the Administrator. The head of a Federal agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement, supplies and equipment other than administrative supplies or equipment.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 12. (a) The Administrator is authorized—

(1) to acquire (by purchase, lease, condemnation, or otherwise) construct, improve, repair, operate, and maintain—

(A) laboratories;

(B) research and testing sites and facilities;

(C) quarters and related accommodations for employees and dependents of employees of the Administration; and

(D) such other real and personal property (including patents), or any interest therein within and outside the continental United States,

as the Administrator considers necessary;

(2) to lease to others such real and personal property;

(3) to provide by contract or otherwise for eating facilities and other necessary facilities for the welfare of employees of the Administration at its installations and to purchase and maintain equipment therefor.

(b) Title to any property or interest therein acquired pursuant to this section shall be in the United States.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Administration by the Administrator of General Services.

(d) The authority of the Administrator to enter into contracts and leases under this section shall be to such extent or in such amounts as are provided in appropriation Acts.

FACILITIES AT REMOTE LOCATIONS

SEC. 13. (a) The Administrator is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) meeting facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for school-age dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of such subsection shall be at prices reflecting reasonable value as determined by the Administrator.

(c) Proceeds derived from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Administrator to pay directly the cost of work or services provided under this section, to repay or make advances to appropriations of funds which do or will bear all or a part of such cost, or to refund excess sums when necessary, except that such payments may be credited to a service or working capital fund otherwise established by law, and used under the law governing such funds if the fund is available for use by the Administrator for performing the work or services for which payment is received.

TRANSFERS OF FUNDS FROM OTHER FEDERAL AGENCIES

SEC. 14. The Administrator is authorized to accept transfers from other Federal agencies of funds which are available to carry out functions transferred by this Act to the Administrator or functions assigned by law to the Administrator after the date of enactment of this Act.

SEAL OF ADMINISTRATION

SEC. 15. The Administrator shall cause a seal of office to be made for the Administration of such design as the Administrator shall approve. Judicial notice shall be taken of such seal.

STATUS OF ADMINISTRATION UNDER CERTAIN LAWS

SEC. 16. For purposes of section 551 of title 5, United States Code, the Administration is an agency. For purposes of chapter 9 of such title, the Administration is an independent regulatory agency.

TECHNICAL AMENDMENT

SEC. 17. (a) The positions of Under Secretary of Commerce for Oceans and Atmosphere and the Assistant Secretary of Commerce for Oceans and Atmosphere established by section 407 of title IV of the Act of November 14, 1986, are abolished.

(b) Section 5314 of title 5, United States Code, is amended by deleting "Under Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Administrator of the National Oceanic and Atmospheric Administration," and inserting in lieu thereof "Administrator, National Oceanic and Atmospheric Administration.".

(c) Section 5315 of title 5, United States Code, is amended by deleting "Assistant Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Deputy Administrator of the National Oceanic and Atmospheric Administration." and inserting in lieu thereof "Deputy Administrator, National Oceanic and Atmospheric Administration.".

SAVINGS PROVISIONS

SEC. 18. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in regard to functions which are transferred under this Act to the Administration on or after the date of enactment of this Act, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Administrator or other authorized officials, a court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings or any application

for any license, permit, certificate, or financial assistance pending at the time this Act takes effect; and such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c)(1) The provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and

(2) In all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) In any case involving one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act, the President may designate any officer whose appointment was required to be made by and with the advice and consent of the Senate, and who was such an officer immediately prior to the effective date of this Act, to act in such office until the office is filed as provided in this Act while so acting, any such person shall receive compensation at the rates provided by this Act of the respective office in which he or she acts.

AUTHORIZATION OF APPROPRIATIONS

SEC. 19. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act. Notwithstanding any other provision of law, there are authorized to be appropriated, for any fiscal year beginning after September 30, 1987, for use of the Administration, such sums as are specifically authorized to be appropriated as of the date of the enactment of this Act.

LAWS AND REGULATIONS

SEC. 20. Except to the extent otherwise provided in this Act, all laws, rules, and regulations in effect and applicable to the National Oceanic and Atmospheric Administration of the Department of Commerce and to the Administrator of such Administration, the Under Secretary of Commerce for Oceans and Atmosphere, on the date immediately proceeding the effective date of this Act shall, on and after such effective date, be applicable to the National Oceanic and Atmospheric Administration and the Administrator, established by this Act, thereof until such law, rule, or regulation is repealed or otherwise modified or amended.

EFFECTIVE DATE

SEC. 21. The foregoing provisions of this Act shall take effect upon the expiration of the 180 day period following the date of the enactment of this Act.

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By Mr. LAUTENBERG:

S. 822. A bill to provide financial assistance to the States for computer education programs, and for other purposes; to the Committee on Labor and Human Resources.

COMPUTER EDUCATION ASSISTANCE ACT

● Mr. LAUTENBERG. Mr. President, computers are fast becoming a fact of everyday life for all Americans. They are changing the way we work, the way we live, and the way we learn. We have left the industrial age and entered the information age. As innovation and change surges forward, this country must assure that the benefits associated with this change are widely shared. Information technology can be beneficial for those who are trained to use it, but potentially limiting for those who are not.

The competitive position of this Nation in the world economy dependent upon our ability to be innovative and adaptable, and to demonstrate technical prowess. We can meet the challenge of the future, but to do so we must continue to produce well-educated, skilled and creative workers, workers who understand the uses of the new information technology. This will require adequate resources to support the best possible education for our children.

The last few years have seen much criticism of American education, and important beginnings in its revitalization. But concern remains. The chairman of the National Association of Manufacturers recently wrote about his concerns. He said:

> For the first time in our history, we may produce a generation less educated than its predecessor. More alarmingly, it may possess the wrong skills—or simply inadequate ones—for the jobs of the future.

In a similar vein, a paper prepared for the National Governors' Association's report on education said:

> We appear to be raising a generation of Americans largely lacking the understanding and skills to participate fully in the technology world in which they live and work.

I share this concern and believe that we must make greater strides toward strengthening American education. Computer education must be part of that process. In the last two Congresses I introduced legislation to establish a program of Federal assistance for schools to develop and improve computer education programs. Senator WIRTH was a leading voice on this issue when he was in the House of Representatives, and I am pleased that he is joining as a cosponsor of this bill in the Senate. The bill that I am introducing today, with Senator WIRTH and our colleagues, Senators KENNEDY, DODD, BRADLEY, MOYNIHAN, KERRY, SARBANES, MATSUNAGA, BINGAMAN, and RIEGLE is an improved version of the earlier bill, with the same goals and concepts.

The Computer Education Assistance Act of 1987 provides for a program of competitive grants for the purchase of computer hardware and software and inservice teacher training. It requires careful planning for the inclusion of computer education in the school curriculum. The bill authorizes assistance for teacher-training institutes for elementary and secondary school teachers. It also provides for evaluation of computer hardware and software and the development of model instructional programs which can be adopted by interested schools.

At a time when new Federal expenditures are viewed with great skepticism, the kind of investment I am proposing will pay for itself many times over in a more productive citizenry. This investment is particularly important in schools with concentrations of poverty-level children who should not be deprived of the benefits of a modernized and challenging curriculum.

Mr. President, computer education is no substitute for the three R's. Putting computers into the classroom is not a cure-all for the problems of American education. Computers will not replace inadequate teachers; on the contrary, they will require creative and skilled teachers to put them to the best use. Carefully designed computer education programs can greatly enhance good teaching.

Planning for the appropriate role of computer education is as important as the purchase of hardware and software. Thoughtful consideration must be given to the way to integrate computers into the curriculum. Computer education planners must first consider the overall goals for their schools. Then, they must decide how computers can help them meet those goals. For some purposes, existing methods will continue to be best. For other purposes, computers offer exciting possibilities for transforming the curriculum and the way it is taught.

Computers can be crucial in the transition from traditional education, with its relative emphasis on rote learning, to a new emphasis on assimilating information and solving problems. Computers can be used by students in every subject in every grade. Students can use word processing programs to improve their writing by editing and revising more easily than they do now. They can learn to simulate "what if" situations in history classes so that they can understand more clearly the factors that affect human behavior and events. They can learn to use graphics to present data in a clear and meaningful way. Some scientific experiments can be carried out through simulations.

These uses of the computer in schools would go far beyond the teaching of computer awareness or programming. A basis understanding of the working and operation of a computer should be a beginning for computer education, not an end. Computers are more like pencils than books. As educators come to view computers in this way, as tools, they will begin

using them to expand their students' horizons and improve their analytical and critical thinking skills.

Thinking of computer education in broader terms will require coordination with curriculum planning. It is more than drill and practice exercises. Computer education involves the use of application software in word processing, spread sheet analysis, and data base analysis, all of which can be used more generally than highly specialized instructional courseware.

Use of computers in schools is growing, but the need for Federal assistance is convincing. Two years ago, 90 percent of U.S. schoolchildren attended schools that had at least one computer. This represents a tremendous growth since 1981 when only 18 percent of the schools had even one instructional computer. A report by Quality Education Data [QED], a private research firm in Denver, showed in 1985-86 the student to computer ratio in public schools, from kindergarten through 12th grade, was 50 to 1. This was a marked improvement over 1984-85, when the ratio was 75 to 1, and 1983-84, when it was 125 to 1.

However, many of these schools have only the one computer. The penetration of computers is wide, but not deep. The machines are frequently spread too thin to be used in optimum ways. Consider what it would mean if students had to share paper and pencil to the extent that they must share computers. Clearly the computer revolution in the schools is in its infancy.

Furthermore, the benefits of the growth in computers in schools are not evenly distributed among schools serving different socioeconomic groups. A study conducted in the fall of 1984 found that 92 percent of affluent schools had at least one computer, while only 74 percent of poor schools were so equipped.

Even more startling is the growth in the gap between rich and poor schools in the amount of computer equipment that each has. In 1983 the difference between the average number of computers in affluent and poor schools was just over two per school. One year later the difference had increased to nearly 4, with affluent schools averaging 10.6 computers per building and poor schools averaging only 6.8.

The exposure that students have to computers varies by economic class also. One study found that twice as many students in well-to-do urban areas said that they had ever used a computer in school as students in disadvantaged urban areas. The number of computers in homes far exceeds the number in schools and the lion's share of those computers are in more affluent homes, including many with children. The additional exposure to computers in the home creates further disparity between rich and poor children.

Teachers differ greatly in their access to, and familiarity with computers. The Second National Survey of Instructional Use of School Computers, which was conducted in 1985 by the Johns Hopkins University Center for Social Organization of Schools, found that only about 25 percent of all teachers who used computers with students were considered expert in various aspects of computer knowledge, 21 percent of middle school teachers were expert, and only 10 percent of elementary school teachers were expert.

The public, whether they have school-age children or not, feel very strongly that computers should be part of education. The Star-Ledger/Eagleton poll, a survey of New Jersey residents, found in October 1986 that 95 percent of respondents said that learning to use a computer is at least somewhat important to a child's education, and 70 percent said it was very important. Three-quarters of the respondents with children in school said that the school had a computer for the use of students. Three years earlier only two-thirds of the parents reported a computer in the child's school.

Mr. President, the Computer Education Assistance Act of 1987 will establish a program to assist States and local school districts in developing the Ambitious Computer Education Program that is needed. The program will authorize $150 million for the first year and such sums as necessary for an additional 3 years for grants to schools for acquisition of hardware and software and teaching training. The level of the appropriation for this program would not necessarily be the full $150 million. The funds will be allocated to the States, half on the basis of school-age population and half on the basis of the chapter I formula, used for aid to disadvantaged schoolchildren. Each State will make grants to local school districts, which must assure that at least half the funds are used to serve chapter I eligible children and that funds are targeted on schools with the greatest need for computers.

School districts will be required to do some fairly extensive planning. This will include:

Setting goals for computer education in the schools and relating these goals to the overall educational objectives of the district;

Planning revisions in the basic curricula of the schools designed to incorporate the use of computers; and

Instructional priorities for the use of computers;

Schedules for placing computers in the elementary and secondary schools;

Criteria for selection of the hardware and software;

After school and vacation availability of the computers for use by parents and students.

Standards for the evaluation for the program, including student achievement

The Federal grants are to be matched, with the Federal share set at 75 percent and the non-Federal at 25 percent. The non-Federal share can come from public or private sources, and may be in cash or in kind. Local districts that can make arrangements with businesses and industries to donate equipment, personnel, or cash will not have to use their own funds for the matching share. Private school students would be eligible for assistance.

The bill provides $20 million a year for 4 years to the National Science Foundation for the establishment of teacher-training institutes. These institutes would provide more indepth training for teachers than the inservice training allowed in another section of the bill. Proper preparation of teachers is essential to the success of a computer education program. These institutes will offer teachers an opportunity to learn about computers and the best methods for using them in the schools.

Evaluations of existing hardware and software and research and development on new software and instructional models will provide much of the underpinning for the new programs of computer education. Title III of this bill authorizes the National Science Foundation and the Department of Education to provide assistance to organizations that have expertise to carry out this research.

The planning requirement in this legislation is extremely important. Education planners need to take a careful look at the role of computers in the total curriculum. They also need to consider such questions as whether to institute saturation programs at a few schools or to provide computers in every classroom in a particular grade throughout the district. The bill does not set a goal for a specific ratio of students to computers or daily access time per student.

Plans are to include provisions for teachers, children, and parents to use computers after school and during vacations. This would permit parents and children to spend additional time working on the computers and gaining familiarity with them. Such afterschool programs would be especially helpful to those without access to computers at home. The children who do not have computers at home are very likely also to be attending schools which are least likely to have many computers. In such areas, special outreach programs to encourage parental participation may be necessary.

The funds from the Computer Education Assistance Act of 1985 will be used in all schools, but at least half the funds will be targeted on schools

with poverty-level children. Priority also is to be given to schools with the greatest need for computers. By establishing the targeting requirement and the priority for underserved schools, the bill aims to concentrate its resources in a way that benefits schools and children that are falling behind in computer usage.

The grant funds can be used for acquisition of equipment and computer programs and inservice teacher training. Each district will decide the mix of uses to which they will put their funds. This provides school districts with a great deal of flexibility.

In addition, the non-Federal matching share can be in-kind, such as donations of equipment or personnel services from private sources or from public agencies. This provides additional flexibility and incentive for local school districts to involve the business community in their planning.

Mr. President, the program of planning and grant assistance for the purchase of equipment, training, and research authorized by this bill will provide Federal seed money for computer education programs. A great deal of flexibility is allowed and the result should be a better education for all children. This result is important for the growth and success of our children and our country.

I ask unanimous consent that a copy of the bill be inserted in the RECORD.

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

S. 822

*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 "Computer Education Assistance Act of 1987".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to improve and strengthen computer education instruction in elementary and secondary schools and thereby to improve student's academic performance in both technical and other fields by—

(1) encouraging orderly planning for the use of computers and for the application of computers to the instructional program of elementary and secondary schools;

(2) encouraging the acquisition of computer hardware and software for elementary and secondary schools having the greatest need;

(3) improvement of teacher training in computer education; and

(4) furnishing technical assistance and information with respect to the acquisition of appropriate computer software.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "elementary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965;

(2) the term "institution of higher education" has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

(3) the term "local educational agency" has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965;

(4) the term "secondary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965;

(5) the term "Secretary" means the Secretary of Education;

(6) the term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands;

(7) the term "State educational agency" has the meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965;

(8) the term "computer hardware" means—

(A) a data processor which—

(i) has a combined random access and read only memory of at least 64,000 bytes; and

(ii) is or can be connected with devices for interaction with users and for visual display;

(B) in connection with such a data processor (i) a display screen, (ii) one or more disk or tape drives, (iii) peripheral equipment such as printers and communications devices; and

(C) any equipment necessary for the installation of equipment described in subparagraphs (A) and (B); and

(9) the term "computer software" means computer programs including programs of general applicability and programs of instructional courseware suitable for use in the education program of the elementary and secondary schools within the State, including programs and program materials necessary for the operation and maintenance of the computers.

TITLE I—ACQUISITION OF COMPUTER RESOURCES

PROGRAM AUTHORIZED

SEC. 101. (a) The Secretary is authorized, in accordance with the provisions of this title, to make grants to States to pay the Federal share of the costs of strengthening and expanding computer education resources available in the elementary and secondary schools within the State.

(b) There are authorized to be appropriated $150,000,000 for fiscal year 1988 and such sums as may be necessary for the fiscal year 1989 and for each succeeding fiscal year ending prior to October 1, 1991, to carry out the provisions of this title.

ALLOTMENT TO STATES; WITHIN STATE ALLOCATION

SEC. 102. (a)(1) From the sums appropriated under section 101(b) for each fiscal year, the Secretary shall reserve 2 percent for payments to the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs.

(2) From the remainder of such sums, the Secretary shall, subject to the provisions of subsection (b), allot to each State—

(A) an amount which bears the same ratio to one-half of such remainder as the school-age population of the State bears to the school-age population of all States, plus

(B) an amount which bears the same ratio to one-half of such remainder as the amount the State is eligible to receive under subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965 (as modified by chapter 1 of the Education Consolidation and Improvement Act of 1981) in the fiscal year for which the determination is made bears to the amount available to all States under such subpart 1.

(3) For the purpose of this subsection—

(A) the term "school-age population" means the population aged 5 through 17; and

(B) the term "States" includes the fifty States, and the District of Columbia.

(b) For the purpose of this section—

(1) the provisions of section 111(a)(3)(D) of the Elementary and Secondary Education Act of 1965, relating to the use of the survey of income and education data, shall not apply to the allotment of funds under paragraph (2) of subsection (a); and

(2) the provision of the third sentence of section 193(a) of the Elementary and Secondary Education Act of 1965, relating to the 85 percent hold harmless, shall not apply to the allotment of funds under paragraph (2) of subsection (a).

(c) The State educational agency shall allocate the allotment of the State to local educational agencies within the State having an application approved by the State in accordance with section 105 based on the factors described in clause (3) of section 106(a), relating to the local applications.

ELIGIBILITY FOR GRANTS

SEC. 103. No grant may be made to a State under this title unless the State educational agency, and local educational agencies within the State, carry out planning activities designed to facilitate the use of Federal financial assistance under this title for the expansion of computer resources in the elementary and secondary schools within the State. The planning activities shall include—

(1) the goals for computer education in the schools of such agency and how the goals relating to computer education in each subject relate to the education objectives of the local educational agency,

(2) planned revisions in the basic curricula of the elementary and secondary schools designed to integrate the use of computers,

(3) instructional priorities for the use of computers,

(4) schedules for placing computers in the elementary and secondary schools of such agency selected in accordance with the provisions of section 106(a)(2)(B),

(5) criteria for selecting computer hardware and software to be acquired which are designed to contribute to the curriculum goals,

(6) provisions for the security of the computers,

(7) after school and vacation availability of the computers for use by parents and students and teachers for instructional or educational purposes, and

(8) standards for the evaluation of the computer education program assisted under this Act, including student achievement and progress in meeting the goals set forth under clause (1).

USES OF FUNDS

SEC. 104. Grants under this title may be used for the payment of the Federal share of—

(1) the acquisition and leasing of computer hardware for use in the education program in the elementary and secondary schools in the State, including services necessary for the operation, installation, and maintenance of the computer hardware;

(2) the conduct of teacher training programs designed to improve the quality of instruction in computer education and to expand the use of computers in the educa-

tion program in the elementary and secondary schools in the State, with particular emphasis upon the use of seminars and inservice training and the use of specially trained teachers to train other teachers in the targeted schools of the local educational agency; and

(3) the acquisition of computer software.

STATE APPLICATION

SEC. 105. (a) Each State which desires to receive grants under this Act, and has complied with section 103, shall file an application with the Secretary. Each such application shall—

(1) designate the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this Act;

(2) provide assurances that the planning activities required under section 103 are completed or will be completed promptly after filing an application under this section, except that any State may meet the requirement of this clause if the Secretary determines that computer education program planning activities conducted prior to the date of enactment of this Act substantially meet the requirements of section 103;

(3) provide assurances that the State—

(A) will use grants under this Act (i) so as to supplement the level of funds that would, in the absence of such funds, be made available from non-Federal sources for the purpose of the program for which assistance is sought; and (ii) in no case to supplant such funds from such non-Federal sources; and

(B) will not commingle funds made available under this Act with State funds;

(4) provide assurances that the State will not expend more than 5 percent of the funds available to it under this title for administration and oversight activities and for furnishing services to local educational agencies within the State necessary for the local educational agencies to carry out their responsibilities under this Act;

(5) provide assurances that the State, through the State educational agency shall furnish services to local educational agencies within the State necessary for the local educational agencies to carry out their responsibilities under this title;

(6) provide assurances that the State educational agency will pay from non-Federal sources the non-Federal share of the cost to the State of the computer education program for which assistance is sought under this title, together with an identification of the sources of the non-Federal support;

(7) provide that the application of each local educational agency applying for funds under this title will not be denied without notice and opportunity for a hearing before the State educational agency; and

(8) provide such additional assurances as the Secretary deems necessary to assure compliance with the requirements of this Act.

(b)(1) An application filed by the State under subsection (a) shall be for a period not to exceed four fiscal years and may be amended annually as may be necessary to reflect changes without filing a new application.

(2) The Secretary shall not disapprove an application submitted by the State educational agency without first affording notice and opportunity for a hearing.

LOCAL APPLICATIONS

SEC. 106. (a) A local educational agency may receive payments under this title for any fiscal year in which it has on file with the State educational agency an application which—

(1) identifies the computer hardware, computer software, and the teacher training programs available in the elementary and secondary schools in the local educational agency and sets forth the uses for which assistance is sought by the local educational agency;

(2) provide assurances that the planning activities required under section 103 are completed or will be completed promptly after filing an application under this section;

(3)(A) provides assurances that of the payments made to the local educational agency in each fiscal year at least half of such funds shall be used to serve educationally disadvantaged children eligible for services under title I of the Elementary and Secondary Education Act of 1965 (as modified by the Education Consolidation and Improvement Act of 1981); and

(B) provides assurances that the local educational agency will provide the funds made available to the agency under this title in each fiscal year first to elementary and secondary schools of such agency with the greatest need for computer hardware, computer software, and teacher training;

(4) provides assurances that the local educational agency will evaluate the computer education program assisted under this title in sufficient detail to permit the State to carry out section 103(8);

(5) provides assurances that funds paid under this title (A) will be used to supplement the levels of funds that would in the absence of such funds be made available from non-Federal sources for the purpose of the program for which assistance is sought; and (B) in no case are to supplant such funds from non-Federal sources;

(6) provides assurances that the local educational agency will pay from non-Federal sources the non-Federal share of the cost of the computer education program for which assistance is sought under this title, together with an identification of the sources of the non-Federal support;

(7) agrees to keep such records and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation consistent with the responsibilities of the State educational agency under this title;

(8) describes the programs and procedures which the local educational agency has developed to ensure the participation of parents in the establishment of its computer hardware acquisition program and in the development and implementation of a curriculum for the use of such hardware; and

(9) provides assurances that the agency will comply with the other provisions of this Act.

(b) One or more local educational agencies may jointly file an application under subsection (a).

(c)(1) The State educational agency may approve applications submitted under subsection (a) based upon the factors described in clause (3) of subsection (a) and section 102(c).

(2) An application filed by a local educational agency under subsection (a) shall be for a period not to exceed four fiscal years and may be amended annually as may be necessary to reflect changes without filing a new application.

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 107. (a) The provisions of section 557 of the Education Consolidation and Improvement Act of 1981 shall apply to the financial assistance made available under this title.

(b) Each private elementary and secondary school to which subsection (a) applies shall, to the extent practicable, furnish evidence that such school has substantially complied with the planning activities described in section 103.

PAYMENTS; FEDERAL SHARE

SEC. 108. (a) From the amount allotted to each State pursuant to section 102, the Secretary shall, in accordance with the provisions of this Act, pay to the State an amount equal to the Federal share of the cost of the program to be assisted under this Act.

(b)(1) The Federal share for each fiscal year shall be 75 percent.

(2) Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, and services.

## TITLE II—TEACHER TRAINING INSTITUTES

NATIONAL SCIENCE FOUNDATION PROGRAM

SEC. 201. (a) From the amount appropriated pursuant to section 203 for any fiscal year, the National Science Foundation shall arrange, through grants and contracts with professional scientific or engineering organizations, science museums, regional education centers, consortia of local educational agencies, intrastate resource and service centers, institutions of higher education (including community colleges), and private nonprofit educational organizations for the development and operation by such entities of short-term or regular session institutes for study to improve the qualifications of individuals who are engaged in or preparing to engage in the teaching, or supervising or training of teachers, in the use of computers for education programs in elementary and secondary schools.

(b) In making grants and contracts under subsection (a), the National Science Foundation shall give special consideration to applicants who will train teachers, or supervisors or trainers of teachers, serving or preparing to serve in elementary and secondary schools that enroll substantial numbers of culturally, economically, socially, and educationally disadvantaged youth or in programs for children of limited English language proficiency.

STIPENDS

SEC. 202. Each individual who attends an institute operated under the provisions of this title shall be eligible (after application therefor) to receive a stipend at the rate of $275 per week for the period of attendance at such institute.

AUTHORIZATION OF APPROPRIATIONS

SEC. 203. There are authorized to be appropriated to carry out this title $20,000,000 for the fiscal year 1988 and for each succeeding fiscal year ending prior to October 1, 1991.

## TITLE III—TECHNICAL ASSISTANCE INFORMATION DISSEMINATION

PROGRAM AUTHORIZED

SEC. 301. (a) For the purpose of providing advice and technical assistance to State and local educational agencies on the expenditure of funds under title I of this Act and on the acquisition of suitable computer software, the Secretary of Education and the National Science Foundation, in accordance with an interagency agreement between the Secretary and the Foundation, shall—

(1) conduct research on the availability of computer hardware and software, for use in the classroom;

(2) make recommendations for improvements in implementing computer hardware and software into the curriculum of schools; and

(3) disseminate the results of activities conducted under clauses (1) and (2).

(b) The Secretary of Education and the Foundation are authorized to make grants and enter into contracts to carry out the functions described in clauses (1), (2), and (3) of subsection (a).

(c) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year 1988 and for each succeeding fiscal year ending prior to October 1, 1991.

PRIVATE DISSEMINATION CENTERS

SEC. 302. (a) The National Science Foundation shall, through grants to or contracts with professional scientific or engineering organizations, science museums, regional science education centers, public television, consortia of local educational agencies, regional laboratories and university based research centers, institutions of higher education (including community colleges), and private nonprofit educational organizations conduct, assist, and foster research and experimentation on, and demonstration and dissemination of, models of instruction in the operation and use of computers which can be easily replicated. Such models of instruction may include model training programs for adults. In carrying out the provisions of this section, the Foundation shall give priority to proposals prepared with active and broad community involvement of such groups as parents, teachers, school boards and administrators, and local business.

(b) Funds available under a grant or contract pursuant to this section may be used for the acquisition of computer hardware and software.

(c) The Director of the National Science Foundation shall report to the Congress annually on the results of research and experimentation performed with funds made available under this section. The Director, in conjunction with the Secretary of Education, shall take such steps as may be necessary to disseminate information concerning such results to local educational agencies.

(d) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year 1988 and for each succeeding fiscal year ending prior to October 1, 1991.●

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By Mr. SPECTER:

S. 824. A bill to establish clearly a Federal right of action by aliens and U.S. citizens against persons engaging in torture or extrajudicial killings, and for other purposes; to the Committee on the Judiciary.

TORTURE VICTIMS PROTECTION ACT

● Mr. SPECTER. Mr. President, today I am introducing the Torture Victims Protection Act of 1987 to clearly establish a Federal right of action by both aliens and U.S. citizens against persons engaging in torture or extrajudicial killing under actual or apparent authority of any foreign nation. This legislation is identical to S. 2528 which I introduced on June 6, 1986.

While virtually every nation now condemns torture and extrajudicial killing in principle, in practice more than one-third of the world's governments engage in, tolerate, or condone such acts. A report issued by the United Nations last spring indicates that torture remains widespread worldwide and may become "the plague of the second half of the 20th century."

These systematic and institutional violations of human rights occur in countries of every political persuasion and in every region of the world. The U.N. report involved 33 countries, including Chile, South Africa, the Soviet Union, Iran, El Salvador, Guatemala, Afghanistan, Uganda, Ecuador, Honduras, Indonesia, and Comoros, a group of islands in the Indian Ocean off Africa. Although national laws may ban torture, the report said, "this moral awakening has not yet had tangible results for everybody."

Mr. President, this bill is designed to provide tangible results—a cause of action for damages for violation of the law of nations condemning torture and extrajudicial killing.

Because of its longstanding commitment to individual rights and the rule of law, the United States has assumed a special responsibility in promoting respect for human rights throughout the world. We have long recognized that if international human rights are to be given legal effect, adhering nations must make available domestic remedies and sanctions to address abuses regardless of where they occur.

When the U.N. Convention Against Torture was adopted without a dissenting vote in the General Assembly in December 1984, Ambassador Richard Schifter, former Alternative U.S. Representative to the U.N. General Assembly, and not Assistant Secretary for Human Rights and Humanitarian Affairs, stated that "* * * the mere setting of standards, as we all know, is not enough. There is ample evidence of a wide gulf between lofty words and the unacceptable practices which continue unabated in many parts of the world. One of the most flagrant continuing violations of human rights is torture—a crude violation of everything that we understand by the word 'human.' As long as torture persists further steps are needed to translate our words into action to eliminate this abhorrent practice."

Respect for human rights has been an integral part of our foreign policy for over a decade. In 1974, Congress amended the Foreign Assistance Act to require that security assistance be terminated if the receiving country's government was engaged in human rights violations. Torture is specified as one of those violations. In 1975 the same act was amended to include section 116 which applied restrictions to economic assistance. Then, in 1977, the sale of agricultural commodities under section 112 of the Agricultural Trade Development and Assistance Act was also restricted.

In 1984, after a series of hearings before the House Foreign Affairs Committee and the Senate Foreign Relations Committee on the phenomenon of torture, Congress adopted and the President signed a joint resolution on torture. In reaffirming the United States abhorrence of the use of torture under any circumstances, the resolution calls upon the Congress to develop concrete mechanism by which the United States can combat the use of torture throughout the world. Specifically, the joint resolution calls for the "enactment and vigorous implementation of laws to reinforce the United States policies with respect to torture." Passage of the Torture Victims Protection Act would begin to fulfill that mandate.

The bill clarifies and expands existing law by clearly establishing a Federal right of action against violators of human rights and authorizing suits by both aliens and U.S. citizens who have been victims of gross human rights abuses.

Significantly, this legislation contains several important limitations. Only persons acting "under actual or apparent state authority" would be liable for damages; the courthouse door would not be opened wide to suits based upon any type of violent international crime. In addition, the courts could decline jurisdiction over such suits if it were shown by "clear and convincing evidence" that the claimant had not exhausted "adequate and available remedies" in the nation where the alleged violations took place. Thus, only a limited number of cases are likely to be adjudicated under the proposed statute each year. The legislation, therefore, would have a minimal effect on the caseload of U.S. Federal courts.

The definition of "torture" contained in the bill is derived from the widely recognized definition contained in the U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The United States joined the consensus of other nations from around the world in adopting this Convention.

The definition of "extrajudicial killing" is specifically derived from common article 3 of the Geneva Conventions of 1949. Several international instruments incorporate the international consensus that the right to life may not be breached by extrajudicial means. See, for example, American Convention on Human Rights, article 4; European Convention for the Protection of Human Rights and Fundamental Freedoms, article 2; International Covenant on Civil and Political Rights, article 6.

While human rights violators seldom present themselves to their victims

while in the United States, providing victims of gross human rights abuses access to the courts is of both practical and symbolic importance. This provision would add a new dimension to U.S. human rights policy by serving notice to individuals engaged in human rights violations that the United States strongly condemns such acts and will not shelter human rights violators from being held accountable in appropriate proceedings. The legislation also would encourage other nations to develop and apply meaningful domestic remedies, clearly the most effective deterrent to continued human rights abuses. Finally, the proposed legislation provides individual victims with the possibility, however remote, of obtaining some measure of justice.

The proposed legislation is based on the principle that human rights violations are not an abstract problem upon which the United States can have little effect. This country can and should become a model for other nations by extending practical remedies to victims of human rights abuses.

I ask unanimous consent that the full text of the bill be printed at this point in the RECORD.

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

S. 824

*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 "Torture Victim Protection Act of 1987".

LIABILITY; LIMITATIONS ON REMEDIES

SEC. 2. (a) Every person who, under actual or apparent authority of any foreign nation, subjects any person to torture or extrajudicial killing shall be liable to the party injured or his or her legal representatives in a civil action.

(b) The court shall decline to hear and determine a claim under this section if the defendant establishes that clear and convincing evidence exists that the claimant has not exhausted adequate and available remedies in the place in which the conduct giving rise to the claim occurred. The court shall not infer the application of any statute of limitations or similar period of limitations in an action under this section.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) the term "torture" shall include any act by which severe pain or suffering (other than pain or suffering arising only from or inherent in, or incidental to, lawful sanctions), whether physical or mental, is intentionally inflicted on a person of such purpose as obtaining from that person or a third person information or a confession, punishing that person for an act that person or a third person has committed or is suspected of having committed, or coercing that person or a third person, or for any reason based on discrimination of any kind; and

(2) the term "extrajudicial killing" means a deliberated killing without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.●

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By Mr. DASCHLE:

S. 826. A bill to amend the Internal Revenue Code of 1986 to permit taxpayers to deduct 80 percent of State and local sales taxes, income taxes, and personal property taxes; to the Committee on Finance.

INTERNAL REVENUE CODE AMENDMENTS

● Mr. DASCHLE. Mr. President, today I am introducing a bill that would correct a major inequity created by last year's Tax Reform Act.

By eliminating the deductibility of State sales taxes and preserving full deductibility for income and property taxes, the Tax Reform Act discriminated against States like South Dakota that have chosen time and time again not to impose a State income tax.

It's time to correct that inequity, and to put all States back on an equal footing.

I wish I could introduce a bill that would restore full deductibility for State sales taxes, but such a bill would add $5 billion to the Federal deficit. I am convinced that the best thing that we, in Congress, can do for South Dakota right now is to reduce the Federal deficit. A bill that adds $5 billion to that deficit would not be as helpful as one that is revenue neutral.

So, Mr. President, the bill I am introducing today would make all State and local taxes—whether income sales, or property—80 percent deductible.

This change would have two important consequences for South Dakota. First, it would treat everyone alike, regardless of which State they live in. A South Dakota citizen who pays $100 in sales taxes would be treated the same as a resident of another State who pays $100 in State income taxes.

Second, it would not add to the Federal deficit. Making all State and local taxes 80 percent deductible would be revenue neutral.

So, this bill restores fairness without sacrificing fiscal responsibility.

South Dakota is not the only State that has been hurt by the discrimination against States with sales taxes. I urge all my colleagues who represent those States to join me in cosponsoring this fair and responsible bill.●

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By Mr. PACKWOOD:

S. 827. A bill to promote the diversity and quality of radio and television programming by repealing the fairness doctrine and certain other program restrictions; to the Committee on Commerce, Science, and Transportation.

FREEDOM OF EXPRESSION ACT

● Mr. PACKWOOD. Mr. President, today I am reintroducing legislation to repeal the content doctrines imposed on the electronic media. This bill will remove the statutory basis for the so-called fairness doctrine and equal opportunities, reasonable access, and lowest unit charge rules.

I first introduced this bill in 1983, and reintroduced it in 1985. Since I last introduced this bill, the U.S. Court of Appeals for the District of Columbia held, in the TRAC decision, that the fairness doctrine is not a statutory requirement. The court held that the doctrine is merely an FCC regulatory policy. Regardless of whether the fairness doctrine is a statutory or regulatory requirement, it is an unjustified restriction of free speech.

Federal regulation over the content of the electronic media has been rationalized on the ground that the broadcast spectrum is scarce. However, the scarcity rationale does not withstand scrutiny. When our founders amended the Constitution for the first time in 1791, newspapers themselves were scarce. At that time, there were only eight daily and a handful of weekly newspapers, all of which were highly partisan. Yet all of these outlets were accorded full freedom. Clearly, scarcity was not a concern of the founders.

Even if the physical limitations of the broadcast spectrum could have justified the content regulation of the electronic media at one time, circumstances have changed. The avenues of public communication have burgeoned since the FCC adopted the fairness doctrine in 1949. In addition to the AM radio that was available then, we now have FM radio, television, cable TV, and other developing satellite and electronic information services. In contrast to the strong growth in the number of electronic outlets, the number of newspapers has dwindled in recent years. Yet we accord newspapers full first amendment protection, and impose content controls on the more diverse electronic media.

Finally, it seems to me that all resources are ultimately scarce, including newsprint, paper, and the other resources that go into the production of newspapers. As the court said in TRAC:

> Not everyone who wishes to publish a newspaper, or even a pamphlet, may do so. Since scarcity is a universal fact, it can hardly explain regulation in one context and not another.

Perhaps because of the weaknesses of the scarcity rationale, another justification for the content regulation of electronic media has gained popularity lately. This justification is that because broadcasting is so effective, so immediate, so widely available, the Government must step in and control it. Surely the founders did not intend to protect only communication that is not effective, not immediate, not widely available. It seems inconceivable to me that the first amendment accords less protection to certain

forms of speech simply because they are very effective. That stands the first amendment on its head.

The content regulation of broadcasting is an unfounded, unconstitutional abridgment of free speech. Repeal is justified on that ground alone. But my concerns about the fairness doctrine and other content regulation of the electronic media are not simply academic considerations. Content regulation has very real and serious consequences. It chills the free exchange of ideas. In January and February 1984, the Commerce Committee held 3 days of hearings on the FCC's content controls. During those hearings, small, local broadcasters referred to the fairness doctrine as the "fearness doctrine" because of the ease with which it is used to harass and intimidate them to back away from the coverage of difficult issues.

When I first introduced this bill in 1983, I acknowledged that its enactment would not come easily. However, it is a just cause. It is time to remove the shackles of content regulation from broadcasters and return to the vision of our founders.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

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

S. 827

*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 "Freedom of Expression Act of 1987".

PURPOSE

SEC. 2. The purpose of this Act is to extend to the electronic media the full protection of the first amendment guarantees of free speech and free press.

AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934

SEC. 3. The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended—

(1) in section 312(a), by—

(A) inserting "or" at the end of paragraph (5);

(B) striking "; or" at the end of paragraph (6) and inserting in lieu thereof a period; and

(C) striking paragraph (7);

(2) by repealing section 315; and

(3) by amending section 326 to read as follows:

"SEC. 326. Nothing in this Act shall be construed to give the Commission the power to—

"(1) censor any communication; or

"(2) promulgate any regulation or fix any condition which shall interfere with the right of free speech, including any requirement of an opportunity to be afforded for the presentation of any view on an issue.".●

## ADDITIONAL COSPONSORS

S. 2

At the request of Mr. BYRD, the names of the Senator from California [Mr. CRANSTON], the Senator from Massachusetts [Mr. KERRY], the Senator from Maine [Mr. MITCHELL], and the Senator from Lousiana [Mr. JOHNSTON] were added as cosponsors of S. 2, a bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes.

S. 58

At the request of Mr. DANFORTH, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 58, a bill to amend the Internal Revenue Code of 1986 to make the credit for increasing research activities permanent and to increase the amount of such credit.

S. 187

At the request of Mr. MELCHER, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 187, a bill to provide for the protection of Native American rights for the remains of their dead and sacred artifacts, and for the creation of Native American cultural museums.

S. 225

At the request of Mr. D'AMATO, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 225, a bill to amend title II of the Social Security Act to protect the benefit levels of individuals becoming eligible for benefits in or after 1979 by eliminating the disparity (resulting from changes made in 1977 in the benefit computation formula) between those levels and the benefit levels of pesons who become eligible for benefits before 1979.

S. 322

At the request of Mr. SARBANES, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 322, a bill to authorize the Alpha Phi Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 333

At the request of Mr. CHILES, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 333, a bill for the relief of Anne Brusselmans.

S. 338

At the request of Mr. PRYOR, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from California [Mr. CRANSTON], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 338, a bill to allow homeowners to deduct the full amount of prepaid interest paid in connection with the refinancing of their principal residence for the taxable year in which paid.

S. 406

At the request of Mr. PELL, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 406, a bill to provide additional Federal education programs designed to strengthen competitiveness of American industry, and for other purposes.

S. 455

At the request of Mr. HEFLIN, the names of the Senator from Florida [Mr. CHILES], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Michigan [Mr. RIEGLE], the Senator from North Carolina [Mr. SANFORD], the Senator from Alabama [Mr. SHELBY], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 455, a bill to amend the Internal Revenue Code of 1986 to restore income averaging for farmers, to restore the investment tax credit and accelerated cost recovery for property used in the trade or business of farming, and for other purposes.

S. 514

At the request of Mr. KENNEDY, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Mississippi [Mr. COCHRAN], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Washington [Mr. EVANS] were added as cosponsors of S. 514, a bill to amend the Job Training Act to establish an incentive bonus for the successful placement of certain employable dependent individuals, to provide targeting of assistance from certain carryover funds for such individuals, and for other purposes.

S. 523

At the request of Mr. HELMS, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 523, a bill to amend title 39, United States Code, to extend to certain officers and employees of the Postal Service the same procedural and appeal rights with respect to certain adverse personnel actions as are afforded to Federal employees under title 5, United States Code.

S. 550

At the request of Mr. KERRY, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 550, a bill to promote safety by amending chapter 4 of title 23, United States Code, to provide for a uniform system for handicapped parking.

S. 585

At the request of Mr. DURENBERGER, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 585, a bill to provide relief to State and local government from Federal regulations.

S. 596

At the request of Mr. DANFORTH, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 596, a bill to promote expansion of international trade in telecommunications equipment and services, and for other purposes.

S. 604

At the request of Mr. PRYOR, the names of the Senator from Idaho [Mr.

SYMMS], the Senator from Montana [Mr. MELCHER], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Idaho [Mr. MCCLURE] were added as cosponsors of S. 604, a bill to promote and protect taxpayer rights, and for other purposes.

S. 696

At the request of Mr. COCHRAN, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 696, a bill to provide that full-time magistrates and bankruptcy judges receive a salary equal to 92 percent of the salary paid to judges of the district courts of the United States.

S. 708

At the request of Mr PROXMIRE, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 708, a bill to require annual appropriations of funds to support timber management and resource conservation on the Tongass National Forest.

S. 719

At the request of Mr. PRYOR, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 719, a bill to amend the Internal Revenue Code of 1986 to provide that certain minimum tax and accounting rules (added by the Tax Reform Act of 1986) applicable to installment obligations shall not apply to obligations arising from sales of property by nondealers.

S. 723

At the request of Mr. DANFORTH, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 723, a bill to amend the Merchant Marine Act, 1936 to exempt shipment of all agricultural commodities and products thereof from cargo preference requirements.

S. 763

At the request of Mr. DOMENICI, the names of the Senator from Georgia [Mr. NUNN], the Senator from Tennessee [Mr. GORE], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 763, a bill to amend title XIX of the Public Health Service Act to establish a block grant to States for services for homeless individuals who have serious mental illnesses.

S. 764

At the request of Mr. MURKOWSKI, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Illinois [Mr. DIXON], the Senator from North Carolina [Mr. HELMS], the Senator from Minnesota [Mr. BOSCHWITZ], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 764, a bill to deny funds for projects using products or services of foreign countries that deny fair market opportunities.

S. 780

At the request of Mr. REID, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 780, a bill to amend the enforcement provisions of the Federal Election Campaign Act of 1971.

S. 809

At the request of Mr. BYRD, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from Arizona [Mr. DECONCINI], the Senator from Rhode Island [Mr. PELL], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 809, a bill to provide urgently needed assistance to protect and improve the lives and safety of the homeless.

S. 810

At the request of Mr. BYRD, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 810, a bill to authorize housing assistance for homeless individuals and families.

S. 811

At the request of Mr. BYRD, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 811, a bill to provide health services, mental health services, and job training for homeless individuals and education for homeless children.

S. 812

At the request of Mr. BYRD, the names of the Senator from Rhode Island [Mr. PELL], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 812, a bill to amend the Food Stamp Act of 1977 to provide urgent relief to improve the nutrition of the homeless, and for other purposes.

S. 813

At the request of Mr. BYRD, the names of the Senator from Rhode Island [Mr. PELL], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 813, a bill to provide urgently needed assistance to protect and improve the lives and safety of the homeless.

SENATE JOINT RESOLUTION 55

At the request of Mr. GRASSLEY, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 55, a joint resolution designating the week of May 10, 1987, through May 16, 1987, as "National Osteoporosis Prevention Week of 1987."

SENATE JOINT RESOLUTION 64

At the request of Mr. CHILES, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 64, a joint resolution to designate May 1987 as "Older Americans Month."

SENATE JOINT RESOLUTION 66

At the request of Mr. BURDICK, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 66, a joint resolution to designate the week of November 22 through November 28, 1987, as "National Family Week."

SENATE JOINT RESOLUTION 89

At the request of Mr. GARN, the name of the Senator from Wisconsin [Mr. PROXMIRE] was added as a cosponsor of Senate Joint Resolution 89, a joint resolution to authorize and request the President to issue a proclamation designating April 26, through May 2, 1987 as "National Organ and Tissue Donor Awareness Week."

SENATE CONCURRENT RESOLUTION 13

At the request of Mr. KERRY, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of Senate Concurrent Resolution 13, a concurrent resolution to express the sense of Congress regarding efficient and compassionate management of the Social Security Disability Insurance [SSDI] Program.

SENATE CONCURRENT RESOLUTION 20

At the request of Mr. GORE, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Concurrent Resolution 20, a concurrent resolution to express the sense of Congress that funding for the Vocational Education Program should not be eliminated.

SENATE CONCURRENT RESOLUTION 21

At the request of Mr. DANFORTH, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Concurrent Resolution 21, a concurrent resolution expressing the sense of Congress in opposition to the proposal by the European Community for the establishment of a tax on vegetable and marine fats and oils and urging the President to take strong and immediate countermeasures should such a tax be implemented to the detriment of United States exports of oilseeds and products and inconsistently with the European Community's obligation under the General Agreement on Tariffs and Trade.

## SENATE CONCURRENT RESOLUTION 37—RECOGNIZING THE CONTRIBUTIONS OF FATHER TERRY ATTRIDGE

Mr. D'AMATO submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 37

Whereas the Office of Substance Abuse Ministry in New York State and its action component, DARE (Drug, Alcohol, Rehabilitation and Education program) were formed in October 1980 and charged with the responsibility of coordinating, planning and directing the multifaceted programs of

the Archdiocese of New York in its non-sectarian efforts against alcohol and other drug abuse, and this office has served as a model to address this national and international problem;

Whereas the Executive Director, Father Terry Attridge, took the mandate and established DARE (Drug, Alcohol, Rehabilitation and Education program) as an action project with adult and youth components geared to the utilization of volunteers in prevention, education and early intervention;

Whereas DARE involves the total community, including youths and adults, churches, synagogues, public and non-public schools, health care agencies, service organizations, law enforcement agencies and local chambers of commerce;

Whereas for the past seven years DARE has trained over 30,000 youths and adults who have generated more than 7.75 million volunteer hours, all of which has been accomplished under the direction of Father Attridge and 15 regional coordinators covering 10 New York counties, providing models of DARE in urban, suburban and rural communities;

Whereas DARE has become a widely respected source of education, prevention and community organization, sponsoring among other programs "Natural High" events which are a part of the many anti-drug programs sponsored by the regional offices;

Whereas DARE has effectively used the television, radio and print media in its effort to alert, organize and inform local communities;

Whereas DARE has produced quality educational materials sensitive to various ethnic groups, including an outstanding quarterly newsletter, an award-winning national magazine, DARE, and a book entitled, "A Call to Action: Youth, Alcohol, and Other Drugs, A Community Approach, Education, Prevention and Intervention"; and

Whereas DARE has functioned along with various religious denominations as a consultant in the field of alcohol and drug abuse for the public and private sectors; Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That the Congress recognizes and honors Father Terry Attridge and the DARE program for the continuing contributions they have made both nationally and internationally in the fight against alcohol and other drug abuse, especially through education, prevention and the organization of local communities.

● Mr. D'AMATO. Mr. President, I rise today to submit a concurrent resolution recognizing and honoring Father Terry Attridge and the DARE Program for their dedication to drug- and alcohol-abuse prevention.

Drug Alcohol Rehabilitation Education [DARE] is a nonsectarian, community-based program under the auspices of the Office of Substances Abuse Ministry of the Archdiocese of New York. DARE grew out of Terrence Cardinal Cooke's deep concern with the crippling effects of drugs and alcohol on this Nation's most precious resource: our young. Formed in 1980, DARE has attained national and international standing. It has been replicated in 10 States, and in England, Ireland, Germany, and Malta. In 1984, DARE received the Presidential Award in recognition of its achievements.

DARE has 12 regional offices and 3 youth-volunteer offices throughout the 10-county area encompassing the New York Archdiocese region. The trained volunteers mobilize community action against illicit sales of drugs and alcohol, establish parent- and youth-support groups, organize community events such as hotlines, and develop positive, alternative programs with community involvement and commitment.

DARE has trained over 30,000 young people and adults who, in turn, have worked more than 7.75 million volunteer hours. It has made over 12,000 referrals for rehabilitation and treatment. Charged with the responsibility of coordinating and directing this program, Father Terry Attridge has spent tireless hours building DARE into a widely respected community program.

DARE sponsors antidrug fairs, such as Drug Liberation Day which was held on August 3, 1986, to provide information and referrals to the people of Manhattan. It also publishes a periodical that focuses on a different drug-related topic in each issue. One issue, for example, entitled "Cocaine's Cheap Seduction," explored the many problems created by the cocaine epidemic.

DARE has proven effective in developing a national and international drug-awareness campaign. It is combating the scourge of youthful drug and alcohol abuse by harnessing the energies of the community. It is built upon a network of volunteers who are part of the fabric of their community. DARE is saving the lives of countless young people so in need of our support. Project DARE is challenging all the members of its community to reach out and restore someone in need.

For all these reasons, it deserves our recognition and gratitude, and I urge my colleagues to give this resolution their full support.●

## SENATE CONCURRENT RESOLUTION 38—RECOGNIZING THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS AND THE NATIONAL FALLEN FIREFIGHTER MEMORIAL

Mr. ARMSTRONG (for himself and Mr. WIRTH) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 38

Whereas firefighters have dedicated their lives to protecting communities;

Whereas the working environment of firefighters entails hazards beyond the normal limits of other occupations, including exposure to unknown toxic elements;

Whereas nearly 1,200 firefighters have died in the line of duty since 1977;

Whereas the Colorado Springs, Colorado, affiliate of the International Association of Fire Fighters is building a permanent memorial in recognition of firefighters who have given the ultimate sacrifice while performing their duties;

Whereas the Colorado Springs Fire Fighters Association has commissioned sculptor Gary Coulter to produce a "Heroic Bronze" entitled "Somewhere Everday" to permanently commemorate fallen firefighters;

Whereas firefighters from around the country are raising funds to pay for the statue;

Whereas the city of Colorado Springs has donated the land for the statue and surrounding plaza and will provide perpetual care and maintenance of the memorial grounds;

Whereas the statue has been unanimously approved by the Arts in Public Places Commission;

Whereas the Fallen Fire Fighter Memorial is centrally located to give firefighters from all over the country an opportunity to visit the memorial; and

Whereas the International Association of Fire Fighters adopted a resolution at their 1986 convention endorsing the Fallen Fire Fighter Memorial in Colorado Springs, Colorado, as the National Fallen Fire Fighter Memorial of the International Association of Fire Fighters: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That the Congress recognizes the Fallen Fire Fighters Memorial in Colorado Springs, Colorado, as the International Association of Fire Fighters National Fallen Fire Fighter Memorial.

● Mr. ARMSTRONG, Mr. President, my colleague, Senator WIRTH and I are today introducing legislation to recognize the International Association of Fire Fighters National Fallen Fire Fighter Memorial. This legislation represents the culmination of outstanding efforts begun by the Colorado Springs Fire Fighters Association, and endorsed formally last year by the members of the International Association of Fire Fighters, to dedicate a memorial for the firefighters who have given their lives in order to protect the lives and property of their fellow citizens.

Congressional recognition of the memorial will bestow much deserved praise to the highly dedicated firefighters, whose motto is "We Fight for Life." With nearly 1,200 firefighters lives claimed since 1977 alone, it is no wonder firefighting is considered the No. 1 hazardous occupation. The modern firefighter, though, is not just fighting fire, but must also respond to hazardous material accidents and a variety of medical emergencies and rescue operations. A memorial for fallen firefighters will remind firefighters and citizens forever of the sacrifices made by firefighters in every community throughout the Nation.

The legislation recognizes the Fallen Fire Fighters Memorial as the National Fallen Fire Fighter Memorial of the International Association of Fire Fighters. No administration or cost to the Federal Government is entailed.

The city of Colorado Springs has donated land for the memorial and surrounding plaza and will also assume the care and utility cost of the plaza. The memorial plaza will be paid for by foundation grants, and the architectural and design work of the plaza has been donated.

Fire fighters from around the country will pay for the statue and have been active donating money, conducting community projects, and organizing other fundraising events to pay for the statue. Mr. Gary Coulter won the competition to sculpt the statue and entitled it "Somewhere Everyday." He has completed the mold and the statue is currently being put in bronze. The firefighters are planning to have the statue in place this October during "National Fire Prevention Week."

When completed, the Colorado Springs firefighters intend to illuminate the memorial and fly the American flag at all times. Upon notification by the International Association of Fire Fighters of a firefighter's death, the American flag will be flown at half mast, and an honor guard has been formed for such occassions. The flag flown at half mast will be presented to the widow or other close relative of the fallen firefighter.

I urge my colleagues to endorse this legislation to commend not only the private initiative of the firefighters to dedicate a memorial to their fallen brethren, but, most importantly, the firefighters who have sacrificed their lives in the performance of their duties. I ask unanimous consent that a copy of a resolution adopted by the International Association of Fire Fighters be printed in the RECORD.

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

RESOLUTION No. 109

Whereas, the International Association of Fire Fighters have experienced the death of several hundred Brother and Sister Fire Fighters since becoming organized February 23th 1918, and

Whereas, since 1977 there have been 1,189 reported Fire Fighter deaths in the line of duty (NEPA Annual Report, 1985), and

Whereas, the Professional Fire Fighters had dedicated their lives to protecting communities and fighting their foe . . . FIRE, and

Whereas, the Professional Fire Fighters working environment requires performing their duty well beyond the normal limits of other occupations, and

Whereas, the Professional Fire Fighters occupation demands being exposed to unknown toxic environments while engaged in their occupations, and

Whereas, the Professional Fire Fighters work is recognized as one of the most hazardous professions in America, and

Whereas, Local 5, IAFF, desires to establish a permanent memorial in recognition of the Brothers and Sisters who have given the ultimate sacrifice while performing their occupational responsibilities above and beyond their call to duty, and

Whereas, Local 5 has commissioned sculptor Gary Coulter to produce a "Heroic Bronze" entitled "Somewhere Everyday" to permanently recognize these Brothers and Sisters, and

Whereas, land has been donated by the City of Colorado Springs, Colorado, by their Park and Recreation Department, and

Whereas, the City of Colorado Springs through City Council action has endorsed this project, and

Whereas, the Arts in Public Places Commission (a Presidential Commission), has unanimously approved the statue "Somewhere Everyday," and

Whereas, the Governor of the State of Colorado has endorsed this project, and

Whereas, the Executive Board of the IAFF has endorsed the efforts of Local 5, IAFF, in their actions of building this Fallen Fire Fighter Memorial and Plaza, and

Whereas, the United States Department of the Interior has researched and concluded that "There are no existing dedicated National Fallen Fire Fighter Memorials," and

Whereas, there is before the United States House of Representatives and Senate bills to impart "National Status" on the Fallen Fire Fighter Memorial, and

Whereas, the "Fallen Fire Fighter Memorial" will be built centrally within the United States of America allowing for all Fire Fighters traveling east or west an opportunity to visit, therefore, be it

*Resolved*, that the assembled delegates at the 1985 Convention in Las Vegas Nevada, endorse the Fallen Fire Fighter Memorial and Plaza, and, be it further

*Resolved*, that the Fallen Fire Fighter Memorial and Plaza be built in Colorado Springs, Colorado on land donated by the City of Colorado Springs with perpetual care and maintenance provided by the City of Colorado Springs, and, be if further

*Resolved*, that, the assembled delegates and the IAFF Executive Board actively encourage all locals of the IAFF to support the United States Congressional Bills through contact of their Congressmen to effect "National Status" on this Memorial.●

## SENATE RESOLUTION 173—RELATING TO VACANCIES ON THE STAFF OF THE LATE SENATOR EDWARD ZORINSKY

Mr. BYRD (for himself and Mr. FORD) submitted the following resolution; which was considered and agreed to:

S. RES. 173

*Resolved*, That subsection (a) of the first section of Senate Resolution 458, 98th Congress (agreed to October 4, 1984) is amended by—

(1) inserting "(1)" after "(a)"; and

(2) adding at the end thereof the following:

"(2) If an employee of a Senator continued on the Senate payroll pursuant to paragraph (1) resigns or is terminated during the period required to complete the closing of the office of such Senator, the Secretary of the Senate may replace such employee by appointing another individual. Any individual appointed as a replacement under the authority of the preceding sentence shall be subject to the same terms of employment, except for salary, as the employee such individual replaces.".

## SENATE RESOLUTION 174—CONDEMNING THE SOVIET-CUBAN BUILDUP IN ANGOLA

Mr. DECONCINI submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 174

Whereas the people of Angola have suffered under colonial domination for centuries;

Whereas the Portuguese promise of independence and free elections for Angola embodied in the Alvor Accord of 1975 was nullified when the Marxist Popular Movement for the Liberation of Angola (hereafter in this resolution referred to as the "MPLA") illegally and militarily seized power with the support of Soviet and Cuban troops;

Whereas that Marxist regime has continually denied the most basic human rights to the people of Angola since 1975 culminating in one of the worst human rights records reported by the Department of State, as described in the report entitled "Country Reports on Human Rights Practices for 1986";

Whereas the Marxist regime in Angola has allowed the country of Angola to become a Soviet base for aggression and subversion in southern Africa, including the expansion of a Soviet naval port, the presence of 35,000 Cuban troops, and the influx of $4,000,000,000 in Soviet weaponry;

Whereas the naval port facilities in Angola pose serious potential threats to United States naval interests in the Atlantic and around the Cape of Good Hope;

Whereas the Soviets and Cubans have engaged in the most blatant foreign intervention in post-colonial history of Africa, and the MPLA is hostage to these foreign forces as evidenced by the fact that the MPLA had the worst anti-United States voting record in the United Nations last year;

Whereas the MPLA government of Angola in 1986 obtained 90 percent of its foreign exchange from the extraction and production of oil with the assistance of American companies;

Whereas most Angola's oil is extracted in Cabinda Province, where 65 percent of it is extracted by an American oil company;

Whereas United States business interests are in direct conflict with overall United States foreign policy and national security objectives in aiding the MPLA government;

Whereas the United States currently refuses to recognize the Marxist government of the MPLA;

Whereas representatives of the Government of Portugal's three main political parties have recently visited the liberated territory and will soon announce a commission to promote national reconciliation in Angola;

Whereas the United States has an obligation to encourage peace, freedom, and democracy and to condemn tyranny where it may exist; and

Whereas the growing intensity of war, the mounting suffering of the Angolan people, the growing presence of communist forces in Angola, and the failure of the MPLA to respond to diplomatic initiatives gives new urgency to efforts to reach a peaceful settlement: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the United States, so long as Soviet and Cuban military forces occupy Angola, should encourage peace and national reconciliation in Angola through a negotiated settlement to the eleven-year military

conflict and stress the holding of free and fair elections as outlined in the 1975 Alvor Agreement through—

(1) continued multilateral initiatives designed to support Soviet and Cuban withdrawal and a negotiated peaceful settlement acceptable to the people of Angola; and

(2) consistent efforts by the President and the Secretary of State to convey to the Soviet leadership that continued military build-up and presence in Angola directly hinders future positive relationships with the American people and the United States Congress.

SEC. 2. The Senate hereby requests the President to use his special authorities under the Export Administration Act to block United States business transactions which conflict with United States security interests in Angola.

SEC. 3. It is further the sense of the Senate that the Secretary of State should—

(1) review the United States policy with respect to the United States refusal to recognize the Marxist MPLA government, the abysmal human rights record of the MPLA government (as reported by the Department of State), and the worst 1985 voting record supporting United States interests in the United Nations; and

(2) prepare and transmit to the Congress a report containing the findings of the review required by paragraph (1), together with a determination as to whether it is in the United States interest to continue under the current trade and business policy with respect to Angola.

SEC. 4. The Secretary of the Senate shall transmit a copy of this resolution to the President and the Secretary of State.

## AMENDMENTS SUBMITTED

## NATIONAL POW RECOGNITION DAY

### CRANSTON (AND MURKOWSKI) AMENDMENT NO. 42

Mr. BYRD (for Mr. CRANSTON and Mr. MURKOWSKI) proposed an amendment to the joint resolution (S.J. Res. 47) to designate "National POW Recognition Day"; as follows:

On page 2, line 3 of the resolved clause insert the word "Former" before POW.

## HOMELESS ASSISTANCE

### DOMENICI AMENDMENT NO. 43

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill (S. 809) to provide urgently needed assistance to protect and improve the lives and safety of the homeless; as follows:

Strike out section 521 of the bill and insert in lieu thereof the following:

SEC. 521. EMERGENCY MENTAL HEALTH SERVICES FOR HOMELESS INDIVIDUALS HAVING SERIOUS MENTAL ILLNESS.

(a) Title XIX of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART D—SERVICES FOR HOMELESS MENTALLY ILL INDIVIDUALS BLOCK GRANT

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1931. (a) To carry out this part, there are authorized to be appropriated $80,000,000 for fiscal year 1987, $200,000,000 for fiscal year 1988, $205,000,000 for fiscal year 1989, $210,000,000 for fiscal year 1990, $215,000,000 for fiscal year 1991, and $220,000,000 for fiscal year 1992.

"(b) Of the total amount appropriated to carry out this part for any fiscal year, not more than 2 percent shall be available to carry out section 1937(a).

"ALLOTMENTS

"SEC. 1932. (a) The Secretary shall allot the total amount available for allotment under this section for a fiscal year (after the application of section 1931(b)) to States, metropolitan cities, and urban counties so that the percentage of such total available amount that is allotted to any State, metropolitan city, or urban county for such fiscal year is equal to the percentage of the total amount available for grants under section 106 of the Housing and Community Development Act of 1974 for the fiscal year prior to such fiscal year that is allocated to such State, metropolitan city, or urban county.

"(b)(1) Notwithstanding subsection (a), the total of the allotments under this section to a State and all metropolitan cities and urban counties in such State for any fiscal year shall not be less than one-quarter of one percent of the amount available for allotments under this section for such fiscal year.

"(2) If, under the allocation provisions applicable to this part pursuant to subsection (a), any metropolitan city or urban county would receive an allotment of less than $100,000 for any fiscal year, such amount shall instead be reallocated in accordance with subsection (c).

"(c) If the total amount of funds appropriated under section 1931 for a fiscal year and available for allotment under this section for such fiscal year is not otherwise allotted to States, metropolitan cities, and urban counties because—

"(1) one or more States, metropolitan cities, or urban counties have not submitted an application or description of activities in accordance with section 1936 for such fiscal year;

"(2) one or more States, metropolitan cities, or urban counties have notified the Secretary that they do not intend to use the full amount of their allotment;

"(3) some allotments of States, metropolitan cities, or urban counties are offset or repaid under section 1917(b)(3) (as such section applies to this part pursuant to section 1936(e)); or

"(4) amounts become available under subsection (b)(2),

the amount not allotted shall be allotted among each of the remaining States, metropolitan cities, and urban counties in proportion to the amount otherwise allotted to such States, metropolitan cities, and urban counties for such fiscal year without regard to this subsection.

"FEDERAL SHARE

"SEC. 1933. The Federal share of all activities in a State, metropolitan city, or urban county supported by an allotment to such State, metropolitan city, or urban county under section 1932 for a fiscal year shall be 75 percent of the aggregate necessary costs of all such activities, as determined by the Secretary. A State, metropolitan city, or urban county shall pay at least 15 percent of such costs in cash, and the remainder of such costs shall be paid by such State, metropolitan city, or urban county through in-kind contributions.

"PAYMENTS UNDER ALLOTMENTS

"SEC. 1934. (a) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State, metropolitan city, or urban county from its allotment under section 1932 from amounts appropriated for that fiscal year.

"(b) Any amount paid to a State, metropolitan city, or urban county for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State, metropolitan city, or urban county for the purposes for which it was made.

"USE OF ALLOTMENTS

"SEC. 1935. (a)(1) Except as provided in subsection (b), amounts paid to a State, metropolitan city, or urban county under section 1934 shall be used by such State, metropolitan city, or urban county to carry out comprehensive emergency projects for eligible individuals. Such projects shall include each of the following activities:

"(A) The provision of outreach services to eligible individuals in nontraditional settings, such as shelters, streets, transitional housing sites, and drop-in centers for homeless individuals. Such services shall include crisis intervention services, needs assessment services, and referral to providers of services for eligible individuals.

"(B) The provision of treatment and rehabilitation services to eligible individuals, including diagnostic services, psychiatric evaluation, medical services, the provision of pharmaceuticals, substance abuse treatment and rehabilitation, individual and group counseling, family therapy, and psychosocial rehabilitation services.

"(C) The provision of training to individuals who provide services to eligible individuals, including individuals who work in shelters, mental health clinics, hospital emergency rooms, transitional housing sites, and individuals who provide case management and outreach services, in order to enable such individuals to—

"(i) identify and serve the mental health and support needs of eligible individuals;

"(ii) refer eligible individuals to available services; and

"(iii) coordinate the provision of services to eligible individuals.

"(D) The provision of case management services to eligible individuals.

"(E) The provision of transitional housing for eligible individuals.

"(2) Not more than 50 percent of the total amount paid to a State, metropolitan city, or urban county for a fiscal year may be used by such State, city, or county for such fiscal year to carry out paragraph (2)(E).

"(b)(1) A State, metropolitan city, or urban county may use amounts paid to such State, city, or county under this part to conduct comprehensive emergency projects for eligible individuals required under subsection (a) through contracts with qualified providers of mental health services.

"(2) For purposes of this subsection, a qualified provider of mental health services—

"(A) is a public or non-profit private entity;

"(B) agrees to conduct, or arrange for the conduct of, each of the activities described in subsection (a)(1);

"(C) if eligible to receive payments under the State plan approved under title XIX of the Social Security Act for services provided to eligible individuals that are covered under the State plan, agrees to seek reimbursement for such services under the plan to the extent permitted under the plan;

"(D) agrees to establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the contract;

"(E) agrees to establish a continuing program of quality assurance with respect to the activities conducted under the contract; and

"(F) agrees to submit annual reports to such State, city, or county that describe the utilization and costs of activities provided under the contract and such other information as such State, city, or county may require.

"(3) In entering into contracts under this subsection, a State, metropolitan city, or urban county shall give preference to qualified providers of mental health services who are experienced in the treatment of mental illness in homeless individuals.

"(4) Under a contract with a State, metropolitan city, or urban county under this subsection, a qualified provider of mental health services may enter into subcontracts with—

"(A) self-help organizations that are established and managed by current and former recipients of mental health services, primarily to provide the services described in subparagraphs (A) and (D) of subsection (a)(1); and

"(B) eligible systems designated under title I of the Protection and Advocacy for Mentally Ill Individuals Act of 1986 in order to provide advocacy services to individuals who have serious mental illnesses and who are not eligible for such services under such Act.

"(c) A State, metropolitan city, or urban county may not use amounts paid to it under section 1934 to—

"(1) provide inpatient services;

"(2) make cash payments to intended recipients of services;

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment, except to provide transitional housing under subsection (a)(1)(E); or

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

The Secretary may waive the limitation contained in paragraph (3) upon the request of a State, metropolitan city, or urban county if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

"(d) Not more than 2 percent of the total amount paid to a State, metropolitan city, or urban county under section 1934 for a fiscal year may be used for administering the funds made available under section 1934. The State, metropolitan city, or urban county shall pay from non-Federal sources the remaining costs of administering such funds.

"APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS

"SEC. 1936. (a)(1) In order to receive an allotment for a fiscal year under section 1932, a State, metropolitan city, or urban county shall submit an application to the Secretary. Each such application shall be in such form as the Secretary shall require, and—

"(A) in the case of an application by a State, shall be submitted with the application required by section 1916(a) or at such other time as the Secretary shall require; and

"(B) in the case of an application by a metropolitan city or an urban county, shall be submitted at such time as the Secretary shall require.

"(2) Each application required under paragraph (1) for an allotment under section 1932 for a fiscal year shall contain assurances that the State, metropolitan city, or urban county will meet the requirements of subsection (b).

"(b) As part of the annual application required by subsection (a) for an allotment for any fiscal year, the chief executive officer of each State, metropolitan city, or urban county shall—

"(1) certify that the State, metropolitan city, or urban county agrees to use the funds allotted to it under section 1932 in accordance with the requirements of this part;

"(2) certify that the services to be provided to eligible individuals under this part have been considered in the preparation of, and are consistent with, the State comprehensive mental health services plan required under subpart 2 of part B;

"(3) certify that the State, metropolitan city, or urban county will coordinate the provision of services for eligible individuals with funds provided under this part with—

"(A) activities conducted to provide services for eligible individuals by—

"(i) community mental health centers;

"(ii) State, city, county, or local providers of mental health services; and

"(iii) psychosocial rehabilitation centers;

"(B) services provided under section 1921; and

"(C) case management services provided to eligible individuals under section 1915(g) of the Social Security Act; and

"(4) certify that the State, metropolitan city, or urban county agrees that Federal funds made available under section 1934 for any period will be so used as to supplement and increase the level of State, city, county, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under that section and will in no event supplant such State, city, county, local, and other non-Federal funds.

"(c) The chief executive officer of a State, metropolitan city, or urban county shall, as part of the application required by subsection (a) for any fiscal year, also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State, metropolitan city, or urban county will receive under section 1934 for the fiscal year for which the application is submitted, including information on the programs and activities to be supported and services to be provided. The description shall be made public within the State, metropolitan city, or urban county in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. The description shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State, metropolitan city, or urban county under this part, and any revision shall be subject to the requirements of the preceding sentence.

"(d) Except where inconsistent with the provisions of this part, the provisions of section 1914(b), section 1917(a), paragraphs (1) through (5) of section 1917(b), and sections 1918, 1919, and 1920 shall apply to payments made to a State, metropolitan city, or urban county under this part in the same manner as such provisions apply to payments made to a State under part B of this title.

"ADMINISTRATION

"SEC. 1937. (a) Not more than 2 percent of the amount appropriated under section 1931 for a fiscal year may be used by the Secretary to pay the costs of administering this part.

"(b) The Secretary shall consult with the Secretary of Housing and Urban Development in promulgating regulations and guidelines to carry out section 1935(a)(1)(E).

"COORDINATION

"SEC. 1938. The Secretary shall take such action as may be necessary to facilitate the coordination of activities conducted under this part and the exchange of information to assist in the conduct of such activities.

"DEFINITIONS

"SEC. 1939. For purposes of this part:

"(1) The term 'case management services' means services which will assist an eligible individual in gaining access to mental health services, health care services, social services, income support services, housing, and other services. Such term includes, with respect to an eligible individual—

"(A) with the participation of the eligible individual, the development and review every 3 months of a plan of care for such individual;

"(B) the coordination of mental health services, including crisis intervention services, medical services, the provision of training in daily living activities, and the conduct of follow-through activities to insure that necessary services are received;

"(C) the coordination of, and the provision of assistance in obtaining, mental health services, transportation services, rehabilitation services, job training, housing, and other support services;

"(D) the provision of assistance in obtaining income support services, such as Federal disability benefits, aid to families with dependent children, food stamps, and State assistance; and

"(E) consultation with, and the provision of assistance to, families of eligible individuals.

"(2) The term 'eligible individual' means a homeless individual who has a serious mental illness. Such term includes—

"(A) an individual who is placed in transitional housing under this part; and

"(B) an individual who is placed in permanent housing under this part for a period beginning on the date on which such placement is made and ending 9 months after such date.

"(3) The term 'homeless individual' means an individual—

"(A) is a lower income individual (as such term is defined in section 3(b) of the United States Housing Act of 1937);

"(B) who lives or sleeps without shelter, or lives or sleeps in a shelter or mission for homeless individuals; and

"(C) who has no fixed or permanent address.

"(4) The term 'metropolitan city' has the same meaning as in section 102 of the Hous-

ing and Community Development Act of 1974.

"(5) The term 'serious mental illness' means a severe and persistent mental or emotional disorder that seriously impairs the functioning of an individual in daily living activities such as the maintenance of personal relationships, the obtaining or retaining or living arrangements, or the obtaining or retaining of employment.

"(6) The term 'State' has the same meaning as in section 102 of the Housing and Community Development Act of 1974.

"(7) The term 'transitional housing' means the provision of housing and supportive services to an eligible individual in order to facilitate the movement of such individual to independent living in permanent housing within a reasonable amount of time.

"(8) The term 'urban county' has the same meaning as in section 102 of the Housing and Community Development Act of 1974.".

(b)(1) Section 504(f)(3) of such Act is amended—

(A) by striking out "$24,000,000" and inserting in lieu thereof "$26,000,000"; and

(B) by adding at the end thereof the following new sentence: "Of the amounts appropriated under the preceding sentence for fiscal year 1988, $4,000,000 shall be available for grants for projects for services for homeless chronically mentally ill individuals.".

(2) Section 504 of such Act is amended by adding at the end thereof the following new subsection:

"(i)(1) The Secretary, through the Director, shall provide training and technical assistance to States, metropolitan cities, and urban counties in carrying out part D of title XIX.

"(2) The Secretary, through the Director, shall conduct, or arrange for the conduct of, activities to disseminate information concerning research and treatment relating to serious mental illnesses, in order to assist States, metropolitan cities, and urban counties in carrying out part D of title XIX.

"(3) The Secretary, through the Director, shall conduct, or arrange for the conduct of, evaluations of services provided and activities conducted under part D of title XIX.

"(4) Within 2 years after the date of enactment of this subsection, the Secretary, through the Director, shall prepare and transmit to the Congress a report on evaluations conducted under paragraph (3).

"(5) For purposes of this subsection, the terms 'State', 'metropolitan city', and 'urban county' have the meaning given to such terms by section 1939.

"(6) To carry out this subsection, there are authorized to be appropriated $8,000,000 for fiscal year 1988 and each of the four succeeding fiscal years.".

(c) Section 2(f) of such Act is amended by striking out "and 1633(1)," and inserting in lieu thereof "1633(1), and 1939(6)".

## HEALTH SERVICES AND JOB TRAINING FOR HOMELESS INDIVIDUALS

### DOMENICI AMENDMENT NO. 44

(Ordered referred to the Committee on Labor and Human Resources.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill (S. 811) to provide health services, mental health services, and job training for homeless individuals and education for homeless children; as follows:

Strike out section 121 of the bill and insert in lieu thereof the following:

SEC. 121. EMERGENCY MENTAL HEALTH SERVICES FOR HOMELESS INDIVIDUALS HAVING SERIOUS MENTAL ILLNESS.

(a) Title XIX of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART D—SERVICES FOR HOMELESS MENTALLY ILL INDIVIDUALS BLOCK GRANT

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1931. (a) To carry out this part, there are authorized to be appropriated $80,000,000 for fiscal year 1987, $200,000,000 for fiscal year 1988, $205,000,000 for fiscal year 1989, $210,000,000 for fiscal year 1990, $215,000,000 for fiscal year 1991, and $220,000,000 for fiscal year 1992.

"(b) Of the total amount appropriated to carry out this part for any fiscal year, not more than 2 percent shall be available to carry out section 1937(a).

"ALLOTMENTS

"SEC. 1932. (a) The Secretary shall allot the total amount available for allotment under this section for a fiscal year (after the application of section 1931(b)) to States, metropolitan cities, and urban counties so that the percentage of such total available amount that is allotted to any State, metropolitan city, or urban county for such fiscal year is equal to the percentage of the total amount available for grants under section 106 of the Housing and Community Development Act of 1974 for the fiscal year prior to such fiscal year that is allocated to such State, metropolitan city, or urban county.

"(b)(1) Notwithstanding subsection (a), the total of the allotments under this section to a State and all metropolitan cities and urban counties in such State for any fiscal year shall not be less than one-quarter of one percent of the amount available for allotments under this section for such fiscal year.

"(2) If, under the allocation provisions applicable to this part pursuant to subsection (a), any metropolitan city or urban county would receive an allotment of less than $100,000 for any fiscal year, such amount shall instead be reallocated in accordance with subsection (c).

"(c) If the total amount of funds appropriated under section 1931 for a fiscal year and available for allotment under this section for such fiscal year is not otherwise allotted to States, metropolitan cities, and urban counties because—

"(1) one or more States, metropolitan cities, or urban counties have not submitted an application or description of activities in accordance with section 1936 for such fiscal year;

"(2) one or more States, metropolitan cities, or urban counties have notified the Secretary that they do not intend to use the full amount of their allotment;

"(3) some allotments of States, metropolitan cities, or urban counties are offset or repaid under section 1917(b)(3) (as such section applies to this part pursuant to section 1936(e)); or

"(4) amounts become available under subsection (b)(2),

the amount not allotted shall be allotted among each of the remaining States, metropolitan cities, and urban counties in proportion to the amount otherwise allotted to such States, metropolitan cities, and urban counties for such fiscal year without regard to this subsection.

"FEDERAL SHARE

"SEC. 1933. The Federal share of all activities in a State, metropolitan city, or urban county supported by an allotment to such State, metropolitan city, or urban county under section 1932 for a fiscal year shall be 75 percent of the aggregate necessary costs of all such activities, as determined by the Secretary. A State, metropolitan city, or urban county shall pay at least 15 percent of such costs in cash, and the remainder of such costs shall be paid by such State, metropolitan city, or urban county through in-kind contributions.

"PAYMENTS UNDER ALLOTMENTS

"SEC. 1934. (a) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State, metropolitan city, or urban county from its allotment under section 1932 from amounts appropriated for that fiscal year.

"(b) Any amount paid to a State, metropolitan city, or urban county for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State, metropolitan city, or urban county for the purposes for which it was made.

"USE OF ALLOTMENTS

"SEC. 1935. (a)(1) Except as provided in subsection (b), amounts paid to a State, metropolitan city, or urban county under section 1934 shall be used by such State, metropolitan city, or urban county to carry out comprehensive emergency projects for eligible individuals. Such projects shall include each of the following activities:

"(A) The provision of outreach services to eligible individuals in nontraditional settings, such as shelters, streets, transitional housing sites, and drop-in centers for homeless individuals. Such services shall include crisis intervention services, needs assessment services, and referral to providers of services for eligible individuals.

"(B) The provision of treatment and rehabilitation services to eligible individuals, including diagnostic services, psychiatric evaluation, medical services, the provision of pharmaceuticals, substance abuse treatment and rehabilitation, individual and group counseling, family therapy, and psychosocial rehabilitation services.

"(C) The provision of training to individuals who provide services to eligible individuals, including individuals who work in shelters, mental health clinics, hospital emergency rooms, transitional housing sites, and individuals who provide case management and outreach services, in order to enable such individuals to—

"(i) identify and serve the mental health and support needs of eligible individuals;

"(ii) refer eligible individuals to available services; and

"(iii) coordinate the provision of services to eligible individuals.

"(D) The provision of case management services to eligible individuals.

"(E) The provision of transitional housing for eligible individuals.

"(2) Not more than 50 percent of the total amount paid to a State, metropolitan city, or urban county for a fiscal year may be used by such State, city, or county for such fiscal year to carry out paragraph (2)(E).

"(b)(1) A State, metropolitan city, or urban county may use amounts paid to such State, city, or county under this part to con-

duct comprehensive emergency projects for eligible individuals required under subsection (a) through contracts with qualified providers of mental health services.

"(2) For purposes of this subsection, a qualified provider of mental health services—

"(A) is a public or non-profit private entity;

"(B) agrees to conduct, or arrange for the conduct of, each of the activities described in subsection (a)(1);

"(C) if eligible to receive payments under the State plan approved under title XIX of the Social Security Act for services provided to eligible individuals that are covered under the State plan, agrees to seek reimbursement for such services under the plan to the extent permitted under the plan;

"(D) agrees to establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the contract;

"(E) agrees to establish a continuing program of quality assurance with respect to the activities conducted under the contract; and

"(F) agrees to submit annual reports to such State, city, or county that describe the utilization and costs of activities provided under the contract and such other information as such State, city, or county may require.

"(3) In entering into contracts under this subsection, a State, metropolitan city, or urban county shall give preference to qualified providers of mental health services who are experienced in the treatment of mental illness in homeless individuals.

"(4) Under a contract with a State, metropolitan city, or urban county under this subsection, a qualified provider of mental health services may enter into subcontracts with—

"(A) self-help organizations that are established and managed by current and former recipients of mental health services, primarily to provide the services described in subparagraphs (A) and (D) of subsection (a)(1); and

"(B) eligible systems designated under title I of the Protection and Advocacy for Mentally Ill Individuals Act of 1986 in order to provide advocacy services to individuals who have serious mental illnesses and who are not eligible for such services under such Act.

"(c) A State, metropolitan city, or urban county may not use amounts paid to it under section 1934 to—

"(1) provide inpatient services;

"(2) make cash payments to intended recipients of services;

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment, except to provide transitional housing under subsection (a)(1)(E); or

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

The Secretary may waive the limitation contained in paragraph (3) upon the request of a State, metropolitan city, or urban county if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

"(d) Not more than 2 percent of the total amount paid to a State, metropolitan city, or urban county under section 1934 for a fiscal year may be used for administering the funds made available under section 1934. The State, metropolitan city, or urban county shall pay from non-Federal sources the remaining costs of administering such funds.

"APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS

"SEC. 1936. (a)(1) In order to receive an allotment for a fiscal year under section 1932, a State, metropolitan city, or urban county shall submit an application to the Secretary. Each such application shall be in such form as the Secretary shall require, and—

"(A) in the case of an application by a State, shall be submitted with the application required by section 1916(a) or at such other time as the Secretary shall require; and

"(B) in the case of an application by a metropolitan city or an urban county, shall be submitted at such time as the Secretary shall require.

"(2) Each application required under paragraph (1) for an allotment under section 1932 for a fiscal year shall contain assurances that the State, metropolitan city, or urban county will meet the requirements of subsection (b).

"(b) As part of the annual application required by subsection (a) for an allotment for any fiscal year, the chief executive officer of each State, metropolitan city, or urban county shall—

"(1) certify that the State, metropolitan city, or urban county agrees to use the funds allotted to it under section 1932 in accordance with the requirements of this part;

"(2) certify that the services to be provided to eligible individuals under this part have been considered in the preparation of, and are consistent with, the State comprehensive mental health services plan required under subpart 2 of part B;

"(3) certify that the State, metropolitan city, or urban county will coordinate the provision of services for eligible individuals with funds provided under this part with—

"(A) activities conducted to provide services for eligible individuals by—

"(i) community mental health centers;

"(ii) State, city, county, or local providers of mental health services; and

"(iii) psychosocial rehabilitation centers;

"(B) services provided under section 1921; and

"(C) case management services provided to eligible individuals under section 1915(g) of the Social Security Act; and

"(4) certify that the State, metropolitan city, or urban county agrees that Federal funds made available under section 1934 for any period will be so used as to supplement and increase the level of State, city, county, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under that section and will in no event supplant such State, city, county, local, and other non-Federal funds.

"(c) The chief executive officer of a State, metropolitan city, or urban county shall, as part of the application required by subsection (a) for any fiscal year, also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State, metropolitan city, or urban county will receive under section 1934 for the fiscal year for which the application is submitted, including information on the programs and activities to be supported and services to be provided. The description shall be made public within the State, metropolitan city, or urban county in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. The description shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State, metropolitan city, or urban county under this part, and any revision shall be subject to the requirements of the preceding sentence.

"(d) Except where inconsistent with the provisions of this part, the provisions of section 1914(b), section 1917(a), paragraphs (1) through (5) of section 1917(b), and sections 1918, 1919, and 1920 shall apply to payments made to a State, metropolitan city, or urban county under this part in the same manner as such provisions apply to payments made to a State under part B of this title.

"ADMINISTRATION

"SEC. 1937. (a) Not more than 2 percent of the amount appropriated under section 1931 for a fiscal year may be used by the Secretary to pay the costs of administering this part.

"(b) The Secretary shall consult with the Secretary of Housing and Urban Development in promulgating regulations and guidelines to carry out section 1935(a)(1)(E).

"COORDINATION

"SEC. 1938. The Secretary shall take such action as may be necessary to facilitate the coordination of activities conducted under this part and the exchange of information to assist in the conduct of such activities.

"DEFINITIONS

"SEC. 1939. For purposes of this part:

"(1) The term 'case management services' means services which will assist an eligible individual in gaining access to mental health services, health care services, social services, income support services, housing, and other services. Such term includes, with respect to an eligible individual—

"(A) with the participation of the eligible individual, the development and review every 3 months of a plan of care for such individual;

"(B) the coordination of mental health services, including crisis intervention services, medical services, the provision of training in daily living activities, and the conduct of follow-through activities to insure that necessary services are received;

"(C) the coordination of, and the provision of assistance in obtaining, mental health services, transportation services, rehabilitation services, job training, housing, and other support services;

"(D) the provision of assistance in obtaining income support services, such as Federal disability benefits, aid to families with dependent children, food stamps, and State assistance; and

"(E) consultation with, and the provision of assistance to, families of eligible individuals.

"(2) The term 'eligible individual' means a homeless individual who has a serious mental illness. Such term includes—

"(A) an individual who is placed in transitional housing under this part; and

"(B) an individual who is placed in permanent housing under this part for a period beginning on the date on which such placement is made and ending 9 months after such date.

"(3) The term 'homeless individual' means an individual—

"(A) is a lower income individual (as such term is defined in section 3(b) of the United States Housing Act of 1937);

"(B) who lives or sleeps without shelter, or lives or sleeps in a shelter or mission for homeless individuals; and

"(C) who has no fixed or permanent address.

"(4) The term 'metropolitan city' has the same meaning as in section 102 of the Housing and Community Development Act of 1974.

"(5) The term 'serious mental illness' means a severe and persistent mental or emotional disorder that seriously impairs the functioning of an individual in daily living activities such as the maintenance of personal relationships, the obtaining or retaining or living arrangements, or the obtaining or retaining of employment.

"(6) The term 'State' has the same meaning as in section 102 of the Housing and Community Development Act of 1974.

"(7) The term 'transitional housing' means the provision of housing and supportive services to an eligible individual in order to facilitate the movement of such individual to independent living in permanent housing within a reasonable amount of time.

"(8) The term 'urban county' has the same meaning as in section 102 of the Housing and Community Development Act of 1974.".

(b)(1) Section 504(f)(3) of such Act is amended—

(A) by striking out "$24,000,000" and inserting in lieu thereof "$26,000,000"; and

(B) by adding at the end thereof the following new sentence: "Of the amounts appropriated under the preceding sentence for fiscal year 1988, $4,000,000 shall be available for grants for projects for services for homeless chronically mentally ill individuals.".

(2) Section 504 of such Act is amended by adding at the end thereof the following new subsection:

"(i)(1) The Secretary, through the Director, shall provide training and technical assistance to States, metropolitan cities, and urban counties in carrying out part D of title XIX.

"(2) The Secretary, through the Director, shall conduct, or arrange for the conduct of, activities to disseminate information concerning research and treatment relating to serious mental illnesses, in order to assist States, metropolitan cities, and urban counties in carrying out part D of title XIX.

"(3) The Secretary, through the Director, shall conduct, or arrange for the conduct of, evaluations of services provided and activities conducted under part D of title XIX.

"(4) Within 2 years after the date of enactment of this subsection, the Secretary, through the Director, shall prepare and transmit to the Congress a report on evaluations conducted under paragraph (3).

"(5) For purposes of this subsection, the terms 'State', 'metropolitan city', and 'urban county' have the meaning given to such terms by section 1939.

"(6) To carry out this subsection, there are authorized to be appropriated $8,000,000 for fiscal year 1988 and each of the four succeeding fiscal years.".

(c) Section 2(f) of such Act is amended by striking out "and 1633(1)," and inserting in lieu thereof "1633(1), and 1939(6)".

## NOTICES OF HEARINGS

SUBCOMMITTEE ON INNOVATION, TECHNOLOGY, AND PRODUCTIVITY

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee's Subcommittee on Innovation, Technology, and Productivity will hold a hearing on Tuesday, April 7, 1987, commencing at 9:30 a.m. The purpose of the hearing will be to review the procedures used in an agency award of a project to a federally funded research and development center [FFRDC] and the adverse impact felt by a small business technical service firm which had been competing for a contract for the same project. The hearing will be held in room 428A of the Russell Senate Office Building. For further information, please call William B. Montalto, procurement policy counsel for the committee at 224-5175, or Elise J. Bean or Brad Vass of Senator LEVIN's staff at 224-3682.

## 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 Tuesday, March 24, 1987, to hold hearings on the fiscal year 1988 authorization request for the U.S. Arms Control and Disarmament Agency.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, March 24, 1987, at 2:30 p.m. to resume closed hearings on proposed legislation authorizing funds for fiscal year 1988 for the intelligence community.

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

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, March 24, 1987, to resume hearings on the President's proposed budget request for fiscal year 1988 for the Department of Justice, focusing on the Immigration and Naturalization Service.

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

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence be authorized to meet during the session of the Senate on Tuesday, March 24, 1987, to resume closed hearings on proposed legislation authorizing funds for fiscal years 1988 and 1989 for the Department of Defense, focusing on the Strategic Defense Initiative Program.

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

SUBCOMMITTEE ON RESEARCH AND DEVELOPMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources, Subcommittee on Research and Development, be authorized to meet during the session of the Senate on Tuesday, March 24, 1987, at 2:30 p.m. to hold hearings to review the current status of renewable energy technologies.

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

## ADDITIONAL STATEMENTS

### THE EXPORT ENHANCEMENT PROGRAM

● Mr. BAUCUS. Mr. President, we in Congress decided when we passed the 1985 farm bill that American agriculture must stay competitive in world markets.

Unfortunately the USDA has been unwilling to vigorously fulfill that mandate.

The USDA's handling of many agricultural programs can be criticized, but I am particularly unhappy with the way the agency has handled the Export Enhancement Program.

The Export Enhancement Program—better known as the EEP—gives Commodity Credit Corporation surpluses to U.S. agricultural exporters. This allows the exporters to lower the price of farm products they send into world markets.

The EEP essentially becomes an inkind subsidy to promote exports of surplus agricultural commodities.

The USDA has only been willing to extend the EEP to a few foreign markets instead of implementing the across-the-board program that Congress authorized.

The USDA claims that targeted use of the EEP puts more pressure on the European Economic Community—the world's largest subsidizer of agricultural exports. They say a targeted EEP avoids harm to countries that do not subsidize their agricultural products.

The USDA also claims that extending the EEP across the board would not increase U.S. sales.

Mr. President, I do not accept these arguments.

The selective use of the EEP has not put as much pressure on the Europeans as would an across-the-board EEP.

For example, in 1985 we used the EEP to take several North African markets from the European Community, but we did not target the Soviet Union. At the same time, the EC

began making large sales of wheat to the Soviet Union—forcing us out of that market.

In other words, all that was accomplished by this targeted use of the EEP was to move European Community sales from North Africa into the Soviet Union.

The GAO recently concluded that an across-the-board EEP would be more effective than a targeted program in pressuring the European Community to negotiate an end to export subsidization. If the EEP is extended to all markets, the Europeans would be unable to avoid it simply by changing markets.

The USDA's second argument against an across-the-board EEP is equally unfounded.

There simply are no nonsubsidizers in the world agriculture markets.

As the recent report by the National Commission on Agricultural Trade and Export Policy concluded, almost all of our major world competitors engage in some form of subsidization of their agricultural exports.

No one wants to subsidize, but we must fight fire with fire. If all our competitors are subsidizing we must be willing to protect our farmers' export markets.

Our competitors will be willing to negotiate an end to export subsidies only when they know that we are serious about defending our export markets.

The USDA's argument that an across-the-board EEP would not increase export sales is especially unfounded.

As a recent CRS study has concluded, the price of U.S. export commodities determines whether or not the United States will continue to be competitive in world markets.

An across-the-board EEP would allow our farmers to rapidly lower their export prices to the world market price without cutting their income. The EEP is a bridge to a more competitive American agricultural sector.

I have introduced legislation, S. 310, to force the USDA to make the EEP an across-the-board program. It is time we began to use the agricultural products that are rotting in CCC storage to regain lost export markets.

I urge all my colleagues to support efforts to make the EEP into an across-the-board program.

Mr. President, I ask that excerpts of the two studies I mentioned be inserted into the RECORD.

The excerpts follow:

NEW REALITIES: TOWARD A PROGRAM OF EFFECTIVE COMPETITION

Trade Controls: The Export Administration Act and other laws permit the Executive branch to restrict and sometimes halt exports and imports of agricultural commodities for short supply, foreign policy, or national security reasons, a power which, in the past, has tended to undermine U.S. competitiveness. Some past actions have been quite controversial. The earlier-mentioned 1980 Soviet grain embargo, which was applied to register U.S. objection over the Russian invasion of Afghanistan, is just one case in point. That suspension was applied for foreign policy reasons. Other, earlier embargoes (in 1973, 1974, and 1975) were applied because of concerns over supply levels.

Such interruptions in trade can have serious repercussions for U.S. agriculture. They can cause a short-term loss in farm income, as well as long-term losses in market share. The 1983 soybean embargo is a good example. Early in that year, U.S. oilseed stocks appeared to be in short supply. Faced with strong world demand and escalating prices, the Nixon Administration imposed export restrictions on oilseed products. Although controls were lifted after just three months, the damage had already been done.

A 1985 congressionally-mandated USDA study, contained elsewhere in this report, indicated that the 1973 embargo caused lower than anticipated exports for that year, reduced the U.S. share in world soybean markets in following years, and tarnished the United States' image as a reliable supplier. In the aftermath of this embargo, the food-security conscious Japanese invested heavily in Brazilian soybean processing facilities, thereby diversifying their sources. From 1970-72 to 1980-84, the U.S. share of the world soybean product market declined from 81 to 58 percent, despite large increases in production.

Congress has made several attempts to protect agriculture from becoming a tool of economic and foreign policy. Provisions for dealing with embargo protection and contract sanctity are contained in numerous acts, including the 1977 and 1981 Farm Bills, the 1982 Commodity Futures Trading Act, and the 1985 Export Administration Act.

The federal government may also exercise control over the importation of agricultural commodities. Several U.S. laws allow the President to impose tariffs, fees or quotas on agricultural imports under certain conditions. The most well-known and widely-used such law is Section 22 of the Agricultural Adjustment Act of 1933, which authorizes the application of a maximum 50 percent quota or ad valorem fee on imported commodities that are judged to be interfering with U.S. domestic commodity programs. Over the years, Section 22 has been used to protect at least 12 different agricultural commodities. Today, milk, cotton, and peanuts are sheltered under Section 22. Sugar imports are restricted under the U.S. Tariff Schedule.

Although producers and processors who obtain relief from imported products support the use of Section 22 and other such laws, others are critical of the practice. Some believe that the United States should concede that it may not be competitive in all commodities and dispense with restrictions on all non-subsidized products brought into the United States. Such an action, however, would cause severe adjustment problems in the affected industries.

COMPETITOR NATION POLICIES

*Competitor nation domestic agricultural policies*

No less than U.S. domestic agricultural policy, the domestic policies of other countries can have a direct and detrimental effect on U.S. agricultural competitiveness. In certain cases, such policies encourage production, even when such production is "uneconomic." A sampling of such policies would include the following:

Argentina: National policies have moved to a reduction of government controls in the agricultural sector. Whereas the Junta Nacional de Granos (JNG/National Grain Board) once held monopoly powers for grain and oilseed marketings, its role is now mainly to handle limited administrative functions, negotiate government-to-government purchasing agreements, and influence nominal export prices through daily postings of a "minimum export price" (MEP). Exchange rate controls and fiscal policies are the main tools used by the Argentine government to influence the marketing of most agricultural products and domestic production. Multiple exchange rates and a differentiated value-added tax system provide special incentives for the export of basic commodities as well as certain processed foods and prepared meats.

Traditionally, Argentina's producers have had government price guarantees and special terms for agricultural credits offered at terms below Argentina's traditionally high rate of inflation. The Junta guarantees producers 80 percent of the posted MEP. Although not necessarily representative of a true export sales price, government support payments to producers are linked through MEP to fluctuating international prices.

The Alfonsin government is attempting to modify these programs as part of its "austral" economic reform program to curb inflation. Despite the resistance which these programs have met from national agricultural organizations, the new measures are designed to continue the trend toward decontrols and market related production incentives. Export taxes may also be lowered to stimulate farm output and exports. Just how these programs, if successfully implemented, would affect exports remains to be seen. Argentina's priority is agricultural exports and the government continues to demonstrate a willingness to intevene whenever necessary to influence sales and market development opportunities.

Australia: Australia's agricultural system is dominated by statutory marketing boards for several commodities including wheat, most coarse grains, apples, and pears. In the case of wheat, the Australian Wheat Board is the sole wheat exporting authority. It has monopoly powers which are enhanced by a broadly defined jurisdiction. It is officially empowered, for instance, to trade wheat futures on commodity exchanges so as to hedge its own transactions. The Board now has offices in New York for the express purpose of handling these hedging operations. This capability allows the Board maximum flexibility on pricing its exports, thereby avoiding some of the pitfalls of operating a government monopoly.

Government underwriting programs offer producer guarantees which approximate market prices. Price equalization programs provide additional income support. These and other programs stabilize returns to producers. Government marketing arms are, thus, limited by immediate producer income considerations in their efforts to promote Australian agricultural exports.

Brazil: The centerpiece of Brazil's economic growth strategy is industrial development. The government has traditionally offered massive investment financing assistance to the processing sector along with a range of export incentives and import restrictions. Subsidized rural credit is widely used as an incentive to raise production and lower the cost of basic commodities to processors. Government reforms reduced the subsidized lending limits under the produc-

tion loan program (VBC). In its place, the National Monetary Council now offers a set of minimum support prices which are indexed throughout the course of the growing season. These prices then serve as a floor price if sold to the government or as a basis for marketing credit. Other reforms in domestic programs point to greater liberalization, but the degree to which they are actually put into effect remains in doubt.

Canada: Canadian programs vary widely, depending upon the commodity and its ultimate market destination. Most notable, in the case of Canada, is the fact that products are either marketed for export through centralized institutions or are produced and processed generally in a provincial economic environment where price support and stabilization programs prevail.

In the case of wheat, oats, and barley grown in the Western provinces of Manitoba, Saskatchewan, Alberta, and parts of British Columbia, the Canadian Wheat Board (CWB) is the sole marketing agency for interprovincial or international sales of these crops. The Board has effective monopoly powers in that it handles the sale of about 80 percent of the wheat, 40 percent of the barley, and 10 percent of the oats grown in Canada. These crops are produced under quota which thereby facilitates the Board's ability to access supplies for sales with a minimum of market disruption.

Canada's orderly marketing system reduces operational risks for the Board and contributes to income stability for producers. Producer price guarantees, income stabilization programs at the federal and provincial levels, and transportation subsidies for Prairie pools (Canadian cooperative organizations in the Western provinces) provide another layer of protection for producers. Consequently, Canada has constructed a risk-averse agricultural system which relies on a high level of government intervention. It has sacrificed certain efficiencies of the marketplace in opting for this type of production and marketing system. There have been numerous incidents when the Board has been unable to maximize commercial trade opportunities. These have resulted in lower income for producers and/or higher taxes for consumers. Such situations are unavoidable as long as commodities are not freely traded among provinces or at the international level.

In terms of Canada's exports, the monopoly powers of the Board, producer stabilization programs, transportation, and other indirect marketing subsidies afford certain pricing advantages for Canadian products. Such programs inevitably serve as export incentives, but it is less clear whether they are instrumental to the retention of Canada's traditional share of world agricultural trade over the long-term.

The European Economic Community: The EC is both a major importer and exporter of agricultural commodities. Its Common Agricultural Policy (CAP) offers internal price stabilization and production incentives maintained by a system of import controls and export subsidies. In effect, the EC has constructed a system of internal price stabilization in a world of supply and price instabilities. Aids to production vary according to the commodity but, at this stage when the EC has large crop surpluses, the fact that the level of price protection for European producers is still much higher than the international price for the same commodity is still a form of production incentive. Surpluses are an inherent part of the CAP as it is presently constituted, and will remain unchanged as long as such import controls as the variable levy system and export restitutions serve to prop up higher internal agricultural prices among members of the EC.

New Zealand: New Zealand has a mixed agricultural production and marketing system where government marketing organization work hand-in-hand with the private sector. There are boards with varying degrees of power for meat, milk, dairy products, tobacco, poultry, potatoes, apples, pears, wheat, and Kiwi fruit. The New Zealand Dairy Board, for instance, has statutory power to acquire and market all dairy products intended for export. The Meat Producers Board, on the other hand, is undergoing changes in its operations which will reduce government involvement in export sales. When meat prices sagged in 1982, the Board took control of exports by buying meat from sheep farmers and not releasing stocks below a minimum sale price to wholesalers. Now companies can buy and sell on their own accounts.

Domestic programs are designed to satisfy the dual objective of income and supply stabilization. In many instances, the stabilization plans cover only 50 percent of producer income, thereby linking farming returns to trade performance. However, when export markets are sluggish, government programs provide supplementary minimum prices. In 1984, approximately four-fifths of government support payments were provided in the form of supplements.

Thailand: As a developing country, Thailand's import substitution and export subsidy related practices have not come under scrutiny. Now, however, given Thailand's emergence as a major agricultural exporter, the country's programs have more relevance to U.S. international trade interests. Thailand has a price support and stabilization system for the production of rice and manioc. The government buys rice from the growers at a "target" price set above the international market price in order to transfer income to farmers. These and other special government programs, such as preferential financing, have served to encourage domestic production. They have also helped create a farming structure oriented toward export markets.

*Competitor nation agricultural trade policies and practices*

The United States is faced with stiff competition from other exporters of agricultural commodities and products. Foreign demand for traditional and specialized agricultural products has not grown relative to production worldwide. Moreover, in several categories there has been an actual decline in food and feed imports. These global market conditions have aggravated the single most important problem which all surplus producing countries face—the need to increase exports or, at a minimum, retain "traditional" market shares.

In an effort to boost exports, many supplier countries have introduced a range of policies and program incentives which go beyond internationally approved rules of competition. These policies and programs run the gamut of options, including: subsidized ocean transport; discounts on lower-quality crops; inland rail subsidies; export restitutions; tax credits for exporters; linkage of food assistance and commerical sales; differential export taxes on processed products; countertrade arrangements.

In varying degrees, these programs have proven to be successful in terms of national export promotion and market development, albeit frequently at the expense of the United States. The domestic agricultural systems of other exporting countries may have a similar end result to the extent that they enhance aggressive national trading strategies. Agricultural protectionism, for example, if selectively applied, can sometimes reduce the costs of export subsidies. To the chagrin of American agriculture, the European Community has demonstrated just how effective a combination of protectionist domestic and expansionist trade policies can be.

In addition, state trading organizations such as the Canadian or Australian Wheat Boards or New Zealand's Dairy Board may command certain pricing advantages unavailable to the private sector operating in the United States without some of the inherent advantages of monopoly powers.

Several competing suppliers have developed sophisticated strategies to promote their own national exports. Some of these examples may merit consideration for adoption by the United States; others afford illustrations of what the United States should avoid in pursuit of its own national interests. An understanding of both types may be helpful when U.S. policymakers develop trade policies and negotiating positions.

Examples of such programs which can negatively affect U.S. competitiveness are cited below.

Export Subsidies

The countries and practices described below are not intended to serve as an exhaustive catalogue of prevalent export subsidy activities. The reader may note the absence from such commentary of any mention of centrally planned economies, such as Eastern European countries. Because most Eastern European countries are part of their own trading block operating under a system of special clearing accounts, their export programs do not include standard forms of direct and indirect subsidies. These countries' economies make a determination of subsidy in terms of domestic prices extremely difficult.

Further description of foreign export subsidies engaged in by countries other than those listed below is contained in the section of this report entitled, "Aggressive Action to Meet and Counteract the Effects of Unfair Foreign Trade Practices".

Argentina: With multiple exchange rates and differentiated taxes on exports, Argentina has not needed to rely on export subsidies to promote export sales. In fact, given the level of guarantees and the low level of capital intensive farming, Argentina is a cheap producer of grains, oilseeds, and meat. Consequently, it can under price most competitors (minus transportation and handling costs) without the use of export subsidies.

On the other hand, the government still maintains an export tax structure. By applying different duties for different communities, the net effect is to encourage certain types of agricultural exports over others. In general, the export tax system set up in 1982 has as high as a 25 percent duty on unprocessed meats. The lower ad valorem duties were graduated downward on processed products with a zero level on such items as cooked and canned beef. While the government has already introduced significant reductions in export taxes for wheat (down from 28.0 to 16.5 percent), they remain extremely high for corn, sorghum, and soybeans (30.5 percent, 29.5 percent and 34.0 percent, respectively).

If significant reductions in export taxes should occur, the net effect on export prices is likely to be null. Under the best of circumstances, the tax savings would be passed on in the form of additional income to growers. They, in turn, would be expected to respond with increases in production. If great enough, additional supplies could actually reduce export prices.

Australia: In general, there are no direct export subsidies because of the Australian Wheat Board's (AWB) extensive powers to initiate price cuts to suit individual transactions and still remain above domestic prices. There are, however, a number of indirect subsidies which are virtually invulnerable to any complaint under GATT rules. Among the more significant forms of Australia's hidden subsidies are transportation/ocean freight, credit, and special package investment and technical assistance deals.

In a recent packaging arrangement, Australia agreed to construct three storage evaluators for a total of 90,000 mt in conjunction with the signing of a long-term purchasing agreement with Egypt. It was also reported that the Australians subsidized the freight costs on earlier shipments to Egypt and Colombia. Another reported practice involves piggybacking commercial sales to food aid shipments. Australian food aid recipients in Southeast Asia allegedly have been offered free or reduced transportation rates or have taken fully loaded ships instead of partial cargoes. Australia gains by making extra cash sales at the going FOB export price, and the developing country saves on transportation costs which can amount to as much as 25 percent of the landed price for wheat, which may be needed later in the season.

The AWB engages in another practice, common to the trade—discounting for lower-quality crop. This commercial practice resembles a subsidy when undertaken by a government agency like the AWB in that it results in an effective reduction in export prices which may actually be below domestic prices of standard grade crop. The loophole is that a crop which is below an internationally priced standard has no pricing basis against which to make an assessment of subsidy. This problem arose when in 1985 Australia sold approximately 800,000 mt of feed quality wheat to South Korea. By discounting the wheat in its purchases from Australian producers in the first instance, the AWB protected itself from any charge of subsidy. Even though the Board priced the feed wheat sale off of internationally traded corn, it was indeed nonstandard wheat which was sold; hence, what otherwise might have constituted a subsidy, in this case can only be considered appropriate commercial acumen on the part of the Board.

Australia also has an "Export Expansion Grants Act" which provides incentives to encourage exports. However, the following products are ineligible: wheat, sugar, livestock, and meat.

Brazil: Like Argentina, Brazil has opted to use several indirect forms of subsidies as incentives for exports and as a tool for industrial policy. In the case of soybeans and sugar, for instance, Brazil applies different export tax rates according to the level of processing (ICM) involved. Selective tax rates are designed to promote such value-added products as soybean meal, oil, and gasohol over the sale of the raw product.

The U.S. government considers this type of tax exemption and deduction a direct subsidy alone with other practices common to Brazil's export and industrial development strategies—"preferential production and preferential export financing." Moreover, it claims that such policies have resulted in displacing value-added U.S. exports from the market and depressing international prices. Whatever legal substance there is to these claims, there is no question but that Brazil is without question pursuing a decisive industrial development strategy where export promotion by means of indirect export subsidies plays an extremely important role.

Canada: In the absence of direct subsidies, the Canadian system, like several of its counterparts, inevitably makes use of indirect subsidies to improve its export position. The main focus of attention has been on rail subsidies which allow CWB-traded commodities to be transported at below-market rates. This saving ultimately can be passed on to importers at a below-market delivery price. Another claimed transportation subsidy is the "At the East" (Atlantic and East of Buffalo) rates which apply to grain moving for export by rail received at ports on the eastern side of the Great Lakes and the upper St. Lawrence River, and to flour moving for export by rail from any point in Canada east of Thunder Bay. Rates on grain have been frozen at the 1960 level and on flour at the 1966 level.

The United States has broadened its claims of what constitutes an agricultural export subsidy to Federal and provincial stabilization programs. The pork and swine case set a precedent for the position that domestic support programs aimed at domestic producers can result in export subsidies that injure competitors. If this position is sustained in other trade cases, it suggests that the range of indirect export subsidies can be vastly extended to include domestic producer welfare programs in virtually all agricultural exporting countries.

The EC: The CAP system of restitution payments is, to date, the most comprehensive export subsidy system in effect among major agricultural suppliers. However, EC officials claim that, under GATT rules, the CAP system is exempted from consideration as a subsidy, mainly because of its defined purpose of supporting EC farmer income and its overall adherence to the equitable share principle for agricultural exports.

Exports refunds administered under the CAP are designed to bridge the gap between world market prices and the higher internal support price within the EC. The refund or restitution is the same whatever the origin within the EC, but it may differ according to the destination of the shipment. Trader profits may also vary depending upon where the stocks are drawn from, since prices in each member country are not the same. Transportation, exchange rates, and financing costs account for the largest differences in profit margins.

Refunds are fixed at least once a month by the Commission upon the advice of the Management Committee for Cereals. EC officials follow international price movements very closely in an attempt to avoid costly miscalculations on refund levels. "Ordinary" restitutions may be granted for exports of grains and processed products. In the case of wheat, there is a common refund which can apply generally to all third countries. It is calculated by taking account of the strength of competition on the world market, the level of internal prices, and the amount of EC wheat available to the market. Common refunds also can apply to a specified zone or an individual country. In theory, this type of restitution is calculated on the basis of transportation distances to the importing country.

Another option is to have traders bid for the level of refund they determine necessary to conclude a transaction. Under this system, the Management Committee will issue tenders for export refunds open either to all countries, or specific zones and individual countries.

Tenders are usually open for a set quantity, but no limit is placed on the duration of a tender. If the trader holding the refund certificate does not execute the transaction, however, he must surrender the restitution certificate and sacrifice his deposit.

Although the system has a number of built-in safeguards to protect public interests and reduce the costs of this type of subsidy program, there are loopholes which provide opportunities for additional commercial profit. There are also almost as many exceptions as there are rules for the system. Although EC officials will explain differences in refund levels between zones as mainly a question of freight distance differentials, political and other considerations also play a major role. Member countries are allowed considerable leeway in terms of zones, refund levels and commodities selected.

In the case of grains, wheat in particular, France was the largest beneficiary of the EC's export subsidies. In 1984, export subsidies for French grains amounted to $306 million, representing an average of $27 for every ton of French wheat exported, or 19 percent of the total value of France's wheat shipments during 1984.

New Zealand: Two programs are in effect, but are scheduled for phasing out by 1987—the Export Program Suspensory Loan (EPSL) and the Export Performance Taxation Incentive (EPIT). EPSL is a short-term loan for exporters. The loan, representing a maximum of 40 percent of the exporter's cost up to a ceiling level of NZ $200 million, can be converted to a subsidy on a given export sale. Otherwise, the loan is repayable.

EPIT consists of a tax credit which is deducted from the standard export tax applicable to all exporters. This fiscal program is the principal export subsidy available in New Zealand for processed meat exports. The subsidy works off the base figure of 7.7 percent of the FOB value of the product exported. For 1985-86, the subsidy is 50 percent of the earlier amount and will be reduced another 25 percent before its termination in 1987.

There is also an Export Market Development Taxation Incentive program which represents tax savings identified with private sector market development activities. The standard tax credit for this type of expenditure is 67.5 percent of the total. For fruit and dairy products, the government had concession export financing which is now being phased out. The remaining subsidies in these commodities are mainly domestic programs like stabilization plans or special credit financing for production inputs. The United States has drawn attention to these programs, but has not yet applied the same claim regarding their subsidy effects as in the Canadian pork and swine case.

Thailand: Government stocks purchased at target prices above the market price under the procurement program reenter the export market at or below the existing international price. The margin between the target and the export price is what constitutes an export subsidy. Additional subsidies

are available in the form of local export financing, duty drawbacks and exemptions for exporters, and deductions of taxable income for identifiable foreign marketing expenses. All such measures are standard means of export promotion, derived at some cost for expensive producer countries. Thailand, on the other hand, is a competitive producer which has successfully fashioned an aggressive export program that challenges the U.S. market share.

AGRICULTURAL TRADE: THE UNITED STATES AND SELECTED DEVELOPED AND DEVELOPING COUNTRIES

EXCERPT

(1) The United States has a comparative economic advantage in the production of corn, wheat, and soybeans. The advantage is created by the combination of abundant natural resources, a substantial capital investment and skilled labor. Therefore, many argue, it would be in the best interest of the United States to work toward freer agricultural trade policies, particularly through the General Agreement on Tariffs and Trade (GATT). At the same time, however, other countries also maintain a comparative advantage in the production of corn, wheat, soybeans, and rice, and will continue to compete in the export marketplace.

(2) In the 1980's the United States lost its competitive advantage in agricultural trade, as evidenced by lost market shares for all four commodities examined. Several factors caused the decline in U.S. price competitiveness including: the strong dollar, which appreciated against some major importers' currencies and some exporters' currencies; and U.S. domestic farm programs, which tended to draw U.S. commodities away from international markets, in addition to exerting upward pressure on U.S. commodity prices.

(3) Self-sufficiency (or gains toward self-sufficiency) achieved by a number of traditional agricultural importing countries has been a major factor in declining U.S. exports, particularly of wheat, soybeans, and rice. However, increased export competition from these traditional importing countries that are actively promoting agricultural development does not appear to be of major consequence.

(4) There remains in the developing nations the potential for increased per capita food consumption, if domestic food needs are to be met. There is also a potential demand for more nutritious grains and livestock products because of the desire of many people in those countries for improved diets. Both situations typically follow an upsurge in household incomes. Few of the developing nations appear to have the natural resources or the needed agricultural infrastructure to adequately supply the potential demand for food and feedstuffs. U.S. agriculture, therefore, could benefit from future economic growth in some developing nations, especially if U.S. prices are competitive with those of other exporting countries.

(5) For the most part, agricultural producing countries (especially developing countries) appear to be responsive to price. If commodity prices are relatively low, it is to a developing country's advantage to import, foregoing more costly domestic production and saving the investment for other sectors of the economy. As commodity prices rise, a combination of goals including avoiding spending large amounts of precious foreign exchange on imports and wanting to earn more foreign exchange through agricultural exports, tends to promote agricultural production in these countries. Therefore, if U.S. (and, thus world) agricultural prices were reduced, the United States would likely export larger volumes while reducing incentives for increased export competition.

(6) For reasons of national security and because of different political and economic philosophies, there are a number of nations that will likely avoid more than a modest reliance on the United States for future food supplies. These nations will go to other exporters, possibly even paying a premium, or will pursue self-sufficiency at any cost. The United States should not expect that even a competitive market position will enable it to make sizable gains in these countries.●

## THE NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE

● Mr. McCLURE. Mr. President, recently our colleague from Kansas, Senator DOLE, rose on the floor to denounce the tactics used by an outfit called the National Committee to Preserve Social Security and Medicare [NCPSSM], headed by James Roosevelt, FDR's son. Senator DOLE suggested that we should make a concerted effort to expose this group for the campaign they are waging that is frightening some senior citizens out of their wits. I want to help Senator DOLE in that effort.

We all know of organizations that use tactics that we do not approve of but I have never, in my 20 years in Congress, seen a group that seemed more intent on frightening people. Fear is a powerful weapon and the NCPSSM uses it artfully. They use phrases like "crippling financial hardship" and "dreary existence"—intended to conjure up the worst picture possible. Congress and the administration are portrayed as wanting to slash Social Security benefits with the entire system as being in grave danger.

Mr. President, after one of the NCPSSM's mailings go out, I hear from dozens and dozens of frightened people. They write in shakey handwriting. They send me $10 to "help save Social Security." They tell me they have gone to the local Social Security to make a donation so the system will not go under. Their distress is real and it is totally unnecessary.

Mr. Roosevelt knows full well, as do we all, that the Social Security Old Age Trust Fund is expected to remain solvent well into the next century—and that is under the worse case scenario. We know right now that Medicare is going to face some financial problems, but no one thinks for a minute that Congress is going to let Medicare go bankrupt.

Mr. President, James Roosevelt's organization uses the fears of some confused senior citizens who do not understand politics. Most people do not understand the mechanics of either the complicated Social Security System or the equally complicated workings of Congress. These people are easy prey for an organization that makes them think their financial support is in jeopardy. I think it is indecent to take advantage of these peoples' fears and vulnerability.

Roosevelt's organization, as far as I can tell, does not do much—other than scare senior citizens and flood our offices with petitions. For example, last year, the NCPSSM sent out a fundraising letter warning that the disinvestment of the Social Security trust fund threatened benefit checks and that his group was working with Congress to correct this problem. Yet, when the House Social Security Subcommittee held hearings on the subject, the NCPSSM did not even ask to testify. This is what they call "working with Congress?" As a matter of fact, I understand that the first and only time the NCPSSM has testified before the House Social Security Subcommittee was during hearings March 10 which were investigating the practices of the National Committee to Preserve Social Security and Medicare.

I have not seen anything but talk out of this group, and frankly, I think talk is cheap.

Week before last, as I just said, the House held hearings on the mailing tactics of the National Committee to Preserve Social Security and Medicare and the outcome was not pretty. The subcommittee staff said the group spent 88 percent of its funds on mailings in 1985. I do not think that is a very good track record.

After the House hearing, the NCPSSM got real busy and immediately issued a press release defending themselves. Mr. Roosevelt is quoted as saying, ". . . we continue to be grouped together with people selling laminated social security cards, bogus insurance or nonexistent legislative advocacy." Mr. Roosevelt, you have hit the nail on the head, and probably said it much better than I could. Once this organization cleans up its act and stops scaring the wits out of people, perhaps it can be an effective lobbying group. But until then, I think their opinions are worth just about as much as the "personal, gold embossed plastic membership card" they offer potential members.

Mr. President, I ask that the text of a memorandum prepared by the House Ways and Means Social Security Subcommittee staff be printed in the RECORD at this time and I urge my colleagues to use this information when communicating with constituents about the National Committee to Preserve Social Security and Medicare.

The memorandum follows:

BACKGROUND ON THE NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE

STRUCTURE

The National Committee to Preserve Social Security (NCPSS) was established in 1983 as a tax-exempt 501(c)(4) organization permitting it to engage in lobbying. The National Committee to Preserve Social Security *and Medicare* (NCPSSM) was established as a 501(c)(3) charitable organization in 1983. Although the 501(c)(3) has generally been inactive, it lent its name to the preexisting organization.

James Roosevelt serves as Chairman of the organization. Other officers include William Wewer, Director and Secretary; Kathleen Marquardt, Director; and Blanche Kelly, Treasurer. NCPSSM was organized by Butcher Forde Consulting (BFC), a California-based direct mail firm. Roosevelt was a paid consultant to BFC in 1982 and 1983 receiving $35,000 for his services. William Wewer has provided legal counsel to BFC since 1977.

MAILINGS

The mailings of the NCPSSM solicit an initial $10 annual membership in the organization. Frequent subsequent mailings solicit additional contributions.

In 1985, NCPSSM sent 17 mailings (not including newsletters), 13 of which included solicitations of money. In 1986, there were 28 mailings; 22 contained solicitations. Nonfundraising mailings were 6 Legislative Alerts and a half dozen newsletters. One of the recent NCPSSM mailings went to one in five households in the U.S.

A list of questionable or misleading statements included in NCPSSM mailings is attached (see attachment No. 1). The worst of these was sent in 1985 as an URGENT-ACTION-GRAM. It declared that NCPSSM had to raise $250,000 immediately to support legislative and legal action to restore all money taken from the social security trust fund. "Lawyers must be hired and lawsuits prepared" the ACTION-GRAM said. While the Chairman of the Subcommittee on Social Security, other Members of Congress, and several senior citizen organizations brought a lawsuit before the ACTION-GRAM was mailed, NCPSSM never filed any legal action.—Prepared by the staff of the Subcommittee on Social Security, Committee on Ways and Means.

FINANCES

According to the Internal Revenue Service Form 990 which is required to be submitted by tax-exempt organizations, the income of NCPSSM has increased dramatically since its creation. (See attachment No. 2 for more detail.)

| | *Millions* |
|---|---|
| 1983 | $1.7 |
| 1984 | 9.8 |
| 1985 | 29.5 |
| 1986 | 30.0 |

Although NCPSSM received contributions in 1983 of almost $2 million, the organization did not register to lobby until the spring of 1984. The reports filed with the Clerk of the House show the following lobbying expenditures (see attachment No. 3 for more detail):

| | *Millions* |
|---|---|
| 1983 | 0 |
| 1984 | $0.8 |
| 1985 | 2.5 |
| 1986 | 3.0 |

ALLOCATION OF EXPENSES

The NCPSSM Price-Waterhouse audit for 1983 showed that 97 percent of NCPSSM expenditures were for direct mail. By 1984, NCPSSM had begun to do content analysis for fundraising letters based on the "percentage of material in each mailing relating to the particular program and support services." This analysis offered the following breakdown of direct mail and postage costs for 1984:

| | *Percent* |
|---|---|
| Education | 41 |
| Legislation | 29 |
| Research | 1 |
| Fundraising | 25 |
| Other administrative costs | 4 |

The IRS Form 990 shows a breakdown of expenses similar to that in the audit. In addition, however, the Form 990 breaks out expenses by functional category. A functional breakdown shows that, in 1985, the NCPSSM spent 88 percent of its funds on mailing costs and only 1 percent on salaries for lobbyists. (See attachment No. 4.)

PAYMENTS TO OFFICERS

The Price-Waterhouse audit shows the amount of money paid by NCPSSM to its own officers. None of the officers received payment for their services as officers, except Roosevelt who received $60,000 in 1986. In nearly every year, William Wewer received payment for legal services and Kelly Consultants received money for mail processing services. The amounts received by these individuals were:

| | *Millions* |
|---|---|
| 1983 | $0.2 |
| 1984 | 1.2 |
| 1985 | 1.5 |

Butcher Forde Consulting has a 19 year contract with the NCPSSM to manage all of the organization's direct mail operations. Under the contract BFC receives $.05 per letter and 15 percent of the "gross amount billed by outside suppliers and independent contractors which have been retained by BFC." The NCPSSM has said that their most recent mailing went to 20 million households. At $.05 a letter, BFC made $1 million on just one mailing exclusive of the 15 percent add-on. If BFC received $.05 for 70 million of the 88 million NCPSSM mailings in 1986, their income would have been $3.5 million.

DEPARTMENT OF JUSTICE

The Department of Justice is responsible for enforcing the statute prohibiting the misuse of the Great Seal of the U.S. In May, 1984, the Justice Department requested that the NCPSSM cease using the Great Seal of the U.S. on its mailings. The NCPSSM subsequently altered the seal used on its stationary to reverse the head of the eagle and change several details in the seal.

POSTAL INSPECTOR

The U.S. Postal Inspector is responsible for enforcing the mail fraud and false representation statute. In 1983, after several complaints from the public, the Postal Inspector began investigating NCPSSM mailings. While there did not appear to be justification for beginning a legal action, the Postal Inspector has requested that NCPSSM alter several of its mailings. NCPSSM has apparently complied with most of these requests including altering its envelopes. Envelopes which previously said IMPORTANT SOCIAL SECURITY DOCUMENTS ENCLOSED Now say IMPORTANT NATIONAL COMMITTEE DOCUMENTS ENCLOSED.

POLITICAL ACTION COMMITTEE

In 1983, NCPSSM formed a political action committee. NCPSSM-PAC receipts in 1986 were $5.2 million. (See attachment #5 for more details.) It made contributions to candidates of $0.7 million—14 percent of receipts—and independent expenditures of $1.9 million. Operating expenses of the PAC were $3.1 million—58 percent of receipts. Filings with the Federal Elections Commission show that the PAC uses most of the same suppliers of services as the NCPSSM including William Wewer, Kelly Consultants and Butcher Forde Consulting.

REAL ESTATE

The most recent mailing of the NCPSSM requests contributions of $10, $15, $25 or more from the elderly to build the Franklin Delano Roosevelt Memorial Social Security and Medicare Building in Washington, D.C. The building will be an office building for NCPSSM. With this mailing, NCPSSM is trying to raise $2.8 million for a down payment on the building. A dollar bill is enclosed and the recipient is asked to return it along with a contribution. By returning the dollar, the donor will presumably be earmarking current NCPSSM funds for use in building the real estate.

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INACCURATE AND MISLEADING STATEMENTS OF THE NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE

I. INACCURATE STATEMENTS

February, 1983

Statement: Persons sending a $10 annual membership were promised "a regular newsletter" and a Legislative Alert Service to "immediately advise you, by telegram or letter, of fast breaking development in Washington . . ."

Fact: While the NCPSSM raised $1.7 million in 1983, the first newsletter did not come out until June, 1984. In May 2, 1984 letter to Chairman J.J. Pickle, James Roosevelt said, "we are producing our first newsletter . . ." Similarly, contributors did not begin receiving information on legislation until the Spring of 1984. A formal Legislative Alert Service was not established until much later.

November, 1983

Statement: "The Medicare Fund has borrowed $12,400,000,000.00 (12.4 Billion dollars!) from the Social Security Fund. Medicare is in so much trouble it has been unable to even pay the interest on this loan! This debt endangers both Social Security and Medicare!"

Fact: The medicare trust fund did not borrow from the social security trust fund; it was the other way around. Neither fund was endangered by this temporary loan.

March, 1984

Statement: In a solicitation, "And, most importantly, you will be helping to make it possible to continue our work here in The Capitol to protect, defend and improve the Social Security and Medicare Programs."

Fact: The NCPSSM could not have continued its work in the Capitol since it had not hired lobbyists and did not register to lobby until April, 1984. (NCPSSM members had been asked to mail petitions to Congress in November, 1983.)

Spring, 1984

Statement: In the NCPSSM's Social Security News Chairman's Report, Roosevelt stated, "I have put my entire staff onto the notch year issue."

Fact: When the newsletter was issued, the NCPSSM had virtually no staff, and Jim Corman had just been hired to lobby for the NCPSSM.

November, 1985

Statement: In an URGENT-ACTION-GRAM the NCPSSM told its members that it had to raise "$250,000 immediately to support legislative and legal action to restore all money taken from social security trust fund monies." The ACTION-GRAM went on to say, "Lawyers must be hired and lawsuits prepared."

Fact: While Chairman of the Subcommittee on Social Security James R. Jones, other Members of Congress, and several senior organizations including the American Association of Retired Persons brought a lawsuit before the ACTION-GRAM was mailed, the NCPSSM never filed any legal action.

II. MISLEADING STATEMENTS

February, 1983

Statement: Contributors were offered a "FREE personal confidential computer analysis of your Social Security Account status—according to official government records."

Fact: Prospective contributors were led to believe that they would receive something more than the earnings record which they could obtain free from the Social Security Administration.

November, 1983

Statement: "Just recently, the National Commission on Social Security suggested taxing Social Security as ordinary income! Another proposal would increase the minimum age for receiving Social Security to 68."

Fact: The National Commission on Social Security Reform recommended taxing benefits in January, 1983. Increasing the retirement age to 68 was among the proposals discussed. This NCPSSM statement was mailed out 6 months after enactment of the Social Security Amendments of 1983 which resolved these issues.

Spring, 1984

Statement: One of the first NCPSSM newsletters listed "Projects and Accomplishments." Under the heading "Forums and Speeches" was "Blue Ribbon panel report on Bailout Bill."

Fact: There was no forum. The report was created by cutting and pasting comments and past testimony of former Commissioner of Social Security Bob Ball, former Chief Actuary Robert Myers, and others into a format that appeared to be the give-and-take of an actual forum.

Fall, 1984

Statement: "Last year, six months of our cost-of-living increases were deleted. This loss equaled 2.4 percent of each Social Security recipient's income. Then came a ridiculous law that suspends cost-of-living increases entirely if inflation falls below 3.0 percent.

Fact: The last sentence implies that the Congress passed a law in 1984 to deny the COLA. In fact, the 3% COLA trigger was placed in the law in 1972 and would not have eliminated a COLA but simply delayed it a year. Further, the letter went out after the Senate had already overwhelmingly passed legislation to guarantee that a COLA would be paid in 1985.

1986

Statement: In a mailing about the Treasury's disinvestment of the Trust Fund, the NCPSSM said, "Fortunately, thanks to your past support, the National Committee acted. After intense lobbying pressure, Congress returned the Trust Fund's assets."

Fact: According to NCPSSM's report to the Clerk of the House, the organization mailed out Legislative Alerts to its members on November 8, 1985 to generate letters and phone calls to Members of Congress on restoring trust fund assets and issued 3 press releases in November and December. While the final Gramm-Rudman-Hollings legislation containing the provision restoring assets did not become law until early December, 1985, the restorative provision had already passed the House as a part of debt limit legislation on November 1—seven days before the NCPSSM Legislative Alert was mailed. There was never any doubt that this provision would be enacted.●

## PROPOSED GAS TAX

● Mr. WEICKER. Mr. President, I would like to bring to the attention of my colleagues an editorial in today's Washington Post regarding imposition of a gas tax for reduction of the deficit and providing for economic security. Imposition of any tax is onerous and certainly a decision that Congress would like to avoid under almost any circumstances. However, certain fundamental issues, a massive Federal debt and an uncertain energy future reliant upon foreign energy supplies, have come together to make imposition of a fuel tax not only a serious consideration but, I believe, a necessary one.

I know of other Members, both in the House and Senate, that feel such a tax has merit. Not only does a gas tax raise important revenues to reduce the deficit, but directly encourages conservation and curbs consumption. I have watched with great concern the rapid increase in oil imports and believe that a fuel tax would work to buffer our reliance on a potentially unstable supply.

Mr. President, I ask that the Washington Post editorial be printed in the RECORD.

The editorial follows;

[From the Washington Post, Mar. 24, 1987]

2. HOW ABOUT 10 CENTS A GALLON?

Perhaps there's a way out of this year's budget maze after all—if the political gameplaying should ever stop. When the chairman of the Ways and Means Committee, Dan Rostenkowski, tipped his hat politely to the gasoline tax the other day, he wasn't making a commitment. But it certainly was an interesting suggestion. The important thing to understand about a gasoline tax is that each penny per gallon raises a billion dollars a year. The plan with which the House leadership is struggling would be to reduce the budget deficit by $36 billion, half of it in spending cuts and the other half in tax increases. And so far, of course, it's been the thought of raising taxes that has blocked all progress. But an increase of 10 cents in the present gasoline tax would raise most of the money required, and gasoline would still be cheaper than it has been through most of this decade.

The standard complaint about a higher gasoline tax is that it would be regressive. It would be a greater burden on the poor than on the rich. But the only truly progressive tax is a graduated income tax, and neither President Reagan nor Congress is willing to return to the income tax this year. The solution, if there is to be one, will probably have to be a consumption tax of some sort. The gasoline tax is simple, and in the amounts now under discussion, it would leave the total cost of gasoline well below the levels with which the country is accustomed to living.

Unlike other consumption taxes, the gasoline tax would pay the country an additional dividend by contributing to its economic security. The rising trend in oil imports constitutes a national danger, as the administration anxiously pointed out last week—although it didn't have any very useful ideas about possible remedies. But this tax is one. To the extent that higher cost discourages consumption, the tax will hold down oil imports a little.

No tax that raises $10 billion a year is going to be wildly popular. But the gasoline tax would be less painful, less unfair and more useful than any other that's now on the table.●

## LEADVILLE AS MINING EDUCATIONAL CENTER

● Mr. ARMSTRONG. Mr. President, Helene C. Monberg is a native Coloradan who is a journalist in Washington covering natural resource and public lands issues of concern to the West. She is also widely known in the Washington area for her tireless work on behalf of the Achievement Scholarship Program, a program she initiated and successfully operates to rehabilitate youthful offenders and establish them as gainfully employed, fully productive members of society.

The Monbergs are numbered among the pioneers of Colorado. In 1887, Helene's paternal grandfather, Soren Christian Monberg, left his native Denmark and his career as a railroad engineer to search for silver in Leadville, CO. He did not find a fortune in silver, but in 1890 brought his wife and four children to Leadville and became a top blacksmith in Leadville's Greenback Mine. Members of the Monberg family have lived in Leadville for a century and have helped to shape the colorful history of this great Colorado mining community. Growing up in Leadville left such a powerful imprint on the life of Helene Monberg that she is establishing two scholarships which will go each year to graduating seniors of Lake County High School. Leadville is now to become the site of a National Mining Hall of Fame and Museum and Helene Monberg has written an article on this interesting new chapter for her home community in her publication Western Resources Wrap-up.

Mr. President, I ask for Helene Monberg's excellent article to be printed in the CONGRESSIONAL RECORD. It is appropriate that a person who has remained loyal to her Colorado mining town roots should write of the development of the National Mining Hall of Fame and Museum and equally appropriate that it should be recorded in the CONGRESSIONAL RECORD.

LEADVILLE AS MINING EDUCATIONAL CENTER

WASHINGTON—"There will always be a Leadville" is the motto that Leadville kids have grown up with for the past 100 years.

But Leadville, that tough, historic little mining town (population 3,200) nestled just east of Colorado's Continental Divide at the foot of Mt. Massive, as a mining educational center. Such an idea never crossed the minds of Leadville school kids.

That's what political and mining industry leaders here and in Colorado had in mind, however, when Leadville was selected over Butte, MT., Golden, CO., and Lead, SD, on December 15 as the site of the National Mining Hall of Fame and Museum.

Senator William L. Armstrong, R-Colo., called the selection of Leadville "fantastic. It's the miner's pick." Senator Timothy E. Wirth, D-Colo., said, "It provides a tremendous opportunity to teach young men and women about mining." Representative Joel Hefley, R-Colo., said, "When you think of Leadville, you think of mining." Representative Hank Brown, R-Colo., said the locale would stimulate interest in the "vast contributions that the mining industry has made in our modern society." All four are sponsoring legislation (S. 450 and H.R. 958), Cosponsored by the entire Colorado congressional delegation and by Representative Dick Cheney, R-Wyo., currently before the Senate and House Judiciary Committees, to charter the National Mining Hall of Fame and Museum at Leadville as a national institution.

This move has strong backing here. Director Robert C. Horton of the U.S. Bureau of Mines told Western Resources Wrap-up (WRW) in an interview on March 5, "The Mining Museum at Leadville will advertise the many contributions that mining has made to this country. It will educate the public on the necessity to maintain a strong domestic mining industry."

President Jack A. Knebel of the American Mining Congress (AMC) told WRW in an interview on March 6, "We are supporting the federal charter bills for the Leadville Museum. We see the Museum as a teaching laboratory, a way to educate the public that domestic mining is a viable—and valuable—industry."

Both the Bureau of Mines and AMC sponsor mining seminars, workshops and conferences, often in conjunction with industry meetings. Knebel is very high on holding workshops for teachers of children in the sixth to eighth grades. If 30 teachers transmit what they learn at such workshops to 200 kids each, the message is transmitted to 6,000 individuals, he told WRW. Neither organization is in a position to provide much, if any, funding for the Leadville Museum, but both intend to provide a lot of moral support for it, Horton, and Knebel told WRW.

The Leadville facility will, of course, honor the great and/or legendary leaders in mining in this country—H.A.W. Tabor and his wife Baby Doe, Thomas F. Walsh, the Guggenheim brothers— in the Mining Hall of Fame. "The first inductions will be made into Mining's Hall of Fame on Sept. 26-27 in Leadville," Charles S. Morris of the Hall of Fame office in Golden recently informed WRW. some of mining's many "rascals" may be honored too.

But the major work of the Leadville facility will be education. It is "intended to be the showcase and literary and education center for the mining world," as a Bureau of Mines backgrounder put it. The Armstrong-Brown bill states the new corporation, when chartered with the passage of the legislation, will "foster, promote and encourage a better understanding of the origins and growth of mining, especially in the United States, and the part mining has played in changing the economic, social and scientific aspects of our nation." A library on the history of mining will be established. It will include pictures, paintings, books, papers, documents, scientific data, relics, mementos, and artifacts. It could become one of the world's finest in this field. From mining to tourism—a warning from Horton.

With Climax finally closing down its mining operation about 10 miles northeast of Leadville this month, and with most of its other famous mines long since closed, Leadville in recent years has attempted to become a tourist town. The Bureau of Mines backgrounder stated, "Leadville is using its mining heritage to attract tourists." Town merchants have contributed funds to provide new street lighting and spruce up streets with new brick pavements. The Matchles Mine, Tabor House, Tabor Grand Hotel, Tabor Opera House, and Healy House have been restored. A sore point: the old Vendome Hotel on Harrison Avenue has been neglected, and it's an eyesore, a Leadville native returning for a visit wrote last Christmas.

Leadville is the highest town in the United States at 10,152 feet elevation above sea level. It lies northeast and east of Mt. Elbert and Mt. Massive, the second and third highest mountains in the "south 48" and the highest in the Continental Divide. They are much beloved mountains by all Leadvillites. A new ski area at Quail Mountain, about 12 miles southwest of Leadville, near the Lake-Chaffee County line, is actively being considered. The Lake County Planning Commission—Leadville is the county seat of Lake County—has a proposal before it to build a condominium complex on the east side of Leadville to provide tourists and other visitors with dining and other entertainment in a unique mining environment.

Leadville still has several mines operating, notably Black Cloud. WRW asked Horton how many active mining towns he know that had been able to make the transition to tourism successfully—and still continue to mine. "I don't know of any," he replied. "If a mining town is successful in developing tourism or other activities it is very difficult to continue to mine there or for mining to return. When the amenities come in, mining goes out. People who are drawn to such areas after mining ceases—often because of their remote location—want to live in abandoned mining camps. (Other) industries are generally not interested in locating in mining towns. Once mining is gone, it is gone forever," said Horton, a Nevadan who lived for several years on Colorado's Western Slope. Die is cast.

With many of Leadville's rich veins of ore depleted, the town's city fathers and some Leadville natives living elsewhere worked mightily last year to bring the Mining Museum to Leadville. Robert Kendrick, a Leadville native and a retired vice president of Climax, "took the leading role in making the Leadville presentation to the Mining Museum Site Selection Committee" when that panel came to Leadville last October, Terry Fitzsimmons, another Leadville native with AMAX in Golden, recently told WRW. He rated Kendrick's presentation "superb . . . There is no question that Bob's presentation must have played an important, if not key, factor in the process," Fitzsimmons said. Last month Kendrick was named chairman of the Colorado fund-raising effort for the Mining Museum by its Board. To date the Board, thru its Grubstake Fund, has raised more than a quarter million dollars, mainly from Colorado contributors.

There was "community-wide support for the National Mining Hall of Fame and Museum in Leadville. There was so much enthusiasm. They really wanted us," Chairman Douglas V. Watrous of the Museum Board said of Leadville residents after the site selection. More than 300 residents led by Mayor Dennis Reece turned out on Dec. 22 at a reception at City Hall for the Board to welcome the Museum.

Morris said the key local participants were the City of Leadville, Lake County Commissioners, the Leadville/Lake County Chamber of Commerce, Lake County Public School District R-1, and the Timberline Campus of Colorado Mountain College. They were backed up by support in the Divide country from neighboring communities—Aspen, Vail and Breckenridge—and by others.

The school district offered the vacant Lake County Junior High School building to the Board for $5 under a 10-year lease, with renewal rights. Two lots for parking next to the site were also provided. Some $50,000 in services were donated by the city, including two years' utility costs; also snow removal, office space and telephone hookups. Colorado Mountain College donated $13,000 in institutional support and technical assistance. Climax Molybdenum Co. pledged it would provide a model of its Climax mine. The state of Colorado made an economic grant of $40,000 to help put out a new brochure and provide new highway signs. And the area federal job training agency offered to commit funds to help pay for the cost of help at the Museum for the first six months.●

## NAUM MEIMAN

● Mr. SIMON. Mr. President, I am pleased to inform my colleagues that two American citizens in the Soviet Union received permission to emigrate yesterday. Such actions by the Soviet Government lends credibility to its claims of reform. Soviet reforms must not be limited to a few releases, however. We must continue to put pressure on the Soviet Government until every citizen who wishes to emigrate is allowed to do so.

Naum Meiman is among the many refuseniks who desire to live life in the West. In the past 10 years Naum has experienced numerous refusals, persecution by the Soviet Government, and the death of his wife Inna. As he adjusts to life without his dear wife, Naum has one simple wish—to spend his remaining years in the West. He has suffered long enough. It is time for the Soviet Union to grant Naum his wish.

Statements by Soviet officials indicate that emigration levels will continue to rise over the next few months. This is a large step by the Soviet Government and I heartily encourage it. However, it is imperative that Naum

Meiman is among the individuals who are given permission by the Soviet Government to emigrate.●

## HADASSAH'S 75TH ANNIVERSARY

● Mr. LEVIN. Mr. President: This year mark's the 75th anniversary of the founding of Hadassah, the Women's Zionist Organization of America. During these past 75 years, Hadassah has grown from the dream of one remarkable woman, Henrietta Szold, to an organization of 385,000 women. Today Hadassah is the largest voluntary woman's organization in the United States.

It is its volunteer nature that has always impressed me most about Hadassah. Hadassah's volunteers have performed so many vital functions. These functions have been both life-saving and life-building. During the 1940's, Hadassah's Youth Aliyah program brought hundreds of thousands of European Jewish children to Israel where it educated them and trained them for productive lives. The absorption of children continued with young refugees from the Arab world—from Iraq, Syria, Tunisia, Morocco, and Yemen. During the last 10 years, Hadassah has continued its rescue and rehabilitation efforts through its work with Iranian and Ethiopian children.

Hadassah is best known for its medical facilities in Jerusalem—facilities which constitute the finest medical center in the Middle East. Hadassah hospital treats a half million patients a year. Most of those patients are Israeli but Hadassah does not bar treatment to anyone because of his or her nationality. In fact, men and women from states which do not recognize Israel—including Saudi Arabia and Jordan—have made their way to Hadassah where they know they will get the finest treatment available anywhere. Building bridges for peace has always been one of Hadassah's missions.

I am proud to salute Hadassah on its 75th anniversary. And I am proud that 8,000 women in Michigan—including many members of my own family—are included among the ranks of Hadassah. I trust that the next 75 years of this fine organization will be as productive, as life-sustaining, as these past 75 have been. There is no reason to expect anything less.●

## TWO-YEAR BUDGET

● Mr. FORD. Mr. President, in September 1981, I introduced what was the first bill ever introduced in the Senate to establish a 2-year budget cycle. In every Congress since then, I have reintroduced such proposed legislation.

It was, therefore, with special interest and pleasure that I heard President Reagan in his Saturday radio broadcast commend such a reform for consideration. It is with additional pleasure and enthusiasm that I welcome my colleague, the ranking minority member of the Rules Committee, Mr. STEVENS, as an original cosponsor of S. 286, the 2-year budget bill that I introduced in this Congress.

As the President's remarks seem to suggest, this is a budget reform idea whose time seems finally to have come. To facilitate its consideration, it is my intention to introduce soon a resolution to create a special committee for that specific purpose. Because jurisdictional interest in such legislation is spread so widely over several standing committees, it is my opinion that only with a special committee can real consideration and appropriate action be assured.

## DRUNK DRIVING

● Mr. DANFORTH. Mr. President, Congress has taken a number of steps in the last 6 years to combat the problem of drunk driving and I am pleased it appears these efforts are beginning to pay off.

I ask that an article from the New York Times highlighting a shift in social attitudes against drunk driving be printed in the RECORD.

Further, I ask that a press release issued today from the Insurance Institute for Highway Safety be printed in the RECORD. Clearly the IIHS points out the positive effects of raising the drinking age to 21.

Mr. President, there is mention in the New York Times article of a program in Missouri for detecting highway trouble spots. I am gratified that my home State is making special efforts to combat this serious problem.

The materials follow:

[From the New York Times, Mar. 23, 1987]

NATION IS GAINING ON DRUNKEN DRIVING—NEW LAWS AND NEW ATTITUDES ARE MAKING ROADS SAFER

(By Andrew H. Malcolm)

CHICAGO, March 22.—Widening public and legislative support for ever-tougher laws against drunken driving and tighter enforcement of existing regulations appear to be noticeably deterring may from driving while intoxicated.

In interviews, officials of several states said that they had detected a silent shift in social attitudes against drunken driving, akin to the reduced acceptance of smoking in public. At the same time social drinkers have been shunning hard liquor in favor of lighter drinks, like wine coolers and light beer.

Some experts see the shifting as part of a broader social trend emphasizing personal health habits involving, for example, less smoking, more physical exercise and greater attention to nutrition.

"PHENOMENAL" RECENT PROGRESS

"Many people have changed their habits," Said Jim Edgar, the Illinois Secretary of State, a longtime advocate of strict enforcement of drinking laws. "People's consciousness is generally higher. It doesn't mean we are done, by any means. But the United States has made phenomenal progress in the last 48 months."

Statistics indicate that a combination of factors, including Federal and state crackdowns and educational campaigns, are having beneficial effects, especially among social drinkers.

"There's definitely been a change in people's attitude toward drinking and driving," said John Boffa, spokesman for the Governor's Traffic Safety Committee in New York. "they take it for more seriously now."

For a while, several officials said, the public's declining tolerance for drunken driving and its related toll was far ahead of the more lenient attitudes of judges and elected representatives. But now the officials seem to be catching up.

According to Federal statistics, 44,000 people die on American highways each year, about half of them in accidents involving alcohol. But after bolstering their laws, some states are beginning to report reductions in the number of alcohol-related deaths.

MANY NEW LAWS ENACTED

John J. Grant, the program director for the National Commission Against Drunk Driving, which monitors legislative and educational activities in the states, said that in the last five years, some 3,000 laws on drinking and driving have been proposed around the nation, and as many as 400 new ones enacted in the states to strengthen enforcement.

While he said that there was work yet to be done and that some states had laws that are weaker in one respect than others might be, "over all the states in the last five years have begun to address the problem."

In Illinois nearly 92 percent of the 55,000 people arrested in 1986 for drunken driving lost their driving privileges, up from only 25 percent a few years ago. And Mr. Edgar recently proposed legislation for even tougher regulations aimed at repeat offenders, about 22 percent of all drunken driving arrests here.

Among other things, new laws would elevate drunken driving to a felony and third-time offenders would face harsher treatment, the loss of their license for 10 years, and 3 years in prison.

"It may sound tough," said Mr. Edgar, "but it's not really when you realize the enormity of what these individuals have done."

IN CALIFORNIA, A MURDER CONVICTION

In California last month Dennis Jewell, a repeat offender charged in the death of five people, was the first person in San Bernadino County to be convicted of murder in a drunken driving case. He was sentenced to a prison term of 77 years to life and will not be eligible for parole until the year 2025. He had driven through a stop sign and hit a car in which a mother and her four children were riding.

"This case shows," said Gary S. Roth, a deputy district attorney, "that in our county drunk driving is taken a lot more seriously by society, juries and the court."

In Massachusetts, which banned the offering of free or discounted drinks at bars "happy hours" two years ago, the police regularly videotape drunken driving arrests to facilitate conviction, and state officials attribute at least part of a recent decline in traffic deaths in the state to tougher enforcement.

That state's Governor, Michael S. Dukakis, a contender for the Democratic Presi-

dential nomination whose brother died in the early 1970's in a hit-and-run accident that the police attributed to alcohol, regularly visits school dances to warn against combining drinking and driving.

Other states have also seen a decline in the number of lives lost to drunken driving. A study in Wisconsin, where drunken driving conviction rates jumped from 70 percent 10 years ago to more than 90 percent today, found that 44.3 percent of 1981 traffic deaths were caused by drivers who were drunk. Last year the figure was down to 35.3 percent.

In Missouri, a quarter of traffic deaths last year involved drinking drivers, down from 49 percent in some previous years.

A MESSAGE TO OTHER DRIVERS

The Missouri State Police now use computers to detect highway trouble spots where more alcohol-related accidents occur. Then they establish roadblocks nearby. Besides catching drunken drivers and encouraging tough local policy action, the steps sent a message to those who might consider driving after drinking.

"You get stopped," said Capt. Ralph G. Biele of the Highway Patrol, "and you go home and tell your neighbor they're really cracking down."

Some courts across the country have been more lenient in allowing the police to stop drivers they think may be drunk. In Minnesota, repeat offenders, about 36 percent of drunken driving arrests there, can now expect a jail term of 7 to 90 days and a fine up to $1,500. Previous sentences varied widely, and officials say the maximum was rarely imposed.

Those who refuse a breath test automatically lose their licenses for a year. Last year 42,586 Minnesota drivers lost licenses, at least temporarily, up from 14,251 in 1976.

"NOT A DROP" FOR TEEN-AGERS

Wisconsin routinely suspends the licenses of teen-agers stopped with any measurable amount of alcohol—under the state's "not a drop" law—even below the 0.10 percent blood alcohol concentration level that is applied to adults in the state.

At least 43 states set a standard of 0.10 or less to prove sobriety, said Mr. Grant, the National Commission Against Drunk Driving official. For a 160-pound man, that could be about five drinks in two hours, according to the National Highway Transit Safety Administration.

Under the threat of losing Federal highway money, all but seven states have set their legal drinking age at 21, according to the National Commission Against Drunk Driving.

However, South Dakota, one of the states that has not, is challenging the Federal Government's authority to regulate drinking ages. The Supreme Court accepted the case for review last December.

But many officials now believe the most effective deterrent is immediate and virtually certain punishment, especially if it concerns loss of a driver's license.

"People think 'How am I going to get to work?' 'How am I going to get to school?' said Barbar Kopans of Massachusetts' Office of Public Safety.

Mr. Grant noted that Minnesota is one of 22 states in which an arresting officer can take a suspect's driver's license at the time of the offense, subject to appeal.

In Massachusetts the driver's license is revoked at arraignment for anyone accused of driving while intoxicated.

"Nothing makes victims' families angrier than discovering a drunk driver still driving," said Gary Mack of the Illinois Secretary of State's office.

TOMBSTONES ON A BLACKBOARD

In that state, drunken-driving warnings now begin in kindergarten.

To make a point, Bill Richter, a long-time eighth-grade teacher in Barrington, Ill, draws 16 tombstones on the blackboard, one for each of his former students who died in the last 30 years in accidents related to alcohol.

"In the 1970's" noted Secretary of State Edgar, a Republican overwhelmingly reelected last fall, "you could not get a drunk driving bill passed. Now, thanks to grassroots groups and the media focus on the issue, it's much easier. We get bipartisan support for every bill. We've got to make sure that the people we catch are actually punished with something meaningful, not just a slap on the wrist.

"Police tell me, they must look longer and harder now to find drunk drivers," he said.

In Minnesota, where the number of driver's licenses revoked in connection with alcohol jumped from 14,251 in 1976 to 42,586 last year, random roadside surveys indicate that 2.5 percent of drivers on the road at night are legally drunk, half the figure a decade ago.

A new survey by Louis Harris & Associates for Prevention magazine found that 26 percent said they had driven after drinking, down from 32 percent in 1983.

"We are deterring the social drinker," said Thomas A. Boerner, Minnesota's traffic safety director.

But of those who continue to drive under the influence, Albert L. Godfrey, a Maine highway safety representative, said: "We're getting into the hardcore alcoholics now."

"Before, they bagged social drinkers, and heavy drinkers got by," he said. "Now that social drinkers aren't out there, the alcoholics are getting caught."

Susan Cowan-Scott of California's Highway Patrol said that once drunken driving was considered a law-enforcement problem; now it is seen as a social problem with "a growing public attitude of intolerance."

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TOUGHER PENALTIES GET RESULTS IN LOCAL STATES

In line with the national trends, all three states in the metropolitan area have revised their laws to discourage drunken driving.

In 1981, New York adopted its Stop-D.W.I. program, which significantly increased the penalties for driving while intoxicated.

Under the new laws, the minimum penalty for drivers with a blood alcohol level of 0.05 percent to 0.10 percent, designated as driving while impaired, was raised to a $250 fine and suspension of driving privileges for 90 days.

For those convicted of driving while intoxicated, defined as a blood alcohol level of 0.10 percent or higher, the minimum penalty was increased to a $350 fine and a six-month suspension of driving privileges.

Before the program took effect in November 1981, said John Boffa, a spokesman for the Governor's Traffic Safety Committee, there were no minimum fines and most drivers paid far less than the new minimums.

State officials say the number of accident fatalities involving drunken drivers fell by 23.2 percent in the three years after the changes took effect.

Mr. Boffa said the state's decision to raise the minimum drinking age to 21, from 18, had also resulted in a significant drop in the number of fatal accidents involving drunken drivers under that age. In the first seven months of the new law, which took effect Dec. 1, 1985, the number of such accidents was roughly half that of a similar period five years earlier.

New Jersey enacted 23 drunken driving statutes in the early 1980's that state officials say gave the state one of the toughest and most comprehensive body of laws on the subject. The state increased the drinking age to 19 from 18 in 1980 and then to 21 in 1982.

The state also increased penalties for driving with a blood alcohol level of 0.10 to include fines of $250 to $400, the loss of a driver's license for six months to a year, a discretionary jail sentence of up to 30 days, 12 to 48 hours of analysis and instruction at an Intoxicated Driver Resource Center and an annual $1,000 driver surcharge paid to the Division of Motor Vehicles for three years. A second offense increases the fines, $500 to $1,000, at least two days in jail and license suspension for two years. A third offense carries the same fines but the driver loses the privilege for 10 years.

The combination of tougher laws and police roadblocks around the state were credited in a 1985 report with reducing the number of alcohol-related traffic deaths over a four-year period by 43 percent.

Connecticut stiffened its penalties against drunken driving in 1985.

Under the 1985 Connecticut law, a first conviction for drunken driving carries a mandatory sentence of 48 hours in jail or 100 hours of community service. As a result, the number of people sentenced to jail for drunken driving jumped from 865 in 1985 to 1,864 in 1986.

Under previous law, judges, who had the option of imposing a jail sentence or a fine, generally chose fines.

A second conviction under the new law carries a mandatory penalty of 10 days in jail. The sentence for a third conviction is 30 to 120 days.

In addition Connecticut has raised the drinking age to 21, from 20.

State officials said they did not have recent traffic accident statistics to measure the effect of the tighter penalties.

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NATIONAL DRINKING AGE OF 21 PROVEN TO SAVE LIVES

WASHINGTON, DC, March 24, 1987.—"A drinking age of 21 across the nation is an important way to reduce highway crashes involving young people," said Brian O'Neill, president of the Insurance Institute for Highway Safety, in releasing a legal brief on the subject. The Institute has joined with major insurance companies across the country in a brief of amici curiae to the Supreme Court supporting Secretary of Transportation Elizabeth Dole's authority to encourage states to raise the legal drinking age to 21. Dole was challenged on constitutional grounds by the state of South Dakota.

"Legislation to raise the alcohol purchase age is necessary on the federal level to keep young people from crossing state lines to buy alcohol and thereby endangering lives on the highways. States with lower drinking ages naturally attract young people from other states, sometimes with disastrous consequences," O'Neill also said.

Of all age groups, teenagers have the highest fatality rate per licensed driver. Research by the Institute and others have shown that raising the minimum alcohol purchasing age reduces fatal crash involvement among young people. In 26 states that raised their purchasing ages, there was a 13

percent decrease in nighttime fatal crashes in the 18- to 20-year-old age group. "This research evidence shows conclusively that raising the drinking age reduces crashes," O'Neill said.

"There are dozens of studies about the effects of raising the alcohol purchasing age," O'Neill continued. "Every one of the competent ones shows that this action leads to reductions in injuries and fatalities and is an effective way to save lives," O'Neill said.

A recent General Accounting Office (GAO) report concurs. GAO assessed 49 relevant studies and found that only a fraction were methodologically sound. On the basis of this review, GAO concluded that raising the drinking age has, on average, a direct effect on reducing alcohol-related traffic accidents among affected age groups across states.●

## TRUCK SAFETY

● Mr. DANFORTH. Mr. President, since 1982, truck safety has been a priority of the Senate Commerce Committee. Congress has enacted three committee-approved bills addressing truck safety problems.

However, the job is far from done. This week, USA Today is running a series of articles that underscore this point. The articles are compelling pieces that describe, in poignant detail, the needless slaughter that is occurring on our Nation's highways.

Mr. President, I ask that the first two articles in a week-long series be printed in the RECORD.

I commend USA Today for a powerful presentation of a pressing national problem. Later this week, I will introduce new truck safety legislation. I invite Senators who share my concern to join in the development of a meaningful new law.

The articles follow:

[Monday, Mar. 23, 1987; USA Today]

TRUCK DEATHS: 4,500 A YEAR, 50+ LAST WEEK

(By Denise Kalette)

At least 53 people died in truck accidents on USA highways last week. Many more lives were shattered.

In Ochiltree County, Texas, a physician went through a stoplight and drove into a truck, killing his eight-year-old son. In Slidell, La., when Kahing Tjioe slowed his Volkswagen Rabbit on a foggy interstate, a truck hit him. He awoke in the hospital; the rest of his family died.

In North Star, Ohio, James Alexander fell asleep in front of TV; an out-of-control truck smashed into his home and killed him and the truck driver.

More people die in truck accidents than in planes, trains, ships and interstate buses combined. The toll: about 4,500 deaths this year. "It's equivalent to 20-plus airplane crashes a year, with 200 fatalities each crash. The public would be outraged" at that, said Brian O'Neill, president of the Insurance Institute for Highway Safety.

"There are unguided missiles on the road," said Maryland State Sen. Ida Ruben, reflecting growing fear about truck safety. Safety advocates charge that since 1980, when the trucking industry was deregulated, some economically-pressed companies have cut costs by skimping on critically needed repairs and pushing truckers to drive fatigued.

A three-month investigation by USA TODAY/Gannett News Service found:

Many trucks are accidents waiting to happen. At least one in four tractor-trailers is "dangerously unsafe," according to a roadside study conducted with USA TODAY.

The federal government has stalled in putting some safety rules in effect, despite congressional approval for them.

About one-third of truck drivers disconnect their front brakes, mistakenly believing that will help prevent jackknifing. A USA TODAY brake test shows that disconnecting brakes makes jackknifing more likely to occur.

By this time tomorrow, about 12 more people will die in truck crashes. Behind the statistic: human cost and devastated lives.

In the split second an asphalt truck with bad brakes blasted into her Toyota on Good Luck Road in Riverdale, Md., Lisa Beavers' life was forever altered. The 17-year-old's two best girlfriends, passengers in the car she drove, were killed. She has been hospitalized four times since the Nov. 17, crash. After graduation, a steel plate will be implanted in her head.

The truck hadn't been inspected in three years. Beavers and classmates at St. Vincent Parrotti High School testified for a yearly inspection law in Maryland and sent out 400 letters. But "we don't expect it to pass this year," said teacher Betta Borreilli.

More than a million heavy trucks ply the nation's highways. According to the Department of Transportation, one of three tractor-trailers will be involved in an accident this year, compared with one of every 13 cars. When a rig and car collide, the car driver is 40 times more likely to be killed than the trucker. That risk has shot up from 26 percent a decade ago.

Cars drivers cause more than half of truck-related fatalities, AAA said. Many take fatal chances, unaware of a rig's limitations.

The figures indicate a growing number of truck-related deaths at a time when traffic deaths in general are declining. Critics say the Department of Transportation has failed to put the same effort into truck safety that it puts into air and auto safety.

Accountability is a basic problem—for federal and state governments, and for companies and drivers.

No state requires formal training for truckers, though a new federal law will require written and road tests. In 18 states and the District of Columbia, anyone licensed to drive a compact car may drive an 80,000-pound rig. In 29 states, annual inspections are not required; in many states, companies do their own inspections.

These policies haven't worked State police find thousands of trucks with defects so serious they are taken out of service.

Brakes are the No. 1 equipment problem. In Los Angeles, a Highway Patrol inspection of 3,201 trucks turned up 1,909 brake violations; 69 cabs didn't properly connect with trailers. "The first thing they cut is maintenance," said supervisor Al Palmer.

Many truckers carry multiple licenses, which shields violators. Beginning in July, that's against the law, but it will be at least two years before it can be enforced with a computer network.

In the competitive pressure since deregulation, too many truckers drive exhausted trying to cope financially. Fatigue's a main cause in 41 percent of rig crashes. Log books, legally required to show eight hours' rest after 10 hours' work, are commonly forged and sarcastically called "comic books."

A dangerous minority of truckers abuse drugs. "On certain channels, you can hear them talking to one another. It's just a problem catching them," said Kansas City policeman Ron Hoyle.

Many communities have been stunned by fatal truck accidents. On June 21, 1985, in Van Buren, Ark., pop. 13,000, a tractor-trailer rammed a stationwagon carrying four adults and three children. All seven died, as did the truck driver and his bride.

Nearly two years later: Two children are fatherless. Three businesses ruined in a fire ignited by the exploding car still lie in charred rubble. Pharmacist Ron Coker watched his store and newly built home burn. Today, his pharmacy is housed in a "crackerbox," his wife has been hospitalized for depression.

Elderly Frank Bates died a few months after his historic hardware store burned. "Grieved himself to death," said Coker.

Paul Grant, lawyer for the children whose father was killed, said the trucking company was not prosecuted, although a civil suit was settled for $3 million. "The brakes were bad," and the underage driver (20) had been drinking.

One reason tougher laws aren't enacted is "the power of the trucking lobby," said O'Neill, and federal delay. In 1986, the trucking industry spent $1.8 million lobbying through political action committees. This year, safety is a priority for groups from the American Trucking Associations to the Teamsters.

State legislators are not "intimidated," exactly, but perhaps "influenced" by industry power, said Ruben. She has unsuccessfully urged an annual inspection law in Maryland for 12 years.

Today, state police and transportation officials bring a truck to Beavers' school to explain why they oppose the yearly inspection bill. They think roadside checks are better. It may be a tough sled.

For Beavers, truck safety is a campaign she can't quit. On the first nights of her intensive care, friends lined the hospital corridor until midnight. Now, she flirts with young men and carefully arranges her hair, covering the missing part of her skull.

Her mother, Judith, still mourns the two dead friends and worries about her daughter, driving her everywhere: "I went to pick her up on (Interstate) 95 today. That's all I saw was huge trucks. It's like they were closing in on me."

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POLL: TOUGHEN RULES FOR TRUCKS

(By Marilyn Adams)

Almost all motorists want big trucks inspected annually and their drivers specially trained, a USA TODAY poll shows.

But many are demanding even tougher rules: banning trucks from the passing lane, eliminating larger trucks, installing speed controls.

55 percent: Ban double and triple-trailer trucks.

55 percent: Install devices to limit trucks' speed.

45 percent: Ban trucks from left highway lanes.

One in four motorists say truck safety's the No. 1 problem on the road.

But a three-month USA TODAY, Gannett News Service study of the trucking industry

found that there's a wide gulf between reality and the poll:

97 percent want truckers to have special training, but neither the federal government nor any state requires it. "We still have a gap," said National Transportation Safety Board Chairman Jim Burnett. "There's no comprehensive truck-driver training in place."

98 percent of motorists want trucks inspected yearly, but only 21 states and the District of Columbia do. A 1984 federal law required the Department of Transportation to set up an annual inspection program by January 1986.

Finally, last month the agency proposed a plan to let companies with five or more trucks inspect their own. "Totally ridiculous," said Sen. John Danforth, R-Mo., a sponsor of truck-safety laws.

Other motorist poll results:

66 percent would pay more for trucked goods if it improved safety.

68 percent said car drivers are more likely than truck drivers to drive drunk.

70 percent said truck drivers are more likely to drive when too tired.

27 percent said truckers are more likely to use drugs on road; 16 percent; motorists; 41 percent, no difference.

The poll of 808 mororists has a 4-percent margin of error.

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LAST WEEK'S TOLL: MORE THAN 50 DEAD

(Same were avoidable, others weren't. Truckers blamed motorists and motorists blamed truckers. In one week, ending 12:01 Sunday morning, at least 53 people died in truck-related accidents on the USA's highways. They were young, old, families, truckers at work. Here are their stories:)

SUNDAY

Jones County, Iowa: Icy conditions: Joseph Appleby tried to get out of the way when he saw the car cross the center line. He couldn't. Mary Kay Carter, 41, of Anamosa, Iowa, died when her car was hit broadside by Appleby's truck. The road was covered with ice. Appleby, 45, of Monticello, Iowa, had never had a serious accident. There wasn't "much he could have done," said Trooper Al Perkins.

Armstrong Township, Pa.: Rear ended: It was 9:05 p.m. and Marty Moore, 32, a trucker for 11 years, was straining at 15 mph to get his truck—loaded with 23 tons of coal—up Route 422. Earl E. Anderegg, 51, of Indiana, Pa., was killed instantly when his 1981 Chevy Malibu hit the back of Moore's rig. Car drivers, Moore said, test him every day. Many seem "to have forgotten what a yield sign means. They make you want to pull your hair out."

MONDAY

Jerome County, Idaho: Fiery death: "Are you all right? I'm trapped," shouted trucker Olin Lynn Martin 31, of Walker, La., when his tractor-trailer crashed after hitting a pickup truck. "I'm trapped, too," replied Cecil Ray Morrison, 33, who'd been resting in the cab's sleeper. Seconds later, Martin's truck—loaded with tomatoes—burst into flames. Morrison kicked his way out, Martin burned to death.

Rockport, Ind.: Head-on crash: It was 3:45 p.m. and Thomas W. Butler was heading north on Route 231. He was happy: It was his final coal run. Suddenly, a 1985 Mazda RX7 slammed head-on into his truck. Butler, 27, of Huntingburg Ind., never saw driver Thomas Gleason, 26, of Owensboro, Ky., who died two hours later. Said Butler. "It makes me wonder what it would be like for my family to lose me."

White County, Ind.: Asleep at wheel?: Why Tom Bouty died is a mystery. At 2:20 a.m. his log-hauling truck hit a guardrail, flipped over and burst into flames on I-65. Bouty, 23, of Escanaba, Mich., was trapped in the cab. Police think he fell asleep at the wheel, but Bouty's brother, Jim, also a trucker, disagrees. "There was a guy talking to him on the radio about five minutes before," said Jim Bouty, 38. "Tom was very alert—talking about his girlfriend. I think he was probably reaching for a can of pop and he lost control. I've driven off the road a few times doing the same thing." Death can be "the price you pay for a screw-up. You don't have anyone to blame but yourself."

Yuba City, Calif.: Baby killed: Houa Xiong, trying to pass a truck on Highway 99, drove into an oncoming truck. Killed was Xiong's 17-month-old daughter, Niva. Xiong was charged with manslaughter for making "an unsafe pass," police said.

Redkey, Ind.: Family baffled: Patsy Southworth's family can't understand why she pulled into the Route 67 intersection. The 49-year-old Dunkirk women was "normally a safe driver," said her husband, Jesse. "We're guessing she looked beyond the truck and didn't see it coming." He feels sorry for trucker Jerry Stults, 55, of Hartford City. "I know what he's going through. I don't think there was nothing he could do."

Franklin, W.Va.: Stormy weather: Ronna L. Long, preparing for knee surgery today, is "still in shock" over the crash on a snow-covered stretch of Route 33. It was there where she lost control of her car and swerved into William Harr's gas truck. Long's daughter, Mary Margaret Long, 2, suffered a mild concussion; her grandmother, Mary Bennett, 69, of Circleville, W.Va. died. "I couldn't believe Granny was killed," Long said. The scene was all too familiar for the family: Bennett's husband died in a 1984 car wreck.

Northampton, Mass.: A suicide: Michael Deane had called police earlier in the day, saying he was going to hang himself. But when police got to his Easthampton home, Deane, 35, was gone. At 8:50 a.m. he took a taxi to the Hilton Hotel near Route 91 and began walking on the shoulder, apparently hitchhiking. As a truck driven by Earl Haskell, 23, of Bridgewater, Mass., approached, Deane leaped. He died instantly.

Hope, Arkansas: Killed fixing flat: At first, Arthur Swanson's death looked like a hit-and-run: The 29-year-old Markham, Ill., man was run over while changing a tire on the back of his home-made trailer on I-30. The truck never stopped. But police later found that Swanson's trailer lights weren't on—it was 1:25 a.m.—and Swanson was lying down in the shoulder. "There's a good possibility the truck driver didn't even know he hit the man," said Lt. Ron Stovall.

Fairfield, Iowa: Supervisor killed: What caused Ernest "Shorty" Nelson to cross the center line into the path of an oncoming gravel truck is anyone's guess. Nelson, chairman of the Jefferson County Board of Supervisors, was killed and two other supervisors injured in an 8:35 a.m. crash. Trucker Jack Cook wasn't hurt. "Whether he was distracted or what, we don't know," said Trooper Rick Kinseth.

Douglas, GA.: Elderly man struck: Owen Jasper Griffen, 76, had become disoriented before. At 2:15 a.m. he wandered onto Route 221 and was struck by a truck driven by Mason Wright Henry, 46. "It was just one of those things," said Sheriff Paul Hutcheson.

Flora, Ill.: Trucker runs light: Estelle Zelenik, 74, of Louisville, Ill., lost her husband last October. Her family lost her at 1:40 p.m. when a truck driven by Kenneth Peoples, 39, of Lowell, Ark., ran through a stop sign at an intersection. Peoples, a driver for 14 years, was ticketed for failing to stop. Said Peoples: "It was a pure accident; it could've happend to anybody."

TUESDAY

Oxford, Ala.: Couple killed: At 84, William Harvey Burton still thought he was fit to drive a car despite failing eyesight. Burton and his wife, Annie, 77, of Lincoln, Ala., were killed instantly when their 1977 Chevrolet turned in front of a truck on U.S. 78. Trucker Pat Brown, 51, of Birmingham was slightly hurt.

Wilson County, Tenn.: Head-on crash: Alfred David Saylors' family said he was a model citizen: former junior high school teacher, Sunday school instructor, safe driver. "He didn't drink, he didn't smoke," said his sister Betty Harris. At 9:35 a.m. the 39-year-old Galitan insurance salesman died after hitting a truck. Trucker Richard Phillips, 25, was injured.

Longview, Texas.: He loved the road: Tommy Gene Whitehead of Joinersville, Texas, died the way he lived: trucking. "He liked people, and he enjoyed traveling," said his brother Bobby, "He went to just about all the lower 48 states." Whitehead 43, died when his truck crossed the center line on I-20 and hit another tractor-trailer. He left behind two children, ages 6 and 8. The other trucker, Richard E. McClure, 57, of Dallas, suffered a broken left leg and right arm. McClure's wife, Marie, said it was his first serious accident in 36 years. Her feelings: "All truck drivers wives become immune to danger.

Carrollton, Ky: Rear-ended: Wayne Walker realized the 1982 Toyota Celica in his rear-view mirror wasn't going to slow down. "By the time I realized he was gonna eat me up, I couldn't do anything. It's hard to get a truck and trailer off the road that quick," said Walker, 28, of Frametown, W. Va. Daniel R. Hogue, 36, of Louisville died from head wounds in the 10 p.m. crash.

Bedford Township, Pa.: Speeding cited: Ricky D. Border probably never even saw the truck that ended his life. "There were no skid marks, no nothing," said Trooper Max Shaffer. "He probably failed to notice the truck." Border, 31, of Bedford, Pa., died in the 9:02 p.m. crash.

Lafayette, La.: Chicken stand hit: Workers at Churches Fried Chicken stand dashed to safety when a truck jumped a curb and smashed into the restaurant. An autopsy showed that driver Kermit Roberts, 47, of New Orleans died of a heart attack before the crash.

WEDNESDAY

Lima, Ohio: Depression cited: Robert N. Brownwell had been depressed ever since his grandmother died Christmas Eve. "It seemed he knew something was going to happen," said his girlfrend, Lisa Oliver. After a St. Patrick's Day party, Brownwell, 35, drove his Dodge into the rear wheels of a truck. Trucker Richard H. Church, 45, of Lima, wasn't hurt.

San Bernardino, Calif. Mountain crash: Barbara Leger, 44 her son, Richard, 18, and daughter-in-law, Kimberlie Hauer, 23, all of Running Springs, were killed when a flatbed truck went out of control and hit their car

on winding mountain road. Trucker Paul Ahrens, 24, was slightly hurt.

Sacramento, Calif.: Tractor hit: Abel Vargas was accustomed to driving his tractor on highways. But trucker Russell Briggs, 26, of Montclair, Calif., apparently didn't notice him on I-80, when his truck struck and killed the 51-year-old farmer.

Sedalia, Mo: Near home: Police said Rasco Nedimaovic couldn't avoid hitting Sherry Hill's car after the 19-year-old Sedalia, Mo., woman pulled into an intersection near her home. Nedimaovic, 21, of Riverside, Calif., swerved before plowing into her.

Perryton, Texas: Family tragedy: An Elk City, Okla., family's ski vacation ended in tragedy when Dr. Craig Alan Phelps' van ran a stop light and slammed into a truck driven by Jennings Lewis Mitchem Jr. Of Amarillo. Phelps son Jeremy, 8, was thrown from the van and killed. Three other Phelps children were injured.

Akron, Ohio: Car entered lane. Howard A. Thomas, 47, of Youngstown didn't think anything was wrong when he saw the two headlights coming toward him on U.S. 20. But then the 1977 Chevy swerved into Thomas' lane and crashed into his truck. Kenneth W. Miller, 39, of Toledo, was killed.

THURSDAY

Vicksburg, Miss.: Expected too much: Timothy Reed's common-law wife says his employer expected too much of him. "They were pushing to get their loads out real fast," said Chris Mack, who lived with Reed, 27 of Arvada, Colo., for 4½ years. Police said Reed was killed when his truck crossed the median and ended up in the woods. Company officials couldn't be reached.

Frederick County, Md.: Lonely death: Kenneth Stine, 39, of Schuylkill Haven, Pa., died when his truck missed a curve and overturned on I-270. Police said Stines truck loaded with yarn, rounded a curve too quickly.

Middletown, Ohio Church mourns: Daryl Lawrence and his wife, Darlene, had spent the morning looking at new homes. At 2:30 p.m., Lawrence, 26, apparently didn't yield at a traffic light. His car was hit by a truck driven by Lawrence Potter, 60, of Grand Haven, Mich. Lawrence was killed, his wife seriously hurt. Lawrence was a youth minister at Middletown's Bonita Drive Church of Christ. "Young people loved him," said the Rev. Jim Kinser.

Booneville, Miss.: Too close: A hospital housekeeper on her way to work was killed when her car was hit by a truck, Trucker Allen L. Garner, 53, of Blue Mountain, was charged with following too closely. The crash killed Mary Sue McGill, 54, of Baldwyn.

Tillamook, Ore.: Families baffled: Bertel Nels Englund, 60, of Salem, Ore. had driven trucks most of his life. Twice a week, he'd take the same route on Highway 101 along the coast, hauling steel. His family can't understand his death, Police think his truck hit a soft shoulder.

Butler, Mo.: Friends out driving. Two 18-year olds, Bryan Showengerdt and Theodore Strobach of Butler, were out driving when Strobach's Chevrolet Celebrity hit a truck driven by John Harris, 49, of Leeton, Mo. Strobach, who was killed, had failed to yield at an intersection, police said. His friend was injured.

Browerville, Minn.: Fatal pass: Dennis H. Franz, 42, of Bingham Lake, Minn., and a passenger, John H. Hedquist, 44 of Browerville, were killed when their pickup was hit by a truck. Trucker Michael Dowdall, 29, of Pine River, told police he was passing the pickup when Franz suddenly made a left turn.

FRIDAY

South Grafton, Mass.: Happy-go-lucky guys: Michael Remillard and a friend were returning from the American Legion Post when the Grafton, Mass., man slammed his 1986 Ford LTD into a truck parked on Main Street. Killed were Remillard, 24, and a passenger, James Peterson, 32. Both men were volunteer firefighters—"two happy-go-lucky guys," said a friend, police Sgt. Russell Messier.

Maryland Heights, Mo: A cooler of beer: Police think Thomas Edward Simpson, 25, of Affton, Mo., may have been drinking when his Honda rammed head-on into a 48-foot truck driven by Terrell W. Price. A beer cooler was found near his car after the 4:37 a.m. crash. Price, 39, of Jackson, Mo., wasn't hurt.

Luling, Texas: Not enough time: Lawrence Carrigan, 80, was killed when his car was hit by a drilling rig truck on Highway 80. A witness told police that Carrigan tried to "beat the truck" across the highway. Trucker Erasmo Castillo, 26, of Luling, wasn't hurt.

De Pere, Wis.: Hit from the rear: After making a right turn, trucker Sidney Howell, 27, of Independence, Kan., watched in his rear view mirror as the 1980 Mazda smashed into his truck. Police Sgt. Richard Brick said there was nothing Howell could do. Killed was Robert Strehlow, 26, of Green Bay.

Susquehanna County, Pa.: A family man: No one knows why Neil Mackenzie's truck slammed into the back of another truck on I-81 shortly after midnight. The other driver, Edward Cruikshank, 47, of De Ruyter, N.Y., wasn't hurt. Mackenzie, 33, of Vestal, N.Y., had been on the road for 14 years and was "very much a family man," a friend said.

Lawrence, Kan.: Accident on a hill: Stephen Browning, 29, of Bonner Springs died when his car hit a dump truck. Truck driver Herbert Roberts, 56, of Lawrence, was turning left onto a country road when he was struck by Browning's car.

SATURDAY

Slidell, La.: Fog blamed: Kahing Tjioe slowed his Volkswagen Rabbit down because of the fog. That decision killed three family members and a truck driver, who hit his car, then plunged from an I-10 bridge. The crash set off a 36-car series of crashes. "I woke up in the hospital and they told me the rest of the family died. I felt terrible," said Tjioe, of the Netherlands.

North Star, Ohio: Asleep: James Alexander, 31, had fallen asleep watching TV in his living room when a truck smashed through the wall and killed him. Trucker Ronald Wheeler, 24, of Sidney, Ohio—who police think fell asleep at the wheel—also died.

North Miami Beach, Fla.: Wild drive: A trucker told police a man jumped on the roof of his cab after an argument in a parking lot—and stuck there during an eight-mile trip. The trucker told police that Boyd Blanchard, 29, jumped on his cab and held on during a wild drive that ended when he missed a curve. The truck flipped on its side, killing Blanchard. Police wouldn't identify the driver.

ONE IN FOUR TRACTOR-TRAILERS RIGGED FOR DISASTER

(By Rae Tyson)

At least one tractor-trailer in four is operating with dangerously unsafe equipment, random roadside surveys show.

Experts say 20 percent of all truck fatalities—about 4,500 annually—are caused by faulty equipment, including bad brakes, bald tires and faulty steering.

"A hell of a lot of those crashes could be eliminated," says Brian O'Neill, president of the Insurance Institute for Highway Safety.

Four states—in cooperation with USA Today—conducted roadside truck inspections last week. Random checks in California and Michigan—two of the USA's busiest truck states—found 27 percent with dangerous safety violations.

"This is a pretty good assessment of what's going down the road," says Michigan State Police Capt. Arlyn Brower.

Maryland and Tennessee—selectively checking trucks that appeared to have problems—found 58 percent with serious equipment defects.

Unsafe rigs were parked until repairs are made.

"If you save one person's life, what's one hour waiting here?" says Portland, Ore., trucker Bob Vaara.

One solution: 39 states are using federal grants—$50 million this year—to step up highway equipment checks.

"We hope they're scared enough to keep their vehicles in shape," says Ronald Lipps of Maryland's motor carrier safety program.

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FAULTY RIGS "ROLLING TOWARD DISASTER"

It's a dangerous game of highway roulette, but some truckers—caught in a tough economic struggle—are ignoring serious safety defects.

"If I can't get it fixed I'm not going to shut it down—that's money," said San Antonio, Texas, trucker Leroy Faith.

Hindered by bald tires, poor brakes and other defects, these rigs aren't prepared for emergencies.

"They are rolling toward disaster," said Tennessee Public Service Commissioner Keith Bissell.

Some experts say 20 percent of all truck fatalities—approaching 4,500 annually—are caused by faulty equipment. Others say the unsafe rigs represent a small percentage of the industry.

"It's not as horrendous as it may sound, but it's not good and it's not getting any better," said engineer James L. Lewis of United Parcel Service, which operates one of the USA's largest truck fleets.

Blame is widely dispersed:

The Office of Motor Carrier Standards—responsible for enforcing interstate regulations—has just 130 inspectors checking more than one million trucks. They're adding 150 this year.

The National Highway Traffic Safety Administration has been slow to require equipment improvements; some reluctance stems from industry pressure.

Only 21 states and the District of Columbia require annual equipment inspections. Local drivers account for nearly half of all truck fatalities.

"There's a lot of junk running up and down the roads," said trucker Kay Vaughn of Malvern, Ark.

Others say there's hope:

The Department of Transportation is spending $50 million for tougher local enforcement this year.

Transportation Secretary Elizabeth Dole said: "I'm determined that safety will not be diminished here."

Said Navistar trucking company Vice President Dean Stanley: "Safety is a bigger issue every day."

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HI-TECH HOPE: ANTI-LOCK BRAKES

EAST LIBERTY, OHIO.—Trucker Tommy Lockhart says "its kind of hard to believe" how much safer his Freightliner rig is with an experimental, non-skidding brake system.

"It's already saved me a couple of times," said Lockhart, 46, a veteran driver for Manfredi Motor Transit Co. of Newbury, Ohio.

Safety experts are touting the high-tech system: Some say truck fatalities—4,528 in 1985—could be reduced by 10 percent if trucks were equipped with "anti-lock" brakes.

"It becomes a security blanket for the driver," said David Hammes of Cleveland-based Leaseway Transportation, which is testing anti-lock brakes on 10 semis.

USA TODAY tests show how effective: With anti-lock brakes, a loaded tractor-trailer stopped in 258 feet on wet pavement. The test driver executed a perfect lane change while jamming on the brakes at 40 mph.

A truck without anti-lock brakes needed 362 feet to stop; the driver was unable to negotiate a lane change.

If the quick stop was attempted on a busy highway, the 80,000 pound rig could have been involved in a rear-end collision.

How it works: individual electronic sensors control brake pressure, adjusting it when necessary to prevent the wheels from locking up.

Yet to be determined: whether the sophisticated system—now widely used in cars—is durable enough for tractors and trailers.

Companies such as Leaseway, one of USA's largest with 30,000 trucks, also worry about the added cost of anti-lock brakes, estimated at $4,000 per tractor-trailer.

Hammes says lower insurance rates would provide "financial incentives", Brian O'Neill of the Insurance Institute for Highway Safety says it is "unrealistic to expect discounts" for installing anti-lock brakes.

Anti-lock brakes attracted critics following a disastrous, government-imposed USA debut a decade ago. The trucking industry—citing major maintenance problems—successfully overturned the regulation in the Supreme Court.

Though European firms have since overcome most technical problems in the anti-lock system, some prominent firms are campaigning against another government requirement.

United Parcel Service—owner of 6,500 tractors and 27,000 trailers—said government should concentrate first on standardizing replacement brake parts, including linings and air valves.

"Let's do that first before we get into the Buck Rogers stuff again," said James Lewis, UPS automotive engineer.

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ABOUT THE BRAKE TEST

With assistance from government experts, USA TODAY conducted brake tests at Ohio's Transportation Research Center, among the country's top test sites.

Drivers used a banked track to gain speed before entering the paved test area, which was treated with a sealer to guarantee a slippery surface.

All brake tests began at 40 mph on wet pavement, a more difficult surface to stop on. Pylons were used to simulate traffic lanes. Each truck wheel was marked with silver paint so observers could easily detect locking brakes.

Leaseway Transportation Corp. of Cleveland provided the trucks.

Test drivers: National Highway Traffic Safety Administration's Reeves "Buddy" Testerman and USA TODAY reporter and former truck driver Rae Tyson.

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NO FRONT BRAKES—JACKKNIFE!

EAST LIBERTY, OH.—Some truckers believe their tractor-trailer rigs are safer without front brakes.

"It's commonplace for drivers to eliminate them," says Insurance Institute for Highway Safety President Brian O'Neill.

Checks in California found one truck in three lacking front brakes.

The fear: loss of steering control during a quick stop.

The rationale: Brakes on four other axles provide adequate stopping power for the 40-ton behemoth.

But it's a popular—and potentially deadly—misconception, according to USA TODAY brake tests at the Transportation Research Center here.

With disconnected front brakes, test drivers consistently lost control of a 40-mph truck during panic stops.

The result: dangerous jackknifing. On a busy highway, the careening truck could easily cause a major accident.

"It's a risk to people sharing the road with those trucks," O'Neill says.

A tractor-trailer with front brakes consistently stopped quicker—without veering.

The Department of Transportation agrees: Next year, trucks built after 1980 must have working front brakes.

The DOT also is conducting a driver education program to show the advantages of front brakes.

The new regulation follows a bureaucratic snafu: For years, the DOT's National Highway Traffic Safety Administration required front brakes on new trucks while the Bureau of Motor Carrier Safety allowed drivers to disconnect them.

"Most drivers are unable to stop vehicles shorter and are less likely to lose control if they have no front brakes," said NHTSA research engineer Richard W. Radlinski.

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WHAT 4 STATE TRUCK INSPECTIONS FOUND

Phil Phifer pulled his truck into a Maryland weigh station, brimming with confidence. A week earlier, his truck had passed a rigorous mechanical inspection.

Within moments, the confidence was shattered: Inspectors found a dangerously cracked brake drum.

"I'm glad they found it; I don't want any accidents," said Phifer, 54, of Port Angeles, Wash.

The Maryland roadside inspection was one of four last week in cooperation with USA TODAY.

Inspectors in Maryland, Tennessee, Michigan and California checked 1,094 trucks; 455 had serious equipment problems.

But the results varied widely, depending on the selection procedure. In Michigan and California, checks were random. Of 604 trucks, 166 had serious equipment violations, 27 percent. Trucks were parked until repairs were made.

In Tennessee and Maryland, trucks were "selectively checked;" inspectors only looked at rigs that appeared to have defects. In those states, 287 of 498 rigs—58 percent—were taken off the road.

The most common violation: defective brakes.

In Turlock, Calif., inspectors found a fractured wheel on Bob Vaara's rig.

"I'm glad he pointed it out; I don't want a cracked wheel going through an automobile," said Vaara of Portland, Ore.

Other truckers—insisting their equipment was well-maintained—denounced the time-consuming inspections.

"I can't make any money if I'm stuck here," said Tim Simeral of Mariposa, Calif.

Inspectors also found other violations. In Knoxville, Tenn., two drivers were charged for drug and alcohol possession.

On Interstate 97 in Novi, Mich., two truckers were arrested on outstanding felony warrants; others were cited for leaking hazardous cargo.

On Interstate 70 west of Baltimore, Arkansas trucker Johnny McMunn was sidelined for six serious defects, including cracks in the trailer frame.

"It must've happened in Baltimore; those roads are terrible," said McMunn.

Most states are adopting aggressive roadside inspection programs.

In Tennessee, officials say the roadside program helped reduce truck fatalities by 20 percent last year.

"If trucks have to be safe coming through our state, then they're going to be safe going through other states" says Tennessee Public Service Commissioner Keith Bissell.

WHAT THEY CHECK

*Rear*

Trailer lights. Brake drums/adjustment. Emergency brake
Frame, suspension.

*Side*

Air brake, connections.
Frame.
Fuel tank.
Tires, wheels.
Fifth wheel.
Load secure.

*Front*

Suspension/frame.
Brake drums/adjustment.
Lights, signals.
Wipers.
Brake hoses, linings.
Wheels, tires.

*Driver/Cab*

Seat belt.
Horn.
Fire extinguisher.
Emergency flares, reflectors.
License-med. cert.
Log book.
Shipping papers, permits.
Brake pressure warning gauge.
Fuel gauge.

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ONE SAFETY TOOL: COMPUTER CONTROL

If truckers continue to abuse regulations—speeding, driving illegally long hours to the point of dangerous fatigue—safety experts have a space age solution. A computer.

Several firms are already experimenting with a system call tachograph. It's installed in the truck to record major functions, includng speed, fuel consumption, distance travel and length of layover. Federal regulations require eight hours of rest following 10 hours on the road.

A main computer retrieves information from each truck: Employers can monitor each driver's performance to assure compliance with regulations.

Manfredi Motor Transit Co. of Newbury, Ohio has installed a system in its fleet of tank trucks. "At first there was 100 percent resentment, it was like having somebody sitting next to you," said driver Bob Becker, a 40-year veteran.

But Manfredi also uses the system to reward drivers; bonuses are paid for the best driving record. "Now, 90 percent of our drivers are in favor; they're getting more rest and they realize it's better on the equipment," Becker said.

Since July, Manfredi drivers have got only two speeding tickets: "It used to be that much in a day," Becker said.

TRUCK OF THE FUTURE

Trucks of the future will be more fuel-efficient, quieter, safer and, perhaps, bigger than ever before.

Expected before 2000:

Aerodynamic styling will double mileage (now about 6 mpg), reduce spraying and splashing and help cut noise.

More efficient diesel engines will pollute less; electronically controlled transmissions will reduce the chance of driver error.

Computers will log mileage, speed, layovers. Police may plug in to catch violators; companies will use them to monitor drivers' performance.

The computer also will monitor vital functions, warning of pending mechanical ailments. Drivers can store maps in the computer system. Dispatchers will use satellite links to truck loads and communicate with the driver.

RISING SPEED LIMIT

Though 55 mph abuse is widespread, some truckers disagree with last week's congressional decision to raise speeds by 10 mph on rural interstates.

Why they disagree: At 65 mph, an 80,000 pound tractor-trailer needs another 100 feet to stop. At 55 mph, most rigs can stop in 250 feet on dry roads. At 65 mph—or higher if the new limit is abused—"you've got an 80,000 pound misguided missile," says Arkansas trucker Kay Vaughn.

HAZARDOUS MATERIALS

Each day, thousands of trucks roll down USA highways, loaded with dangerous commodities. They're an essential part of daily life; gasoline, fuel oil and propane, lawn chemicals, disinfectants and a host of other common products.

Most reach their destination without incident.

Rensselaer Polytechnic Institute transportation expert Mark Abkowitz calls them a "moving time bomb."

But others say hazardous materials are transported more safely than ever. Trucks must display placards to help identify the cargo. Drivers must receive special training. Some communities restrict routes for hazardous shipments.

The chemical industry has a 24-hour hot line to help local police and fire departments respond to accidents.

USA vs. EUROPE

Europe's superior truck safety record is the result of tougher regulations, better inspection programs and stricter licensing.

In Sweden, for example, the truck fatality rate is ten times lower than the USA's.

But experts aren't sure if the European approach would work in the USA. "The American truck is a different animal," said Peter Rupp, president of Freightliner.

Unlike the USA, trucks must be inspected annually in most European countries.

Now, annual inspections are conducted only in these states: Arkansas, Delaware, Hawaii, Louisiana, Maine, Massachusetts, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Texas, Utah, Vermont, Virginia, and West Virginia.

By 1988, most of Europe will require antiskid brake systems; the USA tried and abandoned a similar regulation in the 1970s because of maintenance problems.

Other requirements unique to Europe: side and rear trailer collision guards; driver training programs; uniformly lower speed limits for trucks.

"We carried on where the Americans left off," said Paul Oppenheimer of England's Lucas-Gerling Ltd.●

## THE IRISH SOCIETY OF PHILADELPHIA

● Mr. SPECTER. Mr. President, every year following that most joyous of Irish celebrations, St. Patrick's Day, the Irish Society of Philadephia honors one or more persons of Irish descent for their contributions to society and to their fellow man.

This year, the society has selected a renowned labor leader, Edward F. Toohey, president, Philadelphia Council, AFL–CIO; an educator, Daniel J. McGinley, president, Philadelphia Association of School Administrators; and a jurist, Judge Joseph L. McGlynn, Jr., of the U.S. District Court for the Eastern District of Pennsylvania.

Mr. Toohey is to receive the Irishman of the Year Award; Mr. McGinley, the Award for Excellence in Education; and Judge McGlynn, the Award for Judical Excellence.

For more than three decades, Edward F. Toohey has led the council with vigor and distinction, advancing the cause of the labor movement in Philadelphia through hard work and dedication. Beyond his efforts on behalf of the working man, Mr. Toohey is widely known and praised for his involvement in the broader fabric of the city, in its economic, educational, civic, social and political life.

Now, beginning his 10th term as president of the Philadelphia Council, AFL–CIO, Mr. Toohey effectively represents the interests and concerns of more than 200,000 union members in 140 union locals. He is founder and cochairman of the Philadelphia Area Labor-Management Committee [PALM]; vice president of the United Way; president of the Assistance Program; and president of the Committee on Political Education [COPE].

Daniel J. McGinley has had a long and distinguished career as an educator and administrator in the Philadelphia public schools. Since 1974, he has served as a representative of the system's administrators and, in this capacity, has nobly advanced the cause of public education in Philadelphia.

His educational philosophy can be summed up in one sentence: "I believe that educating all students to their maximum potential is a responsibility of each and every school district employee." And he has lived this philosophy for three decades, striving always to see that the system serves this goal to the greatest extent possible.

Judge Joseph F. McGlynn has served the interests of judical justice for more than three decades, first, as an assistant U.S. attorney, and, subsequently, as a judge of the County Court of Philadelphia, the Court of Common Pleas, and now the U.S. District Court. In all of these endeavors, Judge McGlynn has earned a reputation for absolute integrity and legal scholarship.

Each of these men has served his chosen profession well and each is deserving of the honor accorded them by the Irish Society of Philadelphia. They share a common heritage. Their forebears, as their proud Gaelic names so patently proclaim, were Irish.

The Irish Society of Philadelphia is justifiably proud of them and honors them as good men who have advanced the caused of humanity and as Irish-Americans who exemplify what is best in their ethnic group.●

## AFGHANISTAN: LETTERS FROM THE STATE OF HAWAII

● Mr. HUMPHREY. Mr. President, last December the brutal Soviet occupation of Afghanistan entered its eighth year. The horrible condition of human rights in Afghanistan was recently described in a United Nations report as: "A situation approaching genocide."

As chairman of the Congressional Task Force on Afghanistan, I have received thousands of letters from Americans across the Nation who are outraged at the senseless atrocities being committed today in Afghanistan. Many of these letters are from Americans who are shocked at this Nation's relative silence about the Genocide taking place in Afghanistan.

In the weeks and months ahead, I plan to share some of these letters with my colleagues. I will insert into the RECORD two letters each day from varius States in the Nation. Today, I submit two letters from the State of Hawaii and ask that they are printed in the RECORD.

The letters follow:

SIR: Reports regarding the atrocities which Soviet occupation forces are committing against the people of Afghanistan, espcially defenseless civilians, are indeed reminiscent of Nazi Germany.

As people who are concerned about the suffering of other people, we are sickened by the terroristic actions of the Russian military.

We support anything you can do as chairman of the Congressional Task Force in Afghanistan to turn the tide against the Soviets, to help the people of Afghanistan.

Sincerely,

DANIEL AND SUSAN FRIAS,
*Hilo, HI.*

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DEAR SIR: I have just read the article in the March 1986 Reader's Digest entitled "Agony In Afghanistan". I am appalled and sickened by the fact that our Nations leaders are aware of the situation and yet do nothing to really help. Have we become a Nation of "peace cowards", that we can loll around in luxury and watch such brutality without lifting a hand to stop the butchery. I for one am not among those who cry "peace at any price!" If we are not for the Afghans then we are against them!

I have watched for years as the Soviets make fools of our leaders. I agree with President Reagan, they are an "evil nation". They need to be dealt with accordingly, and the sooner the better!

Very Sincerely,

BARBARA J. KILGOUR,
*Kailua Kona, HI.*●

## RULES OF THE COMMITTEE ON SMALL BUSINESS

● Mr. BUMPERS. Mr. President, I am now submitting for publication in the RECORD the rules of the Committee on Small Business for the 100th Congress. These rules were adopted at an organizational meeting of the committee held on February 24, 1987. There is but one change from the rules which guided the committee in the 99th Congress. Because the number of our committee changed from 19 members to 18 members in this Congress, we have reduced the number of Senators required for an operating quorum from 7 to 6. This change merely reflects the Senate rule which requires that one-third of the membership be present for the committee to conduct business. In other respects, the rules are unchanged.

The rules follow:

COMMITTEE RULES

1. GENERAL

All applicable provisions of the Standing Rules of the Senate and of the Legislative Reorganization Act of 1946, as amended, shall govern the Committee and its Subcommittees. The Rules of the Committee shall be the Rules of any Subcommittee of the Committee.

2. MEETINGS AND QUORUMS

(a) The regular meeting day of the Committee shall be the first Wednesday of each month unless otherwise directed by the Chairman. All other meetings may be called by the Chairman as he deems necessary, on three days notice where practicable. If at least three Members of the Committee desire the Chairman to call a special meeting, they may file in the office of the Committee a written request therefor, addressed to the Chairman. Immediately thereafter, the Clerk of the Committee shall notify the Chairman of such request. If, within three calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within seven calendar days after the filing of such request, a majority of the Committee Members may file in the Office of the Committee their written notice that a special Committee meeting will be held, specifying the date, hour and place thereof, and the Committee shall meet at that time and place. Immediately upon the filing of such notice, the Clerk of the Committee shall notify all Committee Members that such special meeting will be held and inform them of its date, hour and place. If the Chairman is not present at any regular, additional or special meeting, the ranking majority Member present shall preside.

(b)(1) Ten Members of the Committee shall constitute a quorum for reporting any legislative measure or nomination.

(2) Six Members of the Committee shall constitute a quorum for the transaction of routine business, provided that one minority Member is present. The term "routine business" includes, but is not limited to, the consideration of legislation pending before the Committee and any amendments thereto, and voting on such amendments.

(3) In hearings, whether in public or closed session, a quorum for the taking of testimony, including sworn testimony, shall consist of one Member of the Committee or subcommittee.

(c) Proxies will be permitted in voting upon the business of the Committee by Members who are unable to be present. To be valid, proxies must be signed and assign the right to vote to one of the Members who will be present. Proxies shall in no case be counted for establishing a quorum.

3. HEARINGS

(a)(1) The Chairman of the Committee may initiate a hearing of the Committee on his authority or upon his approval of a request by any Member of the Committee. The Chairman of any subcommittee may, after approval of the Chairman, initiate a hearing of the subcommittee on his authority or at the request of any member of the subcommittee. Written notice of all hearings shall be given, as far in advance as practicable, to Members of the Committee.

(2) Hearings of the Committee or any subcommittee shall not be scheduled outside the District of Columbia unless specifically authorized by the Chairman and the Ranking Minority Member or by consent of a majority of the Committee. Such consent may be given informally, without a meeting.

(b)(1) Any Member of the Committee shall be empowered to administer the oath to any witness testifying as to fact if a quorum be present as specified in Rule 2(b).

(2) Any Member of the Committee may attend any meeting or hearing held by any subcommittee and question witnesses testifying before any subcommittee.

(3) Interrogation of witnesses at hearings shall be conducted on behalf of the Committee by Members of the Committee or such Committee staff as is authorized by the Chairman or Ranking Minority Member.

(4) Witnesses appearing before the Committee shall file with the Clerk of the Committee a written statement of the prepared testimony at least 24 hours in advance of the hearing at which the witness is to appear unless this requirement is waived by the Chairman and the Ranking Minority Member.

(c) Witnesses may be subpoenaed by the Chairman with the agreement of the Ranking Minority Member or by consent of a majority of the Members of the Committee. Such consent may be given informally, without a meeting. Subpoenas shall be issued by the Chairman or by any Member of the Committee designated by him. Subcommittees shall not have the right to authorize or issue subpoenas. A subpoena for the attendance of a witness shall state briefly the purpose of the hearing and the matter of matters to which the witness is expected to testify. A subpoena for the production of memoranda, documents and records shall identify the papers required to be produced with as much particularity as is practicable.

(d) Any witness summoned to a public or closed hearing may be accompanied by counsel of his own choosing, who shall be permitted while the witness is testifying to advise him of his legal rights.

(e) No confidential testimony taken, or confidential material presented to the Committee, or any report of the proceedings of a closed hearing, or confidential testimony or material submitted voluntarily or pursuant to a subpoena, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee.

4. AMENDMENT OF RULES

The foregoing rules may be added to, modified or amended: provided, however, that not less than a majority of the entire Membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.●

## STATE ATTORNEYS GENERAL TAKE ANTITRUST INITIATIVE

● Mr. BIDEN. Mr. President, last week the National Association of Attorneys General, representing the State attorneys general of all 50 States plus U.S. territories, took an unprecedented step which deserves attention and congratulation. In a 55-to-0 vote, these State law enforcement officers adopted a comprehensive set of guidelines explaining their antitrust enforcement policies with regard to corporate mergers and acquisitions.

In most States, the attorney general is the primary public enforcer of State antitrust law, as well as the chief representative of the States and local consumers in Federal antitrust litigation. States have the right to file suit to block proposed mergers and takeovers if such deals would harm consumers. These merger guidelines will provide a uniform framework for the States to evaluate the merits of a proposed merger and will give notice to the business community of the standards used by the attorneys general to review and when appropriate, challenge proposed horizontal mergers.

The standards adopted by the State AGS outline tests for measuring product and geographic markets, the level of concentration in an industry, both before and after a merger, and the likelihood of new competition. This is not dissimilar from the Justice Department merger guidelines which were revised in 1982 and 1984. But the NAAG guidelines provide tighter definitions of market power and concentration, leading to the possibility that more mergers might be challenged by

the States than by the Federal antitrust authorities.

This unanimous action by the State attorneys general is much more than simply another interpretation of the Federal antitrust laws. It is a statement of protest against this administration's hands-off approach to antitrust enforcement and a call for more aggressive action by State authorities. Under the leadership of Attorney General Robert Abrams of New York and Attorney General John Van De Kamp of California, the States have given notice that they will move into the vacuum left by the Justice Department and the Federal Trade Commission when consumer interests are at stake.

The Justice Department might do well to consider the justifiable criticism which these guidelines represent. Unfortunately, the only comment so far from either the acting assistant attorney general for antitrust or the Chairman of the Federal Trade Commission has been to attack the State AGS action as "political." That seems to get the point of a unanimous effort endorsed by every single member of the national association—Democrat or Republican, elected or appointed, from every region of the country. Since 1980, merger transactions have more than quadrupled, but Federal challenges to proposed mergers have decreased by more than three-fourths. The State attorneys general are only saying the obvious—there needs to be tougher antitrust enforcement.

As chairman of the Judiciary Committee, I welcome this kind of input and I look forward to discussing this initiative with those who have been responsible for its formulation. The strong difference of opinion on antitrust policy expressed by the State attorneys general should serve as notice to us all. Antitrust law is not just something for the casebooks. It must be dusted off and put in its rightful place as a critical component of national economic policy.

Mr. President, I ask that the "Horizontal Merger Guidelines of the National Association of Attorneys General" and an executive summary of those guidelines, be printed in the RECORD.

The material follows:

STATE ATTORNEYS GENERAL SET GUIDELINES MEANT TO SLOW PACE OF MAJOR TAKEOVERS

(By Andy Pasztor)

WASHINGTON.—In an unusual attack on the Reagan administration's antitrust-enforcement policies, the National Association of Attorneys General unanimously adopted merger guidelines intended to slow the pace of major corporate takeovers.

The move, announced by a bipartisan group of eight attorneys general representing every region of the country, indicates the extent of state opposition to the administration's generally hands-off approach to merger enforcement. It also sets the stage for a more aggressive and better coordinated effort by states to challenge merger proposals in court.

The guidelines aren't binding and don't provide states with new authority to challenge corporate takeovers. But the state action is likely to boost the prospects of legislation on Capitol Hill to restrict certain takeovers, while fueling congressional efforts to prod federal agencies to challenge more mergers.

The guidelines also pose a potential political embarrassment for officials at the Justice Department and the Federal Trade Commission. Both agencies strongly objected to the guidelines, asserting that they were legally flawed and amounted to a political statement that would harm, rather than protect, consumers.

But California Attorney General John Van de Kamp said the administration's free-market policies and "the lack of firm and fair enforcement" at the federal level have "left a vacuum into which we have had to move."

The guidelines define relevant geographic and product markets in a more limited way than the Justice Department and the FTC. That will make it more likely that the analysis of a given merger will show a significantly higher market-share estimate for the merged company. A higher market share would make the merger a more likely target for antitrust action.

The states also intend to pay less attention to projected efficiencies stemming from mergers, while placing greater weight on the possibilities of collusion among competitors and barriers to entry by other companies.

Corporate lawyers planning mergers "are going to be reading these guidelines," Mr. Van de Kamp said, and "they're going to have to take us into account."

The guidelines will serve "as a catalyst, a spur to increase enforcement" of anti-trust laws, said New York Attorney General Robert Abrams, a persistent critic of the administration and, like Mr. Van de Kamp, a Democrat. Attacking what he called the federal government's "anything goes" policy toward mergers. Mr. Abrams asserted that many of the billion-dollar mergers approved in recent years "would never have passed muster under any other administration, be it Republican or Democrat."

The other states represented at yesterday's news conference were Ohio, Montana, Arkansas, Texas, Oregon and Pennsylvania, the last two of which have Republican attorneys general.

The announcement came amid a new wave of big merger proposals, including Chrysler Corp.'s $1.1 billion bid to acquire American Motors Corp. and USAir Group Inc.'s $1.59 billion offer for Piedmont Aviation Inc. Meanwhile, a Senate Judiciary subcommittee today is scheduled to open a round of hearings on increased concentration in the airline, cable television, steel and other industries.

Charles Rule, acting head of the Justice Department's Antitrust Division, said in an interview that the state action threatens to "restrict the ability of U.S. companies to restructure in order to compete effectively" overseas. That argument is likely to be a central theme as Congress wrestles with antitrust issues.

Mr. Rule said the state guidelines are "less an enforcement document than a political document," adding that political considerations "are much more blatant" in the state guidelines than in any issued by federal agencies.

"I think we're doing what the law requires," Mr. Rules said. He acknowledged that the number of federal enforcement cases regarding mergers has declined since the late 1970s, but said the decrease occurred largely because "we have made clear what the standards are."

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NAAG HORIZONTAL MERGER GUIDELINES EXECUTIVE SUMMARY

The Horizontal Merger Guidelines of the National Association of Attorneys General (NAAG) will be presented for proposed adoption by the Attorneys General at the Association's spring meeting, March 8–10, 1987, in Washington, D.C. The Guidelines explain the general enforcement policy of NAAG and the 35 state and territorial Attorneys General who comprise NAAG's membership, concerning horizontal mergers and acquisitions. Individual Attorneys General may vary or supplement this general policy in the exercise of their individual prosecutorial discretion or to account for differences in state antitrust laws and variations in precedents among the federal circuits.

In most states, the Attorney General is the primary public enforcer of state antitrust law, and the Attorneys General also represent their states and consumers who live in their states in federal antitrust litigation.

Horizontal mergers are acquisitions between businesses operating in the same product and geographic market, that is, direct competitors seeking to sell the same product to the same group of buyers. Horizontal mergers can allow firms to attain market or monopoly power, raise prices to consumers above competitive levels and lessen competition. Market power is the ability of a firm to raise or maintain prices to consumers above a competitive level or to restrict output of the product. Some horizontal mergers may have no effect on competition or may improve firms' ability to compete by enhancing their efficiency. These Guidelines provide a necessary framework for states to evaluate proposed mergers and determine what effect they would have on competition.

The Guidelines serve three primary purposes. First, they put forward a framework for analyzing horizontal mergers that relies on market realities rather than speculation and is based on the clear purposes and meaning of section 7 of the Clayton Act, the federal antitrust law concerning mergers. Second, they provide a uniform framework for the states to evaluate the facts of a proposed merger. Finally, they inform the business community of the substantive standards used by the Attorneys General to review and, when appropriate, challenge proposed horizontal mergers.

The Guidelines use a four-step process for analyzing horizontal mergers. First, the product and geographic markets of the merging firms will be defined. Next, the level of concentration of the market, before and after the proposed merger and the amount of increased concentration caused by the merger will be determined. This absolute concentration level and increase will then be weighed against specific factors to determine whether the merger is likely to substantially lessen competition, in which case it is likely to be challenged. The factors are the ease of entry of new or expanded firms into the market, the past history of collusion or oligopolistic behavior by the industry, and whether mergers in moderately

concentrated markets are likely to produce efficiencies. Finally, if one of the merging firms claims that it is a failing company, the merger will be analyzed to determine whether an anticompetitive merger should be allowed pursuant to the failing company defense. The Guidelines do not recognize a "failing division" defense, but state that prosecutorial discretion may be exercised to decline to challenge a merger that will sustain a failing division of an otherwise viable firm.

The U.S. Department of Justice issued a set of Merger Guidelines in 1968, which were revised in 1982 and 1984. The DOJ Guidelines have been criticized because they are not consistent with the legislative purposes of the Clayton Act. Last year, the Justice Department proposed legislation to amend the federal merger law to raise the standard of proof and otherwise limit the Clayton Act, consistent with DOJ's Merger Guidelines. At the Summer 1986 Meeting, NAAG unanimously resolved that the legislation should be rejected because it was at odds with the legislative history and Supreme Court interpretation of the current Clayton Act § 7. In addition DOJ's tests for product and geographic market definition are economic hypotheses impossible to perform in the real world and the market definition test is so lenient that it will frequently define the markets over-broadly and thus seriously anti-competitive mergers will not be challenged. Further, the DOJ Guidelines do not present a predictable, reliable framework for analyzing mergers that can be used by business as a planning tool, instead they rely on 13 general, unweighted factors that the Department may consider in deciding whether to challenge a merger.

In July 1986, the NAAG Antitrust Committee directed Attorney General Robert Abrams, Chair of NAAG's Antitrust Committee and Multi-State Antitrust Task Force, to draft horizontal merger guidelines for NAAG that would accurately state the law, be based upon the purposes of the Clayton Act, and provide a uniform framework for the States to evaluate proposed mergers.

The major differences between the NAAG and DOJ Guidelines are as follows:

1. The NAAG Guidelines define the product markets as each product produced in common by the merging firms plus comparably priced suitable substitutes. A product is deemed to be a substitute if it would be considered as a suitable substitute by at least 75 percent of the customers of the initial product. This test reflects the interests of consumers. It is based on the realities of the marketplace and uses actual sales figures and other hard evidence. (NAAG Guidelines § 3.1).

The DOJ Guidelines define the relevant product market as the common products of the merging firms plus that additional group of products over which a hypothetical monopolist "could profitably impose a small but significant and nontransitory" price increase, which is a 5 percent increase for one year, in most cases. (DOJ Guidelines § 2.11).

2. The NAAG Guidelines define the geographic markets by first determining the area where the merging firms sell the relevant product and where buyers of the relevant product readily turn for their supply. The market is defined as the geographic area from which the customers of the merging parties buy 75 percent of their supplies of the relevant product. This test is based on the buyers' interests and requires hard evidence rather than speculation to support it. (NAAG Guidelines § 3.2).

The DOJ Guidelines define the geographic market as the area in which a hypothetical monopolist could impose a "small but significant and nontransitory" price increase and continue to profit because buyers would not shift to suppliers of the product in other areas. (DOJ Guidelines § 2.31).

3. The NAAG Guidelines recognize that potential competition may emerge to limit an attempt of the merged firm to exercise market power and repress competition. Therefore the markets will incorporate such potential competition if it has been proven likely to emerge within one year of any attempted exercise of market power. The three sources of potential competition recognized by the NAAG Guidelines are that firms will divert supplies of the product not currently sold in the relevant market into that market, that current suppliers of the product will produce additional supplies for sale within the relevant market by using excess capacity or adding new production capacity, and that new sources of the product will be readily available from firms with production flexibility, that build new capacity, or engage in arbitrage. Mere speculation about these supply responses is unsatisfactory. The NAAG Guidelines require hard evidence of the probability of potential competition. (NAAG Guidelines § 3.3).

The DOJ Guidelines would include the following sources of supply and sellers within the product market definition; the amount of firms' capacity to shift production to make the relevant product, firms that recycle or recondition the product, and the amount of capacity of firms to sell supplies of the product that are produced for internal consumption. The geographic market definition would be expanded by increased foreign competition likely to result from a domestic increase in the price of the relevant product. (DOJ Guidelines §§ 2.2, 2.34).

A major difference between the two sets of Guidelines on this issue is the type of evidence that will be considered to be relevant to the correct definition of the product and geographic markets. The NAAG Guidelines will evaluate "hard evidence" such as historical patterns of sales, shipments, transfer of production, previous practice of arbitrage, and actual sales of the product. The DOJ Guidelines accept speculative evidence and do not require "hard" evidence of probable supply responses. For example, the DOJ Guidelines will include in the markets firms' capacity to substitute production and internal consumption without requiring a showing that it is likely that such capacity will be used and available to consumers. The DOJ Guidelines are willing to rely upon "reliable, circumstantial evidence." (DOJ Guidelines §§ 2.12, 2.2, 2.32, 2.34).

4. Both sets of Guidelines use the Herfindahl-Hirschman Index (HHI) to calculate the level of concentration in an industry before and after a merger and, therefore, the increase in concentration that would result from the merger. This index measures the number of firms in a market and their market shares. Economic research and scholarly literature generally agree that the level of concentration in an industry is directly related to competition and the ability of firms to exercise market power. As market concentration increases, the ability to exercise market power increases and competition tends to decrease. Both sets of Guidelines use the same thresholds to analyze whether a merger would cause excessive concentration and should be challenged. Both sets of Guidelines state that actions to challenge a merger are likely if: (1) the post-merger HHI is between 1000 and 1800 and the merger would increase the HHI by more than 100 points, or (2) the post-merger HHI is above 1800 and the merger would increase the HHI by more than 50 points. (NAAG Guidelines §§ 4.2, 4.3; DOJ Guidelines § 3.11).

The NAAG Guidelines also recognize that Congress wanted to prevent trends toward increased market concentration and therefore decided that competitive problems should be halted in their incipiency. Therefore, the NAAG Guidelines provide that actions to challenge mergers are also likely if: (1) the post-merger HHI is between 1000 and 1800, ther merger would increase the HHI by more than 50 points and during the 36 months preceding the proposed merger the HHI has increased by more than 100 points, or (2) the post-merger HHI is above 1800, the merger would increase the HHI by more than 25 points and during the 36 months preceding the merger the HHI has increased by more than 50 points. (NAAG Guidelines §§ 4.2(b), 4.3(b)).

The DOJ Guidelines make no provision for factoring in the dynamic conditions of an industry to halt trends towards concentration in their incipiency. The NAAG Guidelines take into account market dynamics over the past several years in evaluating mergers.

5. Both sets of Guidelines recognize that the merger of a dominant firm with a small firm in the market may create or increase the dominant firm's market power without exceeding the HHI thresholds and triggering a challenge to the merger. Both sets of Guidelines adopt the same special thresholds to review such mergers, that is, an action to challenge a merger is likely if a leading firm with a market share of at least 35 percent proposes a merge with a firm with a market share of at least 1 percent. (NAAG Guidelines § 4.4, DOJ Guidelines § 3.12).

The NAAG Guidelines also go further and recognize that new, innovative firms in a market are likely to enhance the general level of competition in a market. Therefore, the NAAG Guidelines provide that a proposed merger between an existing significant competitor with a market share of more than 20 percent and a new, innovative firm is likely to be challenged. (NAAG Guidelines § 4.4). The personal computer industry is a good example of the value of this provision. If IBM had recognized an innovative new company and acquired Apple Computer when Apple was a new company with a de minimus market share, the current healthy competition in the home computer market might have been limited. The DOJ Guidelines do not make any provisions for mergers involving such new, innovative firms.

6. The NAAG Guidelines recognize that there are three factors that should be considered in addition to the threshold tests in evaluating a proposed merger. Factor 1 recognizes that meaningful entry into the market can discipline any attempt by the merging firms to exercise market power and limit competition. In a proposed merger falling within any of the thresholds, an action to block a proposed merger is unlikely if easy and meaningful entry into the market is likely with one year of an attempted exercise of market power. (NAAG Guidelines § 5.1).

The second factor recognizes that a history of collusion, current collusion or oligopolistic behavior in a market undermines

competition, shows that there are already competitive problems in a market and would make any anticompetitive effects of a merger more severe. Therefore, collusion and oligopolistic behavior make it more likely than otherwise that any proposed merger will be challenged under the NAAG Guidelines (§ 5.2).

Generally, the NAAG Guidelines find that there is no substantial empirical support for the assertion that mergers involving firms of sufficient size to raise concerns under the thresholds will result in substantial efficiencies. Further, the thresholds of concentration of Section 4 of NAAG Guidelines are set at levels that will allow most efficiency-producing mergers to take place without being challenged. However, the Guidelines give merging firms the opportunity to demonstrate by hard evidence that the merger will produce real efficiencies. Efficiencies will only be considered in situations with a post-merger with an HHI of less than 1800 points because the 1800 level, indicating extremely high concentration, may be considered an illegal merger. The Supreme Court has rejected the efficiency defense in *FTC* v. *Procter & Gamble*, 386 U.S. 568, 580 (1967), stating that "Possible economies cannot be used as a defense to illegality," and in *U.S.* v. *Philadelphia Nat'l Bank*, 374 U.S. 321, 371 (1963), stating that "We are clear, however, that a merger the effect of which 'may be substantially to lessen competition' is not saved because, on some ultimate reckoning of social or economic debits and credits, it may be deemed beneficial." The U.S. Supreme Court has stated that efficiency is not a defense to an illegal merger so the NAAG Guidelines do not allow efficiency to be used as a defense (§ 5.3). The DOJ Guidelines state that efficiency is not a defense, but DOJ will evaluate the efficiencies of any proposed merger, even one whose threshold exceeds HHI 1800. Additionally, DOJ will reject any claims of efficiencies that could be achieved by other means than a merger. The NAAG Guidelines will consider any efficiencies produced by a proposed merger with a post-merger HHI under 1800, because the Attorneys General do not wish to dictate how business should be run, thus preserving the right for business managers the freedom to manage their operations in the way they deem best. (NAAG Guidelines § 5.3, DOJ Guidelines § 3.5).

The DOJ Guidelines simply list and describe 13 factors as "examples" of factors that the Justice Department may consider in evaluating whether they challenge a proposed merger. The Guidelines do not state criteria for applying the factors and do not weigh which factors are more or less significant or which will cancel or balance other factors. (§ 3.3, 3.4). The DOJ Guidelines include the NAAG factors, which are ease of entry, the conduct of firms in the market (collusion or oligopoly behavior), and efficiencies as three of the 13 DOJ factors. Unlike the NAAG Guidelines, which consider entry within one year of an exercise of market power to be significant, the DOJ Guidelines generally will use a two year time period. The NAAG Guidelines chose the shorter period in order to give greater protection to buyers, who would be more damaged by firms abusing their market power during the longer period. (NAAG Guidelines § 5.1, DOJ Guidelines § 3.3).

7. The NAAG Guidelines adopt the failing firm defense as the only defense to an anticompetitive merger. In accordance with the Supreme Court standards discussed in *U.S.* v. *General Dynamics Corp.*, 415 U.S. 486 (1974); *U.S.* v. *Greater Buffalo Press, Inc.*, 402 U.S. 549 (1971), a merger is unlikely to be challenged if it is demonstrated that one of the merging firms is failing in that its resources are so depleted and the prospect of rehabilitation is so remote that the firm faces the grave probability of a business failure. It must also be demonstrated that the firm has made reasonable good faith efforts and failed to find another reasonable prospective purchaser and there is no less anticompetitive alternative to the merger. (NAAG Guidelines § 6).

The DOJ Guidelines also allow the failing firm defense. (DOJ Guidelines § 5.1). In addition, the DOJ Guidelines recognize a defense for "failing divisions" of otherwise healthy firms. (§ 5.2). This defense has not been adopted by the U.S. Supreme Court so the NAAG Guidelines do not treat it as a defense. However, they provide that prosecutorial discretion may be exercised by declining to challenge a merger that will sustain a failing division of an otherwise viable firm. Since the failing division claim is highly susceptible to manipulation and abuse, however, such claims will be viewed with the utmost skepticism and require clear and convincing proof of the elements of the failing firm defense.

NAAG is seeking the widest possible distribution of its Horizontal Merger Guidelines to members of Congress, the Administration, the legal community and business leaders to restore consistency, predictability and antitrust enforcement based on the meaning and purposes of § 7 of the Clayton Act to merger enforcement.

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HORIZONTAL MERGER GUIDELINES OF THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

*1. Purpose and scope of the guidelines*

These Guidelines explain the general enforcement policy of the fifty-five state and territorial attorneys general ("the Attorneys General") who comprise the National Association of Attorneys General [1] ("NAAG") concerning horizontal [2] acquisitions and mergers (mergers) subject to section 7 of the Clayton Act,[3] sections 1 and 2 of the Sherman Act [4] and analagous provisions of the antitrust laws of those states which have enacted them.[5]

The state attorney general is the primary or exclusive public enforcer of the antitrust law in most states. The Attorneys General also represent their states and the natural person citizens of their states in federal antitrust ligitation.[6]

These Guidelines embody the general enforcement policy of NAAG and its members. Individual attorneys general may vary or supplement this general policy in recognition of variations in precedents among the federal circuits and differences in state antitrust laws and in the exercise of their individual prosecutorial discretion.

These Guidelines serve three primary purposes. First, they provide a uniform framework for the states to evaluate the facts of a particular horizontal merger and the dynamic conditions of an industry. Second, they inform the business community of the substantive standards used by the Attorneys General to review, and when appropriate, challenge specific mergers. This will allow the business community to assess potential transactions under these standards and therefore be useful as a risk assessment and business planning tool. Third, the Guidelines put forward a framework for the analysis of horizontal mergers which relies upon market realities and which is grounded in and consistent with the purposes and meaning of section 7 of the Clayton Act, as amended by the Celler-Kefauver Act of 1950 ("section 7"), and as reflected in its clear legislative history and consistent interpretation by the United States Supreme Court.[7]

The organizing principle of the Guidelines is the application of facts concerning the marketplace and widely accepted economic theory to these authoritative sources of the law's meaning.

*2. Policies underlying these guidelines*

The federal antitrust law provisions relevant to horizontal mergers, most specifically section 7 and analagous state law provisions,[8] have one primary and several subsidiary purposes. The central purpose of the law is to prevent firms from attaining market or monopoly power,[9] because firms possessing such power can raise prices to consumers above competitive levels, thereby effecting a transfer of wealth from consumers to such firms.[10]

Congress determined that highly concentrated industries were characterized by and conducive to the exercise of market power and prohibited mergers which may substantially lessen competition. Such mergers were prohibited even prior to the actual attainment or exercise of market power, that is, when the trend to harmful concentration was incipient.

Other goals of the law were the prevention of excessive levels of industrial concentration because of the political and social effects of concentrated economic power and the fostering of productive efficiency, organizational diversity, technological innovation and the maintenance of opportunities for small and regional businesses to compete.[11]

Goals such as productive efficiency, though subsidiary to the central goal of preventing wealth transfers from consumers to firms possessing market power, are often consistent with this primary purpose. When the productive efficiency of a firm increases (its cost of production is lowered), the firm may pass on some of the savings to consumers in the form of lower prices. However, there is little likelihood that a productively efficient firm with market power would pass along savings to consumers. To the limited extent that Congress was concerned with productive efficiency in enacting these laws, it prescribed the prevention of high levels of market concentration as the means to this end.[12] Furthermore, the Supreme Court has clearly ruled that any conflict between the goal of preventing anticompetitive mergers and that of increasing efficiency must be resolved in favor of the former explicit and predominant concern of the Congress.[13]

The Congress evidenced little or no concern for allocative efficiency when it enacted section 7 and the other antitrust laws.[14] Nevertheless, preserving allocative efficiency is generally considered an additional benefit realized by the prevention of market power, because the misallocative act of restricting output has the concomitant effect of raising prices to consumers. It is counterintuitive, however, to primarily base merger policy on the analysis of these efficiency effects, which are inconsequential in the statutory scheme, and are insignificant in relation to the wealth transfers associated with the exercise of market power.[15]

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Footnotes at end of article.

*2.1 The competitive effects of mergers*

Mergers may have negative or positive competitive consequences. The following is a summary description of the most common competitive effects of mergers relevant to enforcement of section 7.[16]

*2.11 Acquisition of market power and wealth transfers*

When two firms, neither possessing market power, cease competing and merge, the inevitable consequence is the elimination of the competition between them. More significantly, however, the merged entity may now possess market power, an unambiguously anticompetitive outcome.

A merger may also increase the concentration level in an industry to a point at which the few remaining firms can effectively engage in active collusion or implicitly coordinate their actions and thus collectively exercise market power.

When a firm or firms exercise market power by profitably maintaining prices above competitive levels for a significant period of time, a transfer of wealth from consumers to those firms occurs.[17] This transfer of wealth is the major evil sought to be addressed by section 7.[18]

The wealth transfer orientation of section 7 is the same as that of the Sherman Act. The major difference and reason for the enactment of section 7 of the Clayton Act was the "incipiency" standard, which permits antitrust intervention at a point when the anticompetitive consequences of a merger are not manifest but are likely to occur absent intervention. The Celler-Kefauver amendments retained and strengthened the "incipiency" standard by extending the coverage of the law to acquisitions of assets. In Section 4 of these Guidelines the Attorneys General specifically attempt to give expression to the statutory concern of "incipiency."

*2.12 Productive efficiency*

A merger may increase or decrease the costs of the parties to the merger and thus increase or decrease productive efficiency. A merger which increases productive efficiency and does not produce a firm or firms capable of exercising market power should lower prices paid by consumers. An inefficient merger in an unconcentrated industry is generally of no competitive concern. The efficiency effects of mergers are easy to speculate about but hard to accurately predict. There is much disagreement among economists as to whether merged firms usually perform well and whether, on average, mergers have been shown to produce significant efficiencies. However, most efficiencies and those most quantitatively significant will be realized in mergers involving small firms. Such mergers do not raise any concern under the enforcement standards adopted in Section 4 of these Guidelines. Furthermore, the concentration thresholds adopt in Section 4 are more than high enough to enable firms to obtain the most significant efficiences likely to result from growth through merger as opposed to growth through internal expansion.

*2.13 Allocative efficiency*

A merger which facilitates the exercise of market power results in a decrease in allocative efficiency. When firms with market power restrict their output, the total wealth of society diminishes. This effect is universally condemned by economists, and its prevention, while not a significant concern of the Congress which enacted section 7, is a goal consistent with the purposes of the antitrust laws.

*2.14 Raising rivals' costs*

In certain circumstances a merger may raise the cost of the competitors of the parties to the merger. For example, a merger could increase the power of a firm to effect the price that rivals must pay for inputs or the conditions under which they must operate, in a manner that creates a relative disadvantage for the rivals. If the market structure is such that these increased costs will be passed on to consumers, then the prevention of this effect is consistent with the goals of the antitrust laws. Preventing such effect will also prevent a decrease in allocative efficiency.

*3. Market definition*

These Guidelines are concerned with horizontal mergers, that is, mergers involving firms that are actual or potential competitors in the same product and geographic markets.

The primary analytical tool utilized in the Guidelines is the measurement of concentration in a particular market and increase in concentration in that market resulting from a merger. The market shares used to compute these concentration factors will depend upon the market definition adopted.[19] The reasonable delineation of these market boundaries is critical to realizing the objectives of the Guidelines and the antitrust laws. If the market boundaries chosen are seriously distorted in relating to the actual workings of the marketplace, an enforcement error it likely.[20] An overly restricted product or geographic market definition may trigger antitrust intervention when the merger would not significantly harm competition or in other circumstances result in the failure to challenge an anticompetitive merger. An overly expansive market definition also may result in the failure to challenge a merger with serious anticompetitive consequences.[21] Markets should be defined from the perspective of those interests section 7 was primarily enacted to protect, i.e., the classes of consumers (or suppliers) who may be adversely affected by an anticompetitive merger. The Attorneys General will utilize historical data to identify these classes of consumers ("the protected interest group") their sources of supply, suitable substitutes for the product and alternative sources of the product and its substitutes. The market thus defined will be presumed correct unless rebutted by hard evidence that supply responses within a reasonable period of time will render unprofitable an attempted exercise of market power.[22]

The following sections detail how these general principles will be applied to define product and geographic markets and to calculate the market shares of firms determined to be within the relevant market.

*3.1 Product Market Definition*

The Attorneys General will determine the customers who purchase the products or services ("products") of the merging firms. Each product produced in common by the merging parties will constitute a provisional product market. The provisional product market will be expanded to include suitable substitutes for the product which are comparably priced.[23] A comparably priced substitute will be deemed suitable and thereby expand the product market definition if, and only if, considered suitable by at least 75 percent of these customers.

Actual substitution by customers in the past will presumptively establish that a product is considered a suitable substitute for the provisionally defined product, however, other evidence probative of the assertion that customers deem a product to be a suitable substitute offered by the parties to the merger will also be considered.[24]

*3.11 Product submarkets*

Notwithstanding the determination in Section 3.1 that a product is a suitable substitute for the provisional product pursuant to application of the 75 percent rule, there may be small but significant groups of consumers who cannot substitute or can do so only with great difficulty. These consumers may be subject to price discrimination and be particularly adversely affected by a merger. In such instances, the Attorneys General may define additional narrower product submarkets.

Evidence of the commercial reality of such a submarket includes price discrimination, inelasticity of demand and industry or public recognition of a distinct submarket.

*3.2 Geographic market definition*

Utilizing the product market(s) defined in Section 3.1, the Attorneys General will define the relevant geographic market.

First, the Attorneys General will determine the sources and locations where the customers of the merging parties readily turn for their supply of the relevant product. These will include the merging parties and other sources of supply. To this group of suppliers and their locations will be added suppliers of buyers closely proximate to the customers of the merging parties. In determining those suppliers to whom the protected interest group readily turn for supply of the relevant product, the Attorneys General will include all sources of supply within the past two years still present in the market.

Utilizing the locations from which supplies of the relevant product are obtained by members of the protected interest group, the geographic market will be defined as the area encompassing the production locations from which this group purchases 75 percent of their supplies of the relevant product.

The product and geographic markets as defined above will be utilized in calculating market shares and concentrations levels unless additional sources of supply are recognized by application of the procedures specified in Section 3.3.

*3.22 Geographic submarkets*

The Attorneys General may define additional narrower geographic markets when there is strong evidence that sellers are able to discriminate among buyers in separate locations within the geographic market(s) defined in Section 3.2. The Attorneys General will evaluate evidence concerning discrimination on price, terms of credit and delivery and priority of shipment.[25]

*3.3 Principles for recognizing potential competition*

The firms identified as being in the markets defined by the procedures outlined in Sections 3.1 and 3.2 will be utilized in calculating market shares and measuring concentration unless the parties to the merger produce relevant hard evidence of profitable supply and demand responses which will be likely to occur within one year of any attempted exercise of market power. When such potential competition is proven to be likely to emerge within a year, the Attorneys General will calculate market shares and concentration levels after incorporating such sources of potential supply.

The Attorneys General will evaluate hard evidence produced by the parties to a

merger of the following sources of potential competition:

(1) That firms will divert supplies of the product not currently sold in the relevant geographic market into that market.

(2) That current suppliers of the product will produce additional supplies for the relevant market by utilizing excess capacity or adding new productive capacity.

(3) That new sources of the product will be readily available from firms with production flexibility, firms who will build new capacity and firms engaging in arbitrage.

*3.31 Diversion of existing supplies into the market*

The parties to a merger may produce evidence that firms will divert supplies of the product into the market in response to a price increase or restriction of output. The Attorneys General will analyze proof concerning such probable diversions of supplies currently exported from the relevant market, supplies internally consumed by vertically integrated firms in the market and additional supplies from firms currently shipping part of their production into the market.

*3.31A Exports*

A firm currently exporting the product from the relevant market may divert the supply back into the market in response to a price increase or restriction of output.

This response is unlikely from an exporter who is a party to the merger, since it is unlikely to discipline its own attempted exercise of market power. It is also unlikely if the exporter is an oligopolist likely to benefit from the collective exercise of market power.

Although parties wishing to prove this supply response are free to produce any hard evidence, the most persuasive proof will be historical shipping patterns showing past diversion of exports in respons to price increases or restricted supply. In addition the parties should, at a minimum, address the following questions: Are the exports contractually committed and for what term? Are the exports otherwise obligated to current buyers?

*3.31B Internal consumption*

A vertically integrated firm producing the product for internal consumption may divert this supply to the open market. Diversion is unlikely if there are no suitable and economical substitutes for the product and/or the firm has contractual or other obligations for the goods utilizing the relevant product. The most persuasive proof of such diversion will be evidence that a vertically integrated firm already sells some of the product on the open market and has a history of transferring production intended for internal consumption to the open market.

*3.31C Increased importation*

A firm shipping part of its output of the product into the relevant market may respond to an attempted exercise of market power by diverting additional production into the relevant market. Parties seeking to prove the likelihood of this supply response should, at a minimum, address the factual issues of whether and for what terms these additional supplies are contractually or otherwise obligated to buyers outside the relevant market, the percentage of the suppliers' production now sent into the market and their historical shipping patterns.

*3.32 Expansion of output*

The parties to a merger may produce evidence that current suppliers of the product will expand their output by utilization of excess capacity or the addition of new capacity within one year of any attempted exercise of market power. Parties attempting to prove probable utilization of excess capacity should at a minimum address the issues of (i) the cost of bringing the excess capacity on line; (ii) the amount of excess capacity; (iii) for a firm not currently supplying the relevant market, prior history of supplying this market or present intention to do so; and (iv) how much prices would have to rise to likely induce this supply response.

*3.33 New production sources of additional supply*

The parties to a merger may produce evidence that firms not currently supplying the product will do so within one year of any attempted exercise of market power. This might be shown for firms with production flexibility, firms who will erect new production facilities and firms engaging in arbitrage.

*3.33A Production flexibility*

The Attorneys General will evaluate proof concerning firms with flexible production facilities who are capable of switching to the production of the relevant product within one year and are likely to do so. A history of such switching in the past will be the most persuasive evidence that this response is probable.

*3.33B Construction of new facilities*

A party may attempt to demonstrate that firms not presently supplying the product will erect new plant facilities (or establish new service facilities) within one year of an attempted exercise of market power.

*3.33C Arbitrage*

Firms proximate to the relevant market may respond to an exercise of market power by buying the product outside the market and reselling it inside the market. This potential source of supply is unlikely if the relevant product is a service or combined product and service. A history of arbitrage in the industry will be most probative that this potential response is probable.

*3.4 Calculating market shares*

Using the product and geographic markets defined in Sections 3.1 and 3.2, the firms supplying the market and any additional sources of supply recognized under Section 3.3, the shares of all firms determined to be in the market will be calculated.

The market shares of firms presently supplying the market shall be based upon actual sales within the relevant market. If there has been a demonstration of a probable supply response as defined in Section 3.3, the market shares of firms already selling in the market will be adjusted to account for the proven probable supply response. Similarly, market shares will be assigned to firms not currently supplying the market who have been shown to be likely to enter the market in response to an attempted exercise of market power. The assigned market shares of such firms will be based upon the amount of the product these firms would supply in response to an attempted exercise of market power. The Attorneys General will utilize dollar sales, unit sales or other appropriate sales measurements to quantify actual sales. Expected dollar or unit sales will be used when proven supply responses have expanded the market definition.

*3.41 Foreign firms*

Foreign firms presently supplying the relevant market will be assigned market shares in the same manner as domestic firms, according to their actual current sales in the relevant market. Foreign firms and their productive capacity are inherently a less reliable check on market power by domestic firms because foreign firms face a variety of barriers to continuing sales or increasing their sales. These barriers include import quotas, voluntary quantitative restrictions, tariffs and fluctuations in exchange rates. When such barriers exist, market share based upon historical sales data will be reduced.

A single market share will be assigned to the firms of any foreign country or group of countries which in fact coordinate their sales.[26]

*4. Measurement of concentration*

The primary tool utilized by the Attorneys General to determine whether a specific horizontal merger is likely to substantially harm competition is a measurement of the level of concentration in each market defined in section 3. Concentration is a measurement of the number of firms in a market and their market shares. The Guidelines employ the Herfindahl-Hirschman Index ("HHI") to calculate the level of concentration in an industry before and after a merger and, therefore, the increase in concentration which would result from the merger.[27] Basing merger policy on measurements of market concentration furthers the goals of both section 7 and these Guidelines.

Unlike the traditional four firm concentration ratio ("CR4") which was formerly used by enforcement agencies and courts to measure market concentration,[28] the HHI reflects both the distribution of the market shares of all the leading firms in the market and the composition of the market beyond the leading firms.[29]

The predominant concern of the Congress in enacting section 7 was the prevention of high levels of industrial concentration because of the likely anticompetitive consequences. Foremost among these likely anticompetitive effects of high concentration is the exercise of market power by one or more firms through monopolization, collusion or interdependent behavior in an oligopolistic market. Section 7 militates that the HHI levels which trigger an action to block a merger be set at the concentration levels likely to prevent these anticompetitive actions and interactions.

The objective of preventing future likely anticompetitive effects should be based primarily upon the historical picture of the market rendered by concentration levels, since industrial and economic concentration were the primary concerns of the framers of section 7. Furthermore, the predominant focus of scholarly economic inquiry into the competitive consequences of mergers has been the correlation of concentration levels with various indicia of competition. Other theories which predict the competitive effects of mergers based upon factors other than market concentration, though valuable, have not nearly reached the level of precision which is necessary for them to form the basis for responsible policy decisions. The facts of recent history are a far more reliable gauge of future consequences than such theories.[30]

The Attorneys General divide the spectrum of market concentration into the same three numerical regions utilized by the United States Department of Justice.[31] They are characterized in these Guidelines as "acceptable concentration" (HHI below 1000) "moderate to high concentration"

(HHI between 1000 and 1800) and "very high concentration" (HHI above 1800).[32]

*4.1 General standards*

The Attorneys General will calculate the post-merger concentration level in the market and the increase in concentration due to the merger. In certain cases, increases in concentration during the 36 months prior to the merger will also be assessed.

While it may be justifiable to challenge any merger above the threshold of market concentration where collusion and interdependent behavior are significantly facilitated (HHI 1000) the Attorneys General are unlikely to challenge mergers which do not significantly increase concentration. This policy recognizes section 7's prohibition of mergers whose effects "may be substantially to lessen competition." When the threshold of very high concentration is traversed (HHI 1800) the likelihood of anticompetitive effects are greatly increased and the increase in concentration likely to substantially lessen competition concomitantly reduced. The concentration increases which are likely to trigger an enforcement action under these guidelines have been adopted in reasonable accommodation of both the "substantiality" requirement of Section 7 and the need to objectively factor in the dynamic conditions in an industry. The latter concern is addressed by measuring increases in market concentrations during the 36 months prior to a merger.

*4.2 Post-merger HHI between 1,000 and 1,800*

An action to challenge a merger is likely if the merger:

(a) Increases the HHI by more than 100 points, or

(b) Increases the HHI by more than 50 points and during the 36 months prior to the proposed merger the HHI has increased by more than 100 points. Notwithstanding the foregoing, a challenge is unlikely in either case if assessment of the factors discussed in Sections 5.1 and/or 5.3 clearly compel the conclusion that the merger is not likely substantially to lessen competition.

*4.3 Post-merger HHI above 1,800*

An action to challenge a merger is likely if the merger:

(a) Increases the HHI by more than 50 points; or

(b) Increases the HHI by more than 25 points and during the 36 months prior to the proposed merger the HHI has increased by more than 50 points. Notwithstanding the foregoing, a challenge is unlikely in either case if assessment of the factor discussed in Section 5.1 clearly compels the conclusion that the merger is not likely substantially to lessen competition.

*4.4 Mergers involving the leading firm or a new innovative firm in a market*

The merger of a dominant firm with a small firm in the market may create or increase the market power of the dominant firm yet increase the HHI by an amount less than the levels set forth in Sections 4.2 and 4.3. Similarly, the merger of a new, innovative firm with an existing significant competitor in the market may substantially reduce competition yet increase the HHI by an amount less than the levels set forth in Sections 4.2 and 4.3. Therefore, an action to challenge a merger will also be likely if the proposed merger involves either a leading firm with a market share of at least 35 percent and a firm with a market share of 1 percent or more, or a firm with a market share of 20 percent or more and a new, innovative firm in a market with moderate to high concentration or very high concentration, unless assessment of the factor discussed in Section 5.1 clearly compels the conclusion that the merger is not likely substantially to lessen competition. In addition, in a market with moderate to high concentration the factor discussed in Section 5.3 will also be assessed.

*5. Additional factors which may be considered in determining whether to challenge a merger*

There are numerous factors aside from market share and market concentration which may make a merger more or less likely substantially to lessen competition. While the assessment of most or many of these factors would increase the flexibility of these Guidelines, this would also significantly vitiate the predictability of their application and the consistency of enforcement under the Guidelines and would greatly reduce their value as a planning and risk assessment tool for the business community.

While maintaining primary reliance on the concentration and market share analysis discussed in Section 4, the Attorneys General will, under the limited circumstances specified herein, assess three additional factors. These are "ease of entry," collusive behavior and efficiencies.

*5.1 Ease of entry*

If meaningful entry into the market can be easily and speedily accomplished, any attempted exercise of market power is likely to be disciplined. For entry to be meaningful it must contribute enough additional product to discipline a price increase or supply restriction. Entry must also be economical, so that there is sufficient incentive to make it likely to occur.[33] Financial, informational, technological and regulatory barriers to entry and those posed by excess capacity will also be assessed. Finally, entry must be likely to occur within one year. While entry requiring longer than this period of time can eventually discipline the exercise of market power, during a year consumers will suffer significant harm of the precise nature which the law was primarily enacted to prevent.

If under the foregoing standards the Attorneys General find that easy and meaningful entry can be accomplished within one year, action to block a merger is unlikely.

*5.2 Collusion and oligopolistic behavior*

If the market has a history of collusion or if there is evidence of current collusion or oligopolistic behavior,[34] the Attorneys General are more likely than otherwise to challenge a merger below one of the numerical thresholds set forth in Section 4[35] and very likely to challenge a merger exceeding any of the numerical thresholds set forth in Section 4.

The absence of collusion or oligopolistic behavior will not diminish the probability of a challenge otherwise likely under the standards set forth in Section 4.

*5.3 Efficiencies*

To the limited extent that efficiency was a concern of the Congress in enacting Section 7, that concern focused on productive efficiency and was expressed in the legislative finding that less industrial concentration would further that goal.[36] The Attorneys General find that there is no substantial empirical support for the assertion that mergers involving firms of sufficient size to raise concerns under the standards set forth in Section 4, usually or on average result in substantial efficiencies. Furthermore, the concentration thresholds adopted in Section 4 are more than high enough to enable firms to obtain the most significant efficiencies likely to result from growth through merger.

Even in those rare situations where significant efficiencies can be demonstrated, rather than merely predicted, this showing cannot constitute a defense to an otherwise unlawful merger.[37] Accordingly, efficiencies will only be considered when the post-merger HHI is 1800 points or below. When the post-merger HHI is 1800 or below the Attorneys General will evaluate any hard evidence offered by the parties that a merger will produce significant efficiencies, such as clearly proven savings on transportation costs or scale economies. In general, proven cost savings of 5%, for both firms using a weighted average, will make a challenge to a merger "unlikely" notwithstanding the standards set forth in Sections 4.2 and 4.4.[38] There may, however, be instances where proven cost savings of a lower magnitude may significantly reduce prices to consumers or where the Attorneys General will require evidence of cost reductions in excess of 5%.[39] The Attorneys General will evaluate such claims on a case by case basis.[40]

*6. Failing firm defense*

The failing firm doctrine, which has been recognized by the United States Supreme Court will be a defense to an otherwise unlawful merger.[41] Because it may therefore allow anticompetitive mergers, the defense will be strictly construed.

The Attorneys General are unlikely to challenge an anticompetitive merger when one of the merging firms is a failing company and satisfies its burden of showing the following three elements: (1) that the resources of the allegedly failing firm are so depleted and the prospect of rehabilitation is so remote that the firm faces the grave probability of a business failure; (2) that it had made reasonable good faith efforts and had failed to find another reasonable prospective purchaser; and (3) that there is no less anticompetitive alternative available.[42]

FOOTNOTES

[1] The Attorneys General of American Samoa, Guam, The Commonwealth of Northern Mariana Islands, The Commonwealth of Puerto Rico and the Virgin Islands are members of NAAG. The Corporation Counsel of the District of Columbia, although not a member of NAAG, has also adopted these Guidelines.

[2] A horizontal merger involves firms that are actually or potentially in both the same product and geographic markets, as those markets are defined in Section 3 of these Guidelines.

[3] Section 7 of the Clayton Act, 15 U.S.C. § 18 prohibits mergers if their effect "may be substantially to lessen competition or to tend to create a monopoly."

[4] Section 1 of the Sherman Act, 15 U.S.C. § 1 prohibits mergers which constitute an unreasonable "restraint of trade." Section 2 of the Sherman Act, 15 U.S.C. § 2 prohibits mergers which creates a monopoly or constitute an attempt, combination or conspiracy to monopolize.

[5] Citations to the antitrust laws of the States are set forth in Appendix A.

[6] The authority of the Attorneys General to invoke section 7 of the Clayton Act to enjoin a merger injurious to the general welfare and economy of the State is confirmed in *Georgia* v. *Pennsylvania Railroad Co.*, 324 U.S. 439 (1945).

[7] This orientation recognizes a basic principle which should properly guide governmental enforcement of the law. It is the legislative function to make basic policy choices, whether or not those choices coincide with the beliefs of a particular administration, enforcement agency, or a particular school of economic theory.

[8] For example, see statutes of Hawaii, Maine, Mississippi, Nebraska, New Jersey, Ohio, Oklahoma, Texas, Washington and Puerto Rico for provisions analagous to section 7. Appendix B contains citations to state anti-merger provisions. However, all states with a provision analagous to Sherman Act § 1 may also challenge mergers under such authority. See note 6 concerning state enforcement of Section 7.

[9] Market power is the ability of one or more firms to maintain prices above a competitive level, or to prevent prices from decreasing to a lower competitive level, for a significant period of time.

[10] A buyer or group of buyers may similarly attain and exercise significant period of time. This is usually termed an exercise of "monopsony power." When the terms "buyer(s)" or "groups of buyers" are used herein they are deemed to include "seller(s)" or "groups of sellers" adversely affected by the exercise of market or monopsony power.

[11] *Brown Shoe Co.* v. *United States*, 370 U.S. 294, 315–16 (1962).

[12] There is vigorous debate whether firms in industries with high concentration are on average more or less efficient than those in industries with moderate or low levels of concentration.

The theory of "x-inefficiency" predicts that firms constrained by vigorous competition have lower production costs than firms in an industry with little or no competition. Various economists have attempted to quantify production cost increases due to x-inefficiency and the theory is gaining broad acceptance.

Regardless of such debate, Congress had the prerogative to make a choice, opting for less concentration, and did so with little regard for efficiency. The primary concern was wealth transfers from consumers to firms exercising market power.

[13] In *FTC* v. *Procter & Gamble Co.*, 386 U.S. 568, 580 (1967), the Court stated:

"Possible economies cannot be used as a defense to illegality. Congress was aware that some mergers which lessen competition may also result in economies but it struck the balance in favor of protecting competition."

"We are clear, however, that a merger the effect of which "may be substantially to lessen competition" is not saved because, on some ultimate reckoning of social or economic debits and credits, it may be deemed beneficial. A value choice of such magnitude is beyond the ordinary limits of judical competence, and in any event has been made for us already, by Congress when it enacted the amended § 7. Congress determined to preserve our traditionally competitive economy. It therefore proscribed anticompetitive mergers, the benign and the malignant alike, fully aware, we msut assume, that some price might have to be paid."

[14] Perfect "allocative efficiency" or "Pareto optimality" is a state of equilibrium on the so-called "utility-possibility frontier" in which no person can be made better off without making someone else worse off. Allocative efficiency can be achieved in an economy with massive inequalities of income and distribution, e.g., 1% of the population can recieve 99% of the economy's wealth and 99% of the population can receive 1%. A massive transfer of wealth from consumers to a monopolist is irrelevant to the concept of allocative efficiency. What is relevant is that a monopolist may restrict output, diminishing the total wealth of society and thereby reducing allocative efficiency. Economists term this loss of society's wealth the "deadweight loss."

[15] In most mergers creating market power, the effect of the wealth transfer from consumers will be many times as great quantitatively as the effect on allocative efficiency (dead weight loss). See note 14. It is important to re-emphasize that wealth transfer is irrelevant to the issue of allocative efficiency. The term of art "consumer welfare," often used when discussing the efficiency effects of mergers and restraints of trade, refers to the concept of allocative efficiency. A transfer of wealth from consumers to firms with market power does not diminish "consumer welfare." For the unwary Judge or practitioner stumbling upon this term it is important to understand this fact and to further understand that "consumer welfare" when used in this manner, has nothing to do with the welfare of consumers.

[16] These Guidelines deal only with these competitive consequences of horizontal mergers. Mergers may have many other consequences, beneficial or detrimental, not relevant to the enforcement of section 7. The penalization of ineffective management and the distortion of cash flow and capital flow patterns are two frequent results of mergers not substantially related to the purposes of section 7. More important, mergers may also have other consequences that are relevant to the objectives of section 7. These implicate concerns that are primarily social and political in nature, such as the effect upon opportunities for small and regional businesses to survive and compete. These consequences are especially significant in the analysis of conglomerate mergers, which are beyond the scope of these Guidelines.

[17] Tacit or active collusion on terms of trade other than price also produces wealth transfer effects. This would include, for example, an agreement to eliminate rivalry on service features or to limit the choices otherwise available to consumers.

[18] The predominant concern with wealth transfers was evidenced in the statements of both supporters and opponents of the Celler-Kefauver amendments. See, e.g., 95 Cong. Rec. 11,506 (1949) (remarks of Rep. Bennett); Id. at 11,492 (remarks of Rep. Carroll); Id. at 11,506, (remarks of Rep. Byrne); Hearings before the Subcomm. on the Judiciary, 81st Cong., 1st and 2d Sess., note 260, at 180 (remarks of Sen. Kilgore); 95 Cong. Rec. 11,493 (1949) (remarks of Rep. Yates); Id. at 11,490–91 (remarks of Rep. Goodwin); 95 Cong. Rec. 16,490 (1949) (colloquy of Sen. Kefauver and Sen. Wiley).

[19] For example, consider the proposed merger of two firms producing the same product. Each has a 50% share of the sales of this product in a certain state but only 1% of national sales. If the proper geographic market is the state, then the competitive consequences of the merger will be far different than if the geographic market is the entire country.

[20] Governmental challenge of a merger which is not likely to lessen competition substantially is frequently termed "Type I error." The failure to challenge a merger which is likely to lessen competition substantially is termed "Type II error." Type I error should be corrected by the Court which determines the validity of the challenge. Type II error will most likely go uncorrected, since the vast majority of merger challenges are mounted by the government. In other areas of antitrust law, private actions predominate and can correct type II error. Consumers, whose interests were paramount in the enactment of section 7 and section 1 of the Sherman Act, suffer the damage of type II error.

[21] Consider, for example, the market(s) for flexible wrapping materials. These materials include clear plastic, metallic foils, waxed paper and others. Firms A and B each produce 30% of the clear plastic wrap and 5% of all flexible wrapping material in a relevant geographic market. Firm C produces 70% of the metallic foil and 60% of all flexible wrap. If the proper market definition is all flexible wrapping materials, then treating clear plastic and metallic foils as separate markets may lead to an unwarranted challenge to a merger between firms A and B. The same incorrect market definition may also result in the failure to challenge a merger between Firm C and either Firm A or Firm B because of the incorrect assumption that metallic foil and clear plastic wrap do not compete. However, if the correct market definition is clear plastic wrap but the more expansive market definition of all flexible materials is chosen, this may result in the failure to challenge an anticompetitive merger of firms A and B.

[22] Hard evidence, as contrasted with speculation, is generally grounded in historical fact. Hard evidence of a probable supply response would include a factual showing that this response had occurred in the past when prices increased significantly. A mere prediction that a manufacturer will shift his production from one product to another to capitalize on a price increase, when unsupported by evidence of a previous similar response or other information of similarly probative nature, is not considered "hard evidence."

[23] The existence of a functionally suitable substitute which is significantly more expensive than the relevant product will not discipline an exercise of market power until the price of the relevant product has been raised to a level comparable to the substitute. The Attorneys General will also seek to ascertain whether current price comparability of two products resulted from an exercise of market power. For example, suppose that the provisionally defined product recently cost 20% less than a possible substitute, but its price has recently risen 20% as a result of the exercise of market power. Rather than serving as a basis for broadening the product market to include the possible substitute, this finding will provide compelling evidence that any further concentration through merger will only exacerbate the market power which already exists. To ascertain whether the price comparability of two possibly interchangeable products was the result of an exercise of market power over one product, the appropriate question to ask may be "what would happen if the price of the product in question dropped?" If a significant price decrease does not substantially increase sales, then a previous exercise of market power has likely been detected, and the two products should probably be considered to be in separate product markets. See, *United States* v. *E.I. duPont de Nemours & Co.*, U.S. 377, 399–400 (1956).

[24] Recycled or reconditioned goods will be considered suitable substitutes if they meet the requirements of this Section.

[25] The Attorneys General welcome submissions by buyers concerning such discrimination or any other hard evidence that a proposed merger will adversely affect them because it is likely substantially to lessen competition.

[26] For example, an import quota may be established for a particular foreign country and the foreign government may then apportion the quota among firms engaged in the import of the relevant product.

[27] The HHI is computed by summing the numerical squares of the market shares of all the firms in the market. For example, a market with four firms each having a market share of 25% has an HHI of 2500 calculated as follows: $25^2+25^2+25^2+25^2=2500$. A market with a pure monopolist, i.e., a firm with 100% of the market, has an HHI of 10,000 calculated as $100^2=10{,}000$. If the market has four firms, each having a market share of 25% and two of these four firms merge, the increase in the HHI is computed as follows: Pre-merger $25^2+25^2+25^2+25^2=2500$. Post-merger $50^2+25^2+25^2=3750$. The increase in the HHI due to the merger is 1250, i.e. $3750-2500=1250$. The increase is also equivalent to twice the product of the market shares of the merging firms, i.e., $25\times25\times2=1250$.

[28] The CR4 is the sum of the market shares of the top four firms in the market. A CR4 cannot be converted into any single HHI but rather includes a possible range of HHI levels. For example, consider two markets with CR4 of 100%. The first is comprised of 4 firms; each with a market share of 25%. This yields an HHI of 2500, i.e. $25^2+25^2+25^2+25^2=2500$. The second market is comprised of four firms with market shares of 70%, 10%, 10% and 10%. This yields an HHI of 5200, i.e., $70^2+10^2+10^2+10^2=5200$.

[29] The HHI also gives significantly greater weight to the market shares of the largest firms, which properly reflects the leading roles which such firms are likely to play in a collusive agreement or other exercise of market power. A single dominant firm's likely role as the price leader in an oligopolistic market is also reflected in the HHI. For these reasons, the HHI is now the generally preferred measure of concentration.

[30] There may be instances where clear evidence compels the conclusion that concentration levels and market shares inaccurately portray the competitive significance of a particular merger. In accordance with the doctrine of *United States* v. *General Dynamics Corp.*, 415 U.S. 586 (1974), such situations will require case by case analysis.

[31] Although these Guidelines and those of the Department of Justice are generally consistent in their adoption of the HHI thresholds which will likely trigger an enforcement action, the market definition principles employed are different. See Section 3 herein and Section 2 of the Justice Department Guidelines; U.S. Dep't of Justice, Merger Guidelines (June 14, 1984) reprinted in Antitrust & Trade Reg. Rep. (BNA) No. 1169 (June 14, 1984); Trade Reg. (CCH) No. 655 at 25 (June 18, 1984). The different market definition principles will often produce differing market shares which are then utilized to calculate the HHI. This is so because the process of market definition in the Justice Department's Guidelines will, in many respects, overstate the bounds of both the geographic and product markets in relation to the actual workings of the marketplace. This will result in the systematic understatement of market shares used in calculating market concentration.

[32] The Attorneys General are unlikely to challenge any merger in an industry with a post-merger HHI of less than 1000. An HHI of 1000, the level at which enforcement actions start to become probable under these Guidelines, can be found in a

market with ten firms each with a 10% market share. Collusion and/or oligopolistic behavior are plausible in a market comprised of ten or fewer firms of roughly equal size.

[33] Even a significant increase in prices following a merger might not elicit entry since the potential entrants may conclude that their entry into the market could cause prices to drop substantially.

[34] an oligopolistic market will usually be moderately to highly concentrated or very highly concentrated and prone to one or more of the following practices: 1) price leadership; 2) preannounced price changes; 3) price rigidity in response to excess capacity or diminished demand; 4) public pronouncements and discussions of "the right price" for the industry and, 5) systematic price discrimination.

[35] An oligopolistic market is unlikely to fall below the numerical concentration threshold of HHI 1000. However, a merger affecting such a market may not increase the HHI enough to make a challenge to the merger likely under the standards set forth in Section 4.

[36] For example, see 95 Cong. Rec. 11,487 (1949) statement of Rep. Celler (co-author of legislation) "Bigness does not mean efficiency, a better product, or lower prices"; 95 Cong. Rec. 11,495-98 (1949) (statement of Rep. Boggs); Corporate Mergers and Acquisitions: Hearings on H.R. 2734 before a Subcomm. of the Senate Comm. on the Judiciary, 81st Cong. 1st & 2nd Sess. 206, 308 (1950) (Statement of James L. Donelly).

[37] See Note 13.

[38] In a merger involving the leading firm and innovative firm proviso set forth in Section 4.4, proven cost savings will only be considered if the post-merger HHI is 1800 or below.

[39] Example: In an industry with a 1% profit margin, proven cost savings of 3% would be significant.

[40] If a merger which produces cost savings of the magnitude specified does not simultaneously facilitate the exercise of market power, these savings should reduce consumer prices, an effect complementary to the purposes of section 7. However, if the merger simultaneously produces these efficiencies and creates or enhances market power, there is no likelihood that consumer prices will be reduced. In such circumstances consumer prices will probably rise as a result of the exercise of market power.

[41] *U.S.* v. *General Dynamics Corp.*, 415 U.S. 486, 507 (1974); *U.S.* v. *Greater Buffalo Press, Inc.*, 402 U.S. 549, 555 (1971).

[42] The Attorneys General may exercise their prosecutorial discretion by declining to challenge a merger which will sustain a failing division of an otherwise viable firm. Since the failing division claim is highly susceptible to manipulation and abuse, the Attorneys General will view such claims with the utmost skepticism and in such cases require the three elements of the "failing firm" defense to be proven by clear and convincing evidence.

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## Appendix: The Antitrust Laws of the States

### *1. Alabama*

Section 103 of Art. IV of Alabama Const.
Ala. Code § 8-10-1, 8-10-2, 8-10-3.
Ala. Code § 13A-11-122 Combination and Conspiracy.
*Crim.*—§ 8-10-1, 8-10-3, 13A-11-122.

### *2. Alaska*

Alaska Stat. § 45.50.562 et seq.
Alaska Stat. § 45.50.564.
Alaska Stat. § 45.50.566.
Alaska Stat. § 45.50.568.
Alaska Stat. § 45.50.570.
Alaska Stat. § 45.50.471 et seq. Little FTC Act.
*Crim.*—§ 45.50.578 only.

### *3. Arizona*

Uniform State Antitrust Act.
USAA Ariz. Rev. Stat. § 44-1401 to 44-1413.
Statutory Provisions Ariz. Rev. Stat. § 34-251 et seq.
Ariz. Rev. Stat. § 34-252.
*Crim.*—Ariz. Rev. Stat. § 34-252.

### *4. Arkansas*

Ark. Stat. Ann. § 70-105 to 70-111.
Ark. Stat. Ann. § 70-101.
Ark. Stat. Ann. § 70-120 to 70-122.
Ark. Stat. Ann. § 70-301 et seq.
*Crim.*—*No* penalties under § 70-101 to 111.

### *5. California*

State Business and Professions Code.
§ 16700-16760 (Cartwright Act).
§ 17000-17101 (Unfair Practices Act).
§ 17200-17208 (Unfair Competition Statute).
*Crim.*—Business and Professions Code § 16755.

### *6. Colorado*

Colo. Rev. Stat. title VI, art. IV, § 6-4-101 through 6-4-109—Restraint of Trade and Commerce—title VI, art. II.
§ 6-2-101 to 6-2-117—Unfair Practice Act.
*Crim.*—Colo. Rev. Stat. § 6-4-102, § 6-4-104, and § 6-4-107(1), (2).

### *7. Connecticut*

Conn. Gen. Stat. § 35-24 et seq.
§ 35-28—Connecticut Antitrust Act, conspiracies etc.
§ 35-29—Exclusive dealing.
§ 35-45—Price Discrim.
Little F.T.C. Act—Conn. Gen. Stat. § 42-110b (a).
*Crim.*—Conn. Gen. Stat. § 53(a)-161a. Criminal Sanctions for bid rigging on government projects enforced by states' attorneys.

### *8. Delaware*

Del Code Ann. title 6, § 2100 et seq.—Antitrust Act.
§ 2103—Restraint of Trade.
§ 2102(d) Misc. Antitrust provision.
*Crim.*—Del. Code Ann. § 2504.

### *9. Florida*

Fla. Stat. § 542.15 et seq.
§ 501.201 et seq.—Little FTC Act.
*Crim.*—§ 542.21(2) and § 542.27(1).

### *10. Georgia*

Georgia Constitution Art. III, VIII.
There is no modern Antitrust Statute.
Ga. Code Ann § 20-504.
Provides contracts in general restraint of trade are deemed to be contrary.
*Crim.*—Ga. Code Ann. 26-2308.

### *11. Hawaii*

Haw. Rev. Stat § 480-1 et seq.
*Crim.*—§ 480-16, § 480-4(a)—restraint of trade, § 480-4(b)—price fixing, § 480-6—refusal to deal, § 480-9—monopolization, and § 480-16(a)—$100,000 or 3 years; $1,000,000.

### *12. Idaho*

§ 48-101 et. seq.—Antitrust Act.
§ 48-301 et. seq.—Fair Trading.
§ 48-201 et. seq.—Anti-Price Discrimination Act.
§ 48-401 et. seq.—Unfair Sales Act.
*Crim.*—§ 48-101, 48-102, 48-104, 48-110, 48-111.

### *13. Illinois*

Ill. Rev. Stat. ch. 38, ¶ 60-3[1] and 60-3[4].
*Crim.*—ch. 38 § 60-3[1] and 3[4] and § 60-6 Money Damages.

### *14. Indiana*

Ind. Code Ann. § 24-1-2-3—Antitrust.
Ind. Code Ann. § 24-2-1—Restraint of Trade.
*Crim.*—§ 24-2-1 and 2, 24-1-2-3.

### *15. Iowa*

Iowa Code § 553.1 et. seq—Antitrust.
Iowa Code § 553.4—Iowa Competition Law.
*Crim.*—§ 553.14.

### *16. Kansas*

Kan. Stat. Ann. § 50-101 through 50-801.
*Crim.*—§ 50-106 and § 50-114.

### *17. Kentucky*

Ky. Rev. Stat. § 367.175(1) prohibits restraint of trade.
Ky. Rev. Stat. § 355.020 et. seq.
Unfair Practice Act.
No Criminal Penalties.

### *18. Louisiana*

La. Rev. Stat. title 51, Part IV—Restraint of Trade.
La. Rev. Stat. title 51, § 331-337—Price Discrimination.
La. Rev. Stat. title 51, § 421-427—Sales Below Cost.
La. Rev. Stat. title 51, § 1401-1418—Unfair Trade Practice Law.
*Crim.*—§ 51:122, 51:123.

### *19. Maine*

Me. Rev. Stat. title 10 § 1101 et seq.
*Crim.*—Title 10 § 1101 and 1102.

### *20. Maryland*

Md. Code Ann., § 11-201 through 11-213—Antitrust Act.
*Crim.*—Comm. Law, § 11-212, § 11-207, § 11-207, § 11-207, § 11-207, and § 11-207.

### *21. Massachusetts*

Mass. Gen. Laws, ch. 93, § 1 et. seq.—Antitrust Act.
*Crim.*—ch., 93, § 10.

### *22. Michigan*

Mich. Comp. Law § 750.151.
Mich. Comp. Law § 750.557—Limit control of sale of articles of machinery, tools, etc.
Mich. Comp. Law § 750.558 Prohibits trusts.
*Crim.*—§ 750.588, § 750.151, § 750.557, and § 750.559.

### *23. Minnesota*

Minn. Stat. § 325 D. 49 et seq.
*Crim.*—§ 325D.69, 325 D. 53.

### *24. Mississippi*

Miss. Code § 75-21-1 et seq.
*Crim.*—§ 75-21-1 and 75-21-3.

### *25. Missouri*

Mo. Rev. Stat. § 416.011.
*Crim.*—§ 416.051(1).

### *26. Montana*

Mont. Rev. Codes Ann. title 30, ch. 14, § 30-14-101 et seq.
*Crim.*—§ 30-14-224, 30-14-224(2).

### *27. Nebraska*

Neb. Rev. Stat. § 59-801.
*Crim.*—§ 59-801, 59-802, 59-805, 59-815.

### *28. Nevada*

Sections 598A.010 et seq. of title 52 of the Nevada Revised Statutes (Nev. Rev. Stat. § 598A.020).
*Crim.*—§ 598A.250, § 598A.240.

### *29. New Hampshire*

N.H. Rev. Stat. Ann. § 356:1.
*Crim.*—§ 356:4.

### *30. New Jersey*

N.J. Stat. Ann. title 56, ch. 9, § 56:9-1.
*Crim.*—§ 56:9-11.

### *31. New Mexico*

N. Mex. Stat. Ann. § 57-1-1 et seq.—Antitrust Act.
N. Mex. Stat. Ann. § 57-14-1 et seq.—Price Discrimination.
*Crim.*—§ 57-1-6, 57-1-6A.

### *32. New York*

N.Y. Gen'l Bus. Law § 340 et seq.—Donnelly Act.
*Crim.*—§ 341 & 347.

*33. North Carolina*

Section 34 of Article I of the North Carolina Constitution—Prohibition against Monopolies, no comparable statutory prohibition.

*Crim.*—N.C. Gen. Stat. § 75-1, 75-7.

*34. North Dakota*

N.D. Cent. Code § 51-08-01 et seq.

*Crim.*—§ 51-08-03, § 51-08-06.

*35. Ohio*

Ohio Rev. Code § 1331.01 et seq.—Valentine Act.

*Crim.*—§ 1331.99, 1331.05.

*36. Oklahoma*

Antitrust Law—Oklahoma Constitution, Article 2, Section 32 bans Monopolies; Art. 9, Section 45—prohibits locality Price Discrimination.

O.S. 1981 title 79, § 3—Mergers.

Okla. Stat. Ann. title 79, ch. 1, § 1, § 1 to 7 and 21 to 37—Restraint of Trade; title 15, ch. 4, § 598.1 to 598.11—Unfair Sales Act.

*Crim.*—title 79 § 27.

*37. Oregon*

Ore. Rev. Stat. § 645.705.

*Crim.*—§ 646.815(1) Vests exclusive jurisdiction for Crim. Prosecution in the Att'y General. No express provision in the Antitrust Statute for Crim. Penalties.

*38. Pennsylvania*

No Antitrust Act of General Application.

Anti-bid Rigging Act.

Pa. Stat. Ann. title 73, § 211 et seq.—Unfair Sales Act.

Common Law Remedies.

*Crim.*—§ conspiracy—no statutes, case law title 73, § 214—Unfair Sales Act.

*39. Rhode Island*

R.I. Gen. Laws § 6-36-1 et seq.

*Crim.*—§ 6-36-16 of the Rhode Island Antitrust Act and, 6-36-16 (a) and (b).

*40. South Carolina*

S.C. Code, title 39, 39-3-10 and 39-3-130—Prohibits price fixing.

§ 39-3-120—Monopolies unlawful.

§ 39-3-140—Prohibits group boycotts.

§ 39-3-150—Prohibits sales below cost.

§ 39-75-320, 330, 340 Prohibit unfair pricing practices by wholesalers.

§ 39-5-10 et seq.—Unfair Trade Practices Act.

Misc. Antritrust Provisions: Insurance—§ 38-55-30 and Motion Pictures § 39-5-510 et seq.

*41. South Dakota*

Antitrust Provisions—S.D. Code Ann. § 37-1-3 through 33—Antitrust provisions.

Misc. Antitrust Provisions:

Insurance—§ 58-3802 of ch. 58-33.

Petroleum—§ 37-2-1 of ch. 37-2, title 37.

Cigarettes—§ 37-10-1 et seq. of ch. 37-10, title 37.

Railroads—§ 49-16A-12 of ch. 49-16A, title 49.

Trains—§ 49-43-33 of ch. 49-33, title 49.

*Crim.*—§ 37-1-20.

*42. Tennessee*

Tenn. Code Ann. § 47-25-101 et seq. and, § 47-25-201 et seq. Unfair Sales Act.

*Crim.*—§ 47-25-103.

*43. Texas*

Tx. Business and Commerce Code, title 2, § 15.01.

*Crim.*—§ 15.22.

*44. Utah*

Utah Code, title 76, ch. 10, § 76-10-911 through 926 Antitrust; § 76-10-903 Locality Price Discrim.

Misc. Utah Antitrust provisions:

Dairy—Crim. § 76-10-906, Civil § 50-2-2.

Electronic Funds Transfer Systems § 7-16-15.

Automobile Financing—Civil § 41-1-1, Crim. § 41-4-9.

Motor Fuels § 13-16-4.

Motion Picture Bidding § 13-13-1 et seq.

*Crim.*—§ 76-10-920(1), § 13-13-6.

*45. Vermont*

No Antitrust Statute of General Application.

Vt. Stat. Ann. title 9, § 2451 et seq.—Little FTC Act.

Misc. title 8, § 4721 et seq.—Insurance; § 908 of Title 28—Price Fixing in Sales to States; and § 2751 et seq. of Title 6—Dairy Product.

*Crim.*—title 28, § 906.

*46. Virginia*

Code of Va. title 59, ch. 1.1, §59.1-9.1 et seq.

*Crim.*—No Crim. Penalties.

*47. Washington*

Wash. Const. Article 12, Section 22 prohibits monopolies and trusts. RCW 19. 86, Unfair Business Practices—Consumer Protection Act, Prohibits Restraints of trade, monopolization.

Misc. Antitrust Provisions:

Dairy—RCW 15.32.780.

Insurance—RCW 48.30.

Cigarettes—RCW 19.91.

Agricultural Products—RCW 24.34.

Motion Picture Bidding—RCW 19.58.

*Crim.*—No crim. violations for Unfair Business Practices—Consumer Protection Act violations possible case law support for criminal conspiracy.

*48. West Virginia*

W. Va. Code § 47-18-1.

*Crim.*—§ 47-11A-11 of the West Virginia Unfair Practice Act.

Misc. Antitrust Provisions:

Petroleum Franchises § 47-11c-1 et seq.

Motion Picture Distribution § 47-11D-1 et seq.

Bid-Rigging—§ 17-4-22.

Insurance § 33-11-1 et seq.

Food Products—§ 61-10-19.

*49. Wisconsin*

Wisc. stat. Ann. § 133.01 title XIVA, ch. 133, through 133.18.

Misc. Antitrust Provisions:

Dairy—§ 100.201.

Insurance—§ 628.34.

Drugs—§ 100.31.

Property of Insurance—§ 134.10.

*Crim.*—§ 133.03 (1) and (2).

*50. Wyoming*

Wyoming Constitution, Article X, Section 8—Restraint of Trade.

Article 1, Section 30—Monopolies.

Wyo. Stat. § 40-4-101 to 105—Price Discrimination and § 40-4-106 to 116—Locality Price Discrimination.

Misc. Antitrust Provisions:

Insurance—§ 26-13-108.

Petroleum—§ 40-4-117.

*Crim.*—40-4-115.

*51. District of Columbia*

D.C. Code title 28, ch. 45, § 28-4501 to 28-4518—Antitrust Act.

Misc.—Prescription Drug Price Info—title 33 ch. 7, § 33.742.

*Crim.*—§ 28-4506.

*52. Territories of the U.S.*

Fed. Antitrust Laws Govern., but no prohibition against Monopolization.

*53. Puerto Rico*

P.R. Laws Ann. title 10, ch. 13, § 257-276.

*Crim.*—title § 266.

*54. Virgin Islands*

V.I. Code title 11, ch. 29, § 1501—Anti-monopoly law.

*Crim.*—title 11 § 1506.

STATE MERGER STATUTES

Alaska: Ak. Stat. § 45.52.040.

Hawaii: Haw. Rev. Stat. § 480-7.

Louisiana: La. Rev. Stat. Ann. § 51:125.

Maine: Me. Rev. Stat. Ann., title 10, § 1102-A (Supp 1984).

Mississippi: Miss. Code Ann. § 75-21-13.

Nebraska: Neb. Reissue Rev. Stat. § 59-1606.

New Jersey: N.J. Stat. Ann. § 56:9-4 (West Supp. 1984).

Ohio: Ohio Rev. Code Ann. § 1331.021 (Page Supp. 1983) (concerning oil company mergers).

Oklahoma: Okla. Stat. Ann., title 79, ch. 3, § 84.

Oregon: O.R.S. § 722.072 (domestic savings associations) O.R.S. § 733.110 (air carriers).

Puerto Rico: P.R. Laws Ann., title 10, § 261.

Texas: Tex. Bus. & Comm. Code Ann. § 15.05(d).

Washington: Wash. Rev. Code Ann. § 19.86.060.●

## TED'S ENTANGLE SHRIMPERS

● Mr. SHELBY. Mr. President, I feel constrained to bring to your attention, and the attention of my colleagues, a situation which is mounting to a critical point in my home State of Alabama. I am referring to the implementation of proposed regulations by the National Marine Fisheries Service.

These regulations call for turtle excluder devices [TED's] to be installed by shrimp trawlers which pull nets in less than 10 fathoms of water and have a head rope over 30 feet in length. TED's prevent the incidental catch of various fish, and in the gulf coast specifically, the endangered species of the Kemps Ridley Turtle.

However, in an effort to protect these endangered animals, it seems that the National Marine Fisheries Service has taken what can only be viewed as an overzealous approach to the problem. Currently, there is no conclusive evidence that the shrimping industry is at fault in the dwindling of the Kemps Ridley Turtle populations.

Mr. President, these men and women in the shrimping industry are not only business people, but they are also concerned environmentalists. And yet, we need to realize that this proposed implemention of TED's to protect the turtles will compromise the safety and lives of the shrimpers utilizing them. In addition, TED's place an unnecessary and adverse financial hardship on shrimpers in Alabama.

Clearly, the only acceptable solution at this point is to delay the implementation on July 15, 1987, of the TED's, and request the National Oceanic and Atmospheric Administration to work with the shrimping industry to arrive at a compromise suitable to both the

National Marine Fisheries Service and the shrimping industry.

Mr. President, I lend my unequivocal support to the Alabama shrimper and I urge my colleagues, not just from the Gulf Coast States but from across this country, to consider the broad effects of regulating action of this sort. I believe that we can work together to find a suitable alternative to the turtle excluder device—an alternative that will protect the Kemps Ridley Turtle, as well as other endangered species—and yet not overburden this vital industry of the South.●

## ORDERS FOR WEDNESDAY, MARCH 25, 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 the hour of 9 o'clock tomorrow morning.

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

### MR. HOLLINGS TO CONTROL TIME UNDER CLOTURE RULE

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning—I have cleared this on the other side of the aisle—the 1-hour under the cloture rule be under the control of Mr. HOLLINGS.

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

Mr. BYRD. Mr. President, I ask unanimous consent that, at the conclusion of that 1 hour on tomorrow, the Senate stand in recess until the hour of 11:30 a.m. tomorrow.

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

### MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that, at the hour of 11:30 a.m. tomorrow, Mr. DOLE and I retain our leader time and that there then be, upon the expiration or yielding back of the leader time, a period for the transaction of morning business not to extend beyond 12 noon and that Senators may speak therein for not to exceed 2 minutes each.

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

Mr. BYRD. Mr. President, I thank the distinguished Republican leader. I thank all Senators for their courtesy. I thank especially those Senators who voted for cloture today.

### MANDATORY QUORUM WAIVED

Mr. President, I ask unanimous consent that the mandatory quorum call on tomorrow be waived.

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

## RECESS UNTIL 9 A.M. TOMORROW

Mr. BYRD. Mr. President, there being 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 tomorrow morning.

The motion was agreed to; and at 4:26 p.m. the Senate recessed until tomorrow, March 25, 1987, at 9 a.m.