SENATE—*Wednesday, June 15, 1988*

(Legislative day of Monday, June 13, 1988)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota.

The PRESIDING OFFICER. Our prayer today will be offered by the Reverend Dr. Homer L. Goddard, pastor emeritus of Westside Church in Richland, WA.

PRAYER

The Reverend Dr. Homer L. Goddard offered the following prayer:

Let us pray:

Almighty and gracious God, we thank You for the tremendous honor of being chosen to share in the leadership of this remarkable country.

Thank You for the earnest men and women of integrity and awareness with whom we work and share our concerns.

We thank You that overriding our disagreements and differences is our respect for each other and our loyalty to our Nation.

We thank You today for the privilege of talking with You, and knowing that You hear and care.

We feel overwhelmed and frustrated with the large number of seemingly insoluble problems. Yet we know that You have told us in Your word that "nothing is impossible with God." (Luke 1:37.) You have also told us, "Fear not for I am with you. Be not dismayed for I am your God. I will strengthen you, and help you. I will uphold you with my righteous right hand." (Isaiah 41:10.)

These words of Yours encourage us to believe that You love our Nation in spite of our weaknesses and failures; You love each one of us in spite of our tendencies toward self-will; You will be real to each one of us who is willing to face the truth that You are; and You will give clarity of mind, boldness of heart, courage to act and obedience to Your will.

Thank You, Lord God, for Your forgiving heart and the loving guidance of Your Holy Spirit.

In Jesus wonderful name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 15, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. DASCHLE 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.

RESERVATION OF THE MAJORITY LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that I may reserve my time.

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

RECOGNITION OF THE REPUBLICAN LEADER

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

Mr. DOLE. Mr. President, I have a very brief bicentennial minute.

BICENTENNIAL MINUTE

JUNE 15, 1928: CHARLES CURTIS NOMINATED FOR VICE PRESIDENT

Mr. DOLE. Mr. President, 60 years ago today, on June 15, 1928, the Republican majority leader of the Senate, Charles Curtis, was nominated to run for Vice President on the Republican Party ticket headed by Herbert Hoover. Curtis went on to become the only native Kansan elected Vice President of the United States.

Curtis' selection represented some "ticket balancing" by the Republican Convention—for he was considered a more conservative and more traditional Republican than Herbert Hoover. This may seem odd today, since we tend to think of Hoover as a conservative President. But in fact, Hoover had first entered Government service during the Democratic administration of Woodrow Wilson, and in 1920 he was mentioned as a possible candidate for the Democratic nomination. Hoover also had roots in the progressive movement, leading one of the biographers to call him the "foregotten progressive."

When President Harding nominated Hoover to be Secretary of Commerce in 1921, Senator Charles Curtis joined those conservative Members of the Senate who objected. They viewed Hoover with suspicion as a progressive and an internationalist. In 1928, Curtis was one of several Senators who ran favorite son candidates to stop the front-runner Hoover. Thus, when Hoover won the nomination, Curtis was brought on board to achieve party unity.

The Hoover-Curtis ticket went on to win a landslide victory over the Democratic ticket of Alfred E. Smith and Joseph T. Robinson. Robinson, by the way, was Curtis' counterpart in the Senate, as Democratic minority leader. Charles Curtis served 4 years as Vice President and ran for reelection in 1932. By then, however, the depression had struck, political fortunes had reversed, and the Hoover-Curtis ticket went down to defeat.

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

MORNING BUSINESS

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

The Senator from Wisconsin is recognized.

THE REPUBLICAN LEADER'S SPEECH

Mr. PROXMIRE. Mr. President, I first want to thank my good friend, the Republican leader, for his generosity this morning in making Herbert Hoover a Democrat. That is a very fine offer, but I think not all Democrats will accept it with the kind of generosity with which I am sure the Senator from Kansas offered it.

Mr. DOLE. I tried.

THE REAL HEROES OF THE SENATE: THE STAFFS

Mr. PROXMIRE. Mr. President, what is the biggest change that has taken place in this U.S. Senate over the years? This Senator's nomination is for a transformation that has been

so gradual, so subtle, and so invisible that few of us have noticed it. I am talking about the steady increase in the size and the competence of the personnel and committee staffs that truly run this institution.

Recently, I was asked who are my senatorial heroes. Who are the men and women who have really moved and shaken this U.S. Senate over the past three or four decades? Most us immediately think of the normal Senate leadership, the committee chairman, the Senators who have carried the record they have developed in this body to the country by running for President of the United States, the Senators whose names appear on legislation that governs our country. We think as heroes and villians the Senators who have from time to time brought the entire lawmaking process of our Government to a standstill by their opposition—sometimes wisely and bravely, sometimes foolishly, and irresponsibly. We think of Senators who have set an example to all of us for integrity and diligent attention to duty, Senators who have by their personal efforts advanced the economic interests as well as the prestige of the States they represent. But we invariably think of Senators as if they came into this body alone, wrote every line of every bill they introduced themselves, composed every speech they delivered on the floor on their own typewriter or with their pencil pushing along on their yellow pads. We identify as a personal possession straight from the brain of Senators whatever emerges from their offices or the committees or subcommittees they chair.

It is natural that we should do this. The press cannot determine what staffer in the office of each Senator conceived an idea, what staff man or woman on a committee created and quarterbacked to success the strategy that won committee approval and eventual approval by the full Senate, followed by Senate-House conference approval of legislation that changed the course of history in an important area of American life. So whatever our staffs, whose salaries are paid by the taxpayers, not by us, are able to achieve accrues to our credit. We are the heroes or the villians, the main actors, the lead, the stars.

Some might argue this is the way it should be. After all, did we Senators not win election to the Senate? The answer to that question in almost every case is "No," we Senators ourselves were not the prime forces that won us election to this body. Senators win election today not entirely or even largely because they are endowed with strong character or unusual wisdom. They win because they have campaign managers who put together a team of scores of professional campaign experts and hundreds of volunteers. Experts raise the millions of dollars that pay for every positive word said about the candidate in the campaign.

Often, experts not the candidate determine how to sell the candidate on television. Experts decide what message to deliver. Experts write the message. And the party committee, State and Nation, often provide decisive help to the Senate candidate. No one comes to this body primarily by dint of his own efforts.

And once here, it is the staff that makes the real quality difference. So when we are asked about the quality of this body, we should recognize that largely anonymous, behind-the-scenes, overwhelmingly unknown staff persons conceive many of the ideas and do most of the work to advance those ideas for which we, as Senators, take 100 percent of the credit.

All of this comes to mind, Mr. President, because of a remarkable book that is composed entirely of an interview with Howard Shuman, who worked for many years as a legislative assistant and later as the administrative assistant to Senator Paul Douglas and then for years as my administrative assistant. In listing Senate heroes, Shuman should be right at the top. He contributed greatly to what is probably the Senate's most distinguished achievement in the past 50 years: the civil rights revolution. He provided, indirectly as a top Senate staff man, the progress in economic policy in a number of critical areas. Of course, virtually all of his contributions are unknown as his by the public. Credit has accrued entirely to the Senators with whom he served.

This is true for all of us in the Senate. The Senate Banking Committee staff, the Appropriations Committee staff, the staff of the Congressional Joint Economic Committee, have made great national contributions entirely in the names of those of us who as Senators served on these committees. On my personal staff, women and men throughout the years have done the work for which I took every bow. The work has been theirs. The credit has been mine. This is plagiarism on the grand scale. It is the ultimate demonstration of the saying that a staffer undoubtedly wrote for President John Kennedy when he said, "Life is unfair." Think of how sure that staffer was or exactly how true the staffer knew the expression was when he heard the President deliver it, and take exclusive credit for the staffer's words.

THE COSTLY FOLLY OF STAR WARS PURSUIT

Mr. PROXMIRE. Mr. President, I ask unanimous consent that an excellent editorial in the June 13, Milwaukee Journal headlined "The Costly Folly of Star Wars Pursuit" be printed in the RECORD at this point.

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

[From the Milwaukee Journal, June 13, 1988]

THE COSTLY FOLLY OF STAR WARS PURSUIT

A stunning new staff report prepared for Sen. William Proxmire (D-Wis.) and two other senators drives another nail into what ought to be the coffin of the US Strategic Defense Initiative. Now more than ever, the "Star Wars" missile-defense program stands exposed as wasteful fraud.

The report is the most up-to-date assessment of the controversial program. It discloses, for the first time, that the first phase of the missile shield would be capable of destroying fewer than 16 percent of an adversary's attacking missile warheads—a lower estimate than reported in previous studies. And despite the optimistic forecasts of some administration officials, Star Wars' first phase could not be deployed until at least 1998, says that report, prepared for Proxmire and Sens. J. Bennett Johnston (D-La.) and Dale Bumpers (D-Ark.).

If the goal is to destroy enemy warheads, SDI is far less efficient and incomparably more expensive than arms control. The strategic arms reduction treaty (START) now being negotiated by the US and Soviet officials would reduce each side's arsenal of warheads by about 50 percent, not 16 percent. And a START treaty would cost virtually nothing. The cost of deploying the first phase of Star Wars would be $171 billion, the report estimates. No one in his right mind spends billions for something that can be had for relatively nothing—especially in the case of SDI, which wouldn't work anyway.

The new report closely follows a devastating Star Wars critique released last week by the congressional Office of Technology Assessment. The OTA said SDI deployment would commit the United States to a costly struggle for control of space with little assurance of either technical or military victory. Among other authoritative indictments of Star Wars has been one by the American Physical Society, the premier organization of US physicists. Many of these reports, including the one released by the three Senate aides, were based on official information, not on the estimates and analyses of SDI critics outside government.

Besides Proxmire aide Ronald Tammen, the authors of the newest study are Johnston aide James Bruce III and Bumpers assistant Bruce MacDonald. They interviewed more than 120 SDI program managers, scientists and others; visited nine research facilities; and were briefed by independent experts engaged in missile-defense research. The three deserve high praise for making such a comprehensive analysis in just five months of what must have been exhausting work.

The report, combined with the others, significantly strengthens the conclusion that Star Wars, like the movie from which its nickname was taken, is a thing of fantasy.

Mr. President, I yield the floor.

Mr. WIRTH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized.

WESTERN NOVELIST LOUIS L'AMOUR

Mr. WIRTH. Mr. President, as we approach the dog days of August, I suspect that all of us will be thinking about what kind of novel we are going to take with us on vacation. We look for fanciful flight, we look for adventure, we look for romance, we look for the Western, and we look for the history—something that all Americans do, and American Presidents have done as well. Eisenhower did it, Jimmy Carter, and Ronald Reagan.

There is no more likely choice for Americans to look for when looking for diversity than the choice of Louis L'Amour, the great American novelist who unhappily died this last week, the author of more than 100 novels which have been printed in more than 200 million copies, translated into 20 languages, made into 45 movies, and television series starring John Wayne, Gregory Peck, Jimmy Stewart, and Brigitte Bardot. An extraordinary figure in American literature, and those of us who are familiar with Louis L'Amour will always remember Jubal Sackett, that wonderful character going across the West having adventures of all kinds, and adventures that were not deeply involved in violence, were not deeply involved in the immediate return, but really very reflective notes on the history of the West and the history of this country.

Louis L'Amour was a great American, a great Westerner, and a great novelist. He was the recipient of the Congressional National Gold Medal, and in 1984 President Reagan presented him with the Medal of Freedom. Born in a small town in the Chair's adjoining State of North Dakota, Louis L'Amour himself had a very, very colorful history as a longshoreman, lumberjack, elephant handler, cattle skinner, hay baler, and not incidentally a novelist of absolutely the first rank.

I can remember a number of experiences that we have had with Louis L'Amour, one sitting with him in southern Colorado discussing his quite remarkable library. He was a great researcher, and a great scholar of the West. He had a marvelous collection, and wanted to establish that outside of Durango, CO, as the place which would be a library to which scholars of the West would come. Unfortunately, he got into a battle with people who wanted to put powerlines across the valley in which he wanted to establish that library. He fought the public service company over and over and over again, and said, "I am going to take that library elsewhere if you all defile this valley with those powerlines." The powerlines went in, and Louis L'Amour shrugged and went elsewhere; a great loss for southern Colorado.

I also remember a long luncheon over in the Library of Congress under Mr. Boorstin, who was then the Librarian of Congress, in which a variety of novelists of the West were brought together. The lunch started with each of the five or six people around the table, starting to talk about what they were doing. Before long it was Louis L'Amour that was dominating the conversation, spinning tales, spinning stories, telling all of us, entrancing all of us well into the afternoon with his own vision of the West, his own vision of the novel, his own vision of the country.

We will miss this remarkable American, and remarkable Westerner. His wife, Kathy, was at his side for 35 years doing a lot of the holding together of that extraordinary household while he produced these books, working through the morning, researching in the afternoon.

I hope those of my colleagues who do not know Western literature as they should or who are not familiar with it as they should will dip into Louis L'Amour, 101 titles to choose from, a whole variety of those, from the early "Jubal Sackett," the most recent "The Haunted Mesa," an almost mystical story of a mesa in the Ute Indian country in southwestern Colorado.

Mr. President, I ask unanimous consent that a very nice piece by Richard Pearson of the Washington Post staff be included in the RECORD at this point.

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

[From the Washington Post, June 13, 1988]

PROLIFIC WESTERN NOVELIST LOUIS L'AMOUR, 80, DIES

(By Richard Pearson)

Louis L'Amour, 80, one of the world's best-selling novelists whose Homeric chronicles of the old West have sold more than 200 million books, died of cancer June 10 at his home in Los Angeles.

Mr. L'Amour has published 101 books, most of them meticulously researched and swiftly paced novels of the West. "Hondo," published in 1953, was his first novel and probably his best-known and most popular book. It has sold more than 1.5 million copies and was made into a film starring John Wayne.

His most recent novel was "The Haunted Mesa," published in 1987. Other recent best-sellers included "Last of the Breed" (1986), "Jubal Sackett" (1985) and "The Walking Drum" (1984).

Shortly before his death, he had completed several yet-unpublished books, including "Lonigan," a western short story collection, and "The Sackett Companion," a nonfiction work about the research and facts of his popular series of 17 novels. That book series was made into a television ministeries "The Sacketts," starring Tom Selleck and Sam Elliott.

More than 45 of his novels and short stories have been made into feature films and television movies. These included "Shalako," starring Brigitte Bardot and Sean Connery; "The Burning Hills," with Tab Hunter and Natalie Wood, and "Stranger on Horseback," featuring Joel McCrea. Mr. L'Amour's novel "How the West Was Won" was made into a 1962 film with a cast that included John Wayne, Jimmy Stewart and Gregory Peck.

In addition to novels, short story collections and works of nonfiction, Mr. L'Amour had published more than 400 magazine stories and articles. His work had appeared in such journals as Collier's, The Saturday Evening Post and Argosy. His work has been translated into 20 languages, including Serbo-Croatian and Chinese.

Mr. L'Amour was a recipient of the Congressional National Gold Medal for lifetime literary achievement, and in 1984 he was presented with the nation's highest civilian award, the Medal of Freedom, by President Reagan. The president had once hailed Mr. L'Amour for "having brought the West to the people of the East and to people everywhere."

The president had read "Jubal Sackett" while recovering from surgery in 1985. Other presidents who had read Mr. L'Amour's work included Dwight D. Eisenhower and Jimmy Carter.

The typical L'Amour western featured an all-American hero, though sometimes on the wrong side of the law, who sought to open the West. He came into conflict with both man and the elements. If the story featured gunplay, it was not often. Contrary to the traditional western, his Indians were as often heroes as villains.

Indeed, though Mr. L'Amour was often faulted by critics for cardboard, simplistic characters, his westerner heroes often fought an inner struggle against admiration for the Indian and his way of life on one hand and the need to advance "civilization" on the other. His were often stories of cultures in conflict.

In addition to carrying an encyclopedic knowledge of the Indian and his ways in their heads, his heroes also had saddlebags that bulged with the great works of civilization. These might include Blackstone's "Laws," Montaigne's "Essays," Plutarch's "Lives" or Juvenal's "Satires."

If Mr. L'Amour's plots could be predictable and his narrative wooden, he had a story and could tell it. His plots spanned the continent, conveying an unyielding sense of optimism in the face of adversity. The books also were burnished with a wealth of historical research.

Among the myths he tried to shatter concerned those of townspeople fleeing from gunslingers. In fact, he pointed out, many settlers were Civil War veterans who were adept at using the rifles they were apt to own. He also pointed out that between 1800 and 1816, there were more gunfights in the U.S. Navy than along the American frontier.

Mr. L'Amour maintained a working library of more than 8,000 volumes of western history as well as collections of frontier court records, old newspapers and letters. He also traveled to whatever part of the country he wrote about. If a bad guy met his fate after being cornered in a box canyon, Mr. L'Amour more than likely had scouted it.

He conducted his own research and interviews. He once told the Associated Press: "I go to an area I'm interested in and I try to find a guy who knows it better than anyone else. Usually it's some broken-down cowboy. I've known five men and two women who knew Billy the Kid well. I talked to the woman who prepared his body for burial."

In another interview, he said, "I'm actually writing history. It isn't what you'd call big history. I don't write about presidents and generals. I write about the man who was ranching, the man who was mining, the man who was opening up the country."

Louis Dearborn L'Amour, a 10th-generation American, was born in Jamestown, N.D., where his father was a veterinarian and farm machinery salesman. He dropped out of school as a teen-ager and began a life that was every bit as colorful as a novel. He was a longshoreman, lumberjack, elephant handler, cattle skinner and hay baler. Before Army service in World War II, he also had lived with bandits in Tibet and western China and was a seaman aboard an East African schooner. He also had been a successful boxer.

His first book, a volume of poetry, was published in 1939. After the war, he began writing westerns under the pseudonym Tex Burns. In 1953, he published his first western under his own name, "Hondo," which was such a success that he wrote 15 more westerns in the next five years.

Despite his undeniable popularity, he never achieved critical acclaim. He blamed much of this on an East-West conflict in literature, in which the man of the West was critically shunned as throwing together mere genre fiction.

But Mr. L'Amour did not see it that way. He chose to write about what he called "hard-shelled men who built with nerve and hand that which the soft-bellied latecomers call the 'western myth.'"

Mr. L'Amour said, "I'm a story-teller in the old folk tradition, like the man on a corner in the marketplace."

He said his books were about the frontiersman's idea of freedom, the freedom to climb on a horse and move on. And, he added, everyone had dreams of that kind.

Survivors include his wife of 32 years, the former Katherine Elizabeth Adams, and their two children.

Mr. WIRTH. I yield the floor.

Mr. MITCHELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

PRESIDENTIAL PARDON

Mr. MITCHELL. Mr. President, last Wednesday, the judge in the Iran-Contra cases ruled that the constitutional protections to which the defendants are entitled require four separate trials. The next day, the independent counsel advised the judge that he would proceed first to the trial of Oliver North.

At the same time, the judge reserved his ruling on defense motions for dismissal of the case. Thus, the possibility remains that none of the defendants will ever come to trial.

Nonetheless, a public campaign is underway to encourage President Reagan to immediately pardon Oliver North and John Poindexter.

The Reverend Jerry Falwell has announced his intention of collecting 2 million signatures on a petition urging the President to grant a pardon.

Before the President seriously entertains this unwise course of action—unwise for him and the Nation—he and all Americans should consider its implications.

Over 150 years ago, the greatest Chief Justice in the history of the United States, John Marshall, defined the President's power to grant a pardon as the power to "exempt the individual" upon whom the pardon is conferred "from the punishment the law inflicts for a crime he has committed."[1]

A pardon is an act of "forgiveness."[2] Indeed, the acceptance of a pardon generally is considered to be an admission of guilt or of the existence of facts from which a judgment of guilt would follow.[3]

Until now, the Reagan administration appeared to share this common understanding of the pardon power. In 1983 the Reagan Department of Justice revised the regulations governing the procedure used in pardon cases. Under the revision, before a pardon application will be presented to the President, the person must be convicted of a crime and a minimum of 5 years must have elapsed since conviction.[4]

President Reagan has never pardoned anyone after indictment but before trial. According to the Congressional Research Service, only rarely in our history has any President ever done so.

A pretrial pardon of the Iran-Contra defendants would, therefore, be a serious error for at least four reasons:

It would violate the President's own written regulations on pardons.

That would publicly affirm that in this administration there are two standards of justice: One for close Presidential associates and a different one for all other Americans.

Second, since a pardon presumes guilt, a pretrial pardon would forever stigmatize its recipients.

Third, a pardon before trial would inevitably raise suspicions that the real goal is the silence of the defendants, for fear of what may come out at trial.

Finally, it would be a decision which would permanently darken the President's legacy.

I will discuss each of these points in detail.

The grant of pretrial pardons would violate the Reagan administration's written and publicly announced policy on pardons. In 1983, the Justice Department adopted regulations governing applications for Presidential pardons.

These regulations state that a petition for pardon should not be filed any earlier than 5 years after conviction; 7 years in cases involving "serious" crimes such as "fraud involving substantial sums of money." The 1983 Reagan administration pardon regulations are more stringent than those in force under prior administrations.

It would be a mockery for this administration, after adopting stricter regulations for pardons of all other citizens—permitting only those already convicted of crimes and then only after a substantial waiting period to petition for a pardon—to consider pretrial pardons for those who worked in or closely with the White House.

A pretrial pardon would be a striking misuse of the Presidential power to pardon.

The Presidential pardon power was granted to the Chief Executive in the Constitution as an element of the grant of authority exercised by contemporaneous heads of state, most of whom were hereditary monarchs. It was seen then as an "act of grace"—typically the executive's personal act of mercy to an individual to reduce or eliminate the punishment imposed after trial and sentencing.

In the "Federalist Papers," Hamilton wrote of the pardon power that it should be entrusted to a single person rather than a legislative body to mitigate criminal law which, he wrote, "partakes so much of necessary severity that without an easy access to exceptions in favor of unfortunate guilt, justice would wear a countenance too sanguinary and cruel."[5]

But in discussing the use of the pardon power for cases of treason and insurrection, he cautioned that while "there are often critical moments when a well-timed offer of pardon * * * may restore the tranquillity of the commonwealth" advance notice of such an intent could "hold out the prospect of impunity."[6]

The grant of pretrial pardons would do just that. It would establish the precedent that any future President's advisers may act outside the law, that they may break the law with impunity, and that if they are caught, they need not even stand trial and be judged for their actions.

The private "act of grace" theory of the pardon power was transformed by the Supreme Court over 60 years ago, when Justice Holmes made clear that the pardon power is to be wielded only so as to benefit the public, "not [as] a private act of grace from an individual happening to possess power."[7]

The grant of a pardon is, he wrote, "the determination of the ultimate authority that the public welfare will be better served by inflicting less than what the judgment fixed."[8]

No one, including the President and his advisers, can properly determine whether pardons for the Iran-Contra defendants are in the "public welfare" until the facts have been disclosed at trial and a jury has spoken.

The granting of pretrial pardons to the Iran-Contra defendants would have the adverse effect of confirming the widespread belief that a dual standard of justice exists in our socie-

ty, one for the powerful, another for all other citizens.

Such a double standard of justice would demonstrate that the promise of equality before the law is an illusion. It would signal that those in power, or close to power, are above or beyond the law.

The strength of our system of government and the respect the judicial system enjoys derive from the fact that we all stand equal before the law; that no one, not even the President, is beyond the reach of our law.

Not all who participate in our Government are satisfied with the limited power they share in our democratic system of checks and balances. It is a recurring national tragedy that some who serve at the very pinnacle of power come to believe that the restraints of the law do not apply to their conduct.

Do such beliefs deserve special deference? Do such officials deserve special treatment? I say they do not.

The calls for immediate pardons are partly premised on an assertion that may ultimately prove to be true: That these defendants did nothing criminal. But that is an issue for a judge and a jury to decide.

It would be a dangerous insult to our judicial system to shortcircuit its truthfinding processes, to embrace, not merely the presumption of innocence, to which every defendant is entitled, but a final, unappealable decision of innocence after indictment but before a jury has acted.

There is and can be no justification, after an indictment has been returned, to allow those who served close to a President to avoid the judicial process in a manner that is not available to any other citizen.

Neither the aides of powerful figures, nor powerful figures themselves, should be above the law.

Those who might receive such pardons should also be wary. The Supreme Court has called a pardon an act of "forgiveness, release, remission."[9]

Only those who have done wrong require pardons. Thus, although pretrial pardons for these defendants would spare them the inconvenience of trial, they would also be branded forever as wrongdoers who accepted forgiveness.

The assumption of innocence could become the stigma of guilt. For those who are confident that these defendants did no wrong, the place to prove that is at trial.

As a member of the Senate select committee that investigated the Iran-Contra affair, I have a firsthand appreciation of how complicated the facts of these cases will be.

Our job was not to draw conclusions about whether criminal liability attached to the actions of the individuals named in the pending indictment. But no one who has even read the indictment can responsibly say, at this early stage, that these defendants can or should be excused.

The President himself is plainly of two minds about the facts in this case. On the one hand, he has said many times that he doesn't know what actually happened. On the other hand, he has said that Colonel North and Admiral Poindexter did nothing wrong. But how can he know they did nothing wrong if he doesn't know what happened?

His ambivalence underscores the very reason that the task of deciding the guilt or innocence of these defendants must be left to the courts.

That is especially so since neither the President nor anyone else outside the criminal justice system knows what evidence exists to support the charges in the indictments.

The independent counsel's investigation is separate from the congressional investigation. The facts developed at the congressional hearings are not all of the facts in these cases.

Indeed, it is apparent from just reading the indictments that the independent counsel has gained access to witnesses and documents that were not available to the congressional committees.

That being the case, it is particularly inappropriate for anyone, including the President, to reach a conclusion about the innocence or guilt of these defendants until all of the evidence is presented at trial.

These defendants, like all defendants in criminal cases, are entitled to the presumption of innocence. Indeed, in such highly publicized cases, we all have a special obligation to accord them that presumption. We must reaffirm, and make clear, that Oliver North and John Poindexter have not been convicted of any crime. They have been charged with crimes. But unless and until they are convicted, by a jury and after a trial, they are presumed to be innocent.

But a presumption of innocence is not the same as a pretrial conclusion of innocence.

Those who advocate early pardons for these defendants invoke the same arguments that persuaded President Ford to pardon former President Nixon. They cite the need to put the Iran-Contra episode to rest, to end national divisiveness over the issue.

Like Watergate, the Iran-Contra affair has aroused strong public feelings. The defenders of North and Poindexter are matched in passion by those who believe their actions wrong and punishable.

But if we learned one lesson from President Ford's dramatic Watergate pardon, it is this: The public will not accept a premature pardon as a legitimate resolution of the issues and allegations involved.

The Nixon pardon did not quell national passions, it inflamed them. President Ford had to make an unprecedented appearance before a House subcommittee to provide assurances that no deal had been made. Even then, the controversy did not subside, and the suspicions did not fade.

These pardons, if offered, would come in the twilight of the Reagan Presidency, when the constitutional remedy, electoral disapproval, would be unavailable. But the potential damage to the integrity of the rule of law could linger for years.

Not only would such an action undermine the standard of equal justice for all, it would demolish the authority of the independent counsel system.

The Office of Independent Counsel was created to ensure that investigations of wrongdoing by high officials would be independent in fact as well as appearance, and would be beyond the political reach of the affected officials.

To grant pardons before the independent counsel presents his evidence at trial would wholly abrogate that purpose.

The administration has joined the attack on the law providing for judicial appointment of independent counsel.

But it has also taken pains—by means of a parallel appointment from the Justice Department—to preserve the viability of Judge Walsh's investigation regardless of the challenge to the law.

Congress, with overwhelming public support, has enacted and reenacted the independent counsel statute three times—the last two times with President Reagan's signature and support.

A pretrial pardon would moot the work of an institution which has, since Watergate, helped restore public confidence in Government honesty and judicial evenhandedness.

Now that the Iran-Contra defendants have announced that their defenses likely will entail testimony from officials at the highest levels of Government, up to and including the President, pretrial pardons would create a special odor of impropriety.

President Reagan is said to be concerned about his place in history. All Presidents are. It is human, honorable, and understandable.

But for that very reason he should be especially wary of considering pardons in this case. It would implicate him even more deeply in the worst scandal of his Presidency. It could well become his most memorable action, overshadowing the very significant accomplishments of his two terms in office.

Rarely, if ever, has a President been asked to grant a pardon for acts arising out of events in which he was personally involved. President Reagan

was, of course, deeply involved in the Iran-Contra affairs. North's statement, upon his retirement from the Marine Corps, that he will call as witnesses in any trial the highest officials of Government, was a not-very-subtle message to the President that if he doesn't want to testify at a trial, he'd better prevent a trial by pardoning North and Poindexter. But were he to do so, it would inevitably be seen as an effort by the President to spare himself the embarrassment of having to testify at trial and to purchase silence by North and Poindexter for fear of what they might say at a trial.

Mr. Reagan does not need and ought not to invite that aggravation, especially in the waning days of his Presidency.

For these reasons, the premature calls for pardons should be firmly rejected.

I call upon the President to state clearly, unequivocally and finally that we will not consider pretrial pardons for any of the Iran-Contra defendants.

I call upon the President to reaffirm clearly and convincingly the principle of equal justice that is at the foundation of our democratic society.

I call upon the President to reaffirm that every American will be treated equally before the law. Such a statement would dispel much of the confusion and many of the doubts raised by the pardon debate.

I know of no American who doubts the personal integrity of President Reagan. But his commendable, very human loyalty to his subordinates raises corresponding questions of his commitment to the rule of law and to his public responsibilities.

He can dispel those questions, and in so doing, serve further the Nation he leads.

FOOTNOTES

[1] *United States* v. *Wilson*, 32 U.S. (7 Pet.) 150, 160-61 (1833).

[2] *Ex parte Wells*, 59 U.S. (18 How.) 307, 309-10 (1855).

[3] Op. Atty. Gen'l, 228 (1865).

[4] 28 C.F.R. 1.2 (1987).

[5] "The Federalist" No. 74.

[6] *Id.*

[7] *Biddle* v. *Perovich*, 274 U.S. 480, 486 (1927).

[8] *Id.*

[9] *Ex parte Wells, 59 U.S. (18 How.) 307, 309-10 (1855).*

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

FULL FUNDING FOR THE DAVIS CREEK DAM IN CENTRAL NEBRASKA

Mr. KARNES. Mr. President, I thank the members of the Appropriations Committee, especially Senators JOHNSTON, HATFIELD, and MCCLURE, for their kind assistance with funding for the Nebraska projects in the energy and water appropriation bill the Senate will be voting on here in a few minutes. I extend special thanks to these individuals, my colleagues, for their help in providing full funding for a very important provision, the Davis Creek Dam project in central Nebraska, at the $10 million level, which is the full funding level recommended by the Bureau of Reclamation.

This amount will allow this project, this very important project, which is several years behind schedule, to move ahead as expeditiously and efficiently as possible.

The $10 million funding level, in addition to the $1 million provided in my amendment to last year's energy and water appropriation bill, will allow the last component, the Davis Creek component, of the overall North Loup project to move much closer to full completion, this being a project that was originally started and planned in 1954.

Equally important is the bill language that describes in detail how the Davis Creek funds should be spent.

The language, a product of a joint effort by Congresswoman VIRGINIA SMITH, myself, and others associated with the project, removes any and all possible uncertainty regarding the will of the Congress in seeking completion of the Davis Creek portion.

I feel it is necessary to include such specific and detailed language in the bill due to difficulties experienced with OMB with regard to last year's Davis Creek funding.

Congresswoman SMITH and I, as I mentioned, experienced the same difficulty with OMB last year as described last evening by my good friend and colleague from Idaho, Senator MCCLURE. The Office of Management and Budget last year and this year have adopted the view that it would not accept provisions in report language as directive in nature of how funds should be spent, and that it would only make selective use of report language as a guide during its process of apportioning funds to the various departments.

I found this policy disturbing, to say the least. Report language is a very useful and efficient means for Congress to express its intent without cluttering bills with extended descriptive language or placing undue restrictions on the executive branch. I believe it would be in the best interest of all parties concerned if this recent Office of Management and Budget policy toward report language be shelved or, at the minimum, substantially revised. For that reason, I wholeheartedly support, and supported last evening, the Senator from Idaho's amendment to send a strong signal to OMB supporting the integrity of report language.

In any event, we have dealt with the policy in the short term with regard to Davis Creek by adding bill language that is clearly mandated in all respects. The language, combined with the appropriation itself, will help put this project back on course toward fulfilling our obligations, our Federal obligations, to project users and the farmers that benefit from that project and also pay for this project in Nebraska.

In conclusion, just a quick word about the remainder of the bill. The yearly energy and water appropriation bill is one of the most important pieces of legislation affecting my home State of Nebraska every year. Nebraska is unique in that our various water projects incorporate nearly every project purpose recognized by the Federal Government. Funding from this bill affects our economic base, our environment, and the quality of life in Nebraska.

In fact, this year it affects it and is even more important and it puts in perspective how important water funding is. We have emerging drought conditions in the upper Midwest, including my State of Nebraska. The investment that the Federal Government and the people of Nebraska have made in water projects of this nature provides the foundation to assure agricultural success and, hopefully, prosperity even in times of difficult weather, as we are experiencing right now.

I would like to again thank the members of the committee for their very kind cooperation and assistance with this Senator. The committee and their fine staff do exemplary work for the Senate and for the people of America in sorting out the hundreds of issues covered in this legislation. I note that some issues may receive some discussion in conference but, on the whole, I feel that Nebraskans should be very pleased with the legislation itself that we will be voting on, and I will be happy to cast my vote supporting final passage in a very few moments.

Also, Mr. President, last evening, I was asked by the Republican leader, Mr. DOLE, to perform my duties as deputy whip, in assisting the Democratic leader in clearing some routine legislative items off the calendar. During this process, the Senate considered H.R. 4368. As the acting Republican leader, I inserted into the RECORD a colloquy between Senators STAFFORD, HELMS, and PELL with respect to amendment No. 2362. In the printing of the CONGRESSIONAL RECORD, my name was inadvertently substituted as the author of Senator HELMS' portion of the colloquy. I rise at this point only to clarify that these are the remarks of the Senator from North Carolina, and that rightfully the credit belongs to Senator HELMS. I, also, understand the permanent RECORD is being corrected to reflect this error. I thank the Presiding Officer for recognizing me at this point.

Mr. President, I yield the floor.

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

The ACTING PRESIDENT pro tempore. 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 (Mr. SANFORD). Without objection, it is so ordered.

A HELPING HAND

Mr. REID. Mr. President, adversity, it has been said, brings out the best in people. The truth of this axiom has been illustrated repeatedly since the Pacific Engineering explosion in Henderson, NV, May 4. This was evident in televised news reports showing hundreds of southern Nevadans lined up to donate their blood just hours after the blast, in the exhaustive efforts of medical and emergency response personnel and, most recently, in the selfless actions of Kidd & Co., a marshmallow maker, and its employees.

While public officials clamor for a cause of the explosion, a spirit of community is rising from the ashes of the Kidd & Co. plant. They all are to be commended for commitment to the community, for putting their hardship in perspective, then turning their attention to the needs of those less fortunate among us.

Often I wonder if we are too quick to turn to government for solutions. I worry that we ask too often for a handout, and not a helping hand. Kidd & Co., instead offered a hand. It is my pleasure to represent this company and its employees in the U.S. Senate.

THE DRUG TESTING AMENDMENT TO THE AIR PASSENGER PROTECTION ACT OF 1987, H.R. 3051

Mr. DANFORTH. Mr. President, on October 29 of last year the Senate voted 83 to 7 to add an amendment to the Air Passenger Protection Act of 1987, H.R. 3051, requiring preemployment, periodic, postaccident, reasonable suspicion, and radom testing of airline crews, railroad crews, and truck and bus drivers. To date, we have made no progress in getting the conferees from the House Public Works Committee and the House Energy and Commerce Committee to agree with us on drug testing legislation for safety related transportation workers. As other Senators and I have told the Senate repeatedly, lives have been lost because of this inaction.

Mr. President, today there is a glimmer of hope. We have stated repeatedly that if random drug testing for safety critical transportation workers were put to a vote in the House it would pass by an overwhelming margin just as it has in the Senate. Today, Congressman CLAY SHAW, of Florida, made a motion to instruct the House conferees on H.R. 3051 to concur in the Senate drug testing amendment to that legislation. The vote was a resounding 377 to 27. Furthermore, 12 of the House conferees voted in favor of the Shaw resolution. The House has spoken. There is no further justification for delay.

Mr. President, the time has come for the House conferees to end their fence sitting.

IN HONOR AND MEMORY OF CLARENCE M. PENDLETON, JR., CHAIRMAN OF THE U.S. COMMISSION ON CIVIL RIGHTS

Mr. THURMOND. Mr. President, the Nation suffered a great loss with the death of Clarence M. Pendleton, Jr., Chairman of the U.S. Commission on Civil Rights, who died on Sunday, June 5, 1988.

Because of his admirable qualifications and highly recognized experience, President Reagan appointed Clarence Pendleton to the U.S. Commission on Civil Rights in 1983. He was a true believer in genuine civil rights and worked ardently toward this end. He served meritoriously as Chairman of the Civil Rights Commission and should be admired for his accomplishments.

Outside of the Commission, Mr. Pendleton owned a business development and investment firm and was involved in a variety of civic, community, and governmental affairs. His outstanding contribution in these different areas showed the depth of his concern for others and the extent of his fine character.

The life of Clarence Pendleton will serve as an example for future generations. I am deeply saddened by his death and wish to extend my deepest sympathy to his devoted wife, Margrit, his son, George, and his daughters, Paula and Susan.

WILLIE VELÁSQUEZ

Mr. CRANSTON. Mr. President, I rise to make a few brief remarks about the recent death of Willie Valásquez. Willie was a community activist who made a significant contribution to our country by working to increase the Hispanic community's participation in our political system. His death is a loss for us all, and I know the California—where he was most recently working to register Hispanics to vote—will miss his presence.

Since 1974, when Willie launched the Southwest Voter Registration Education project in Texas, Willie worked tirelessly to impress upon Hispanics the importance of registering to vote and running for public office. And his work made a difference. In the last decade, the number of Hispanic officeholders doubled. During that time, Southwest Voter waged 958 registration drives—adding more than 1 million Mexican-Americans to the rolls—and filed or joined in 82 winning lawsuits under the Voting Rights Act.

Mr. President, a little over a year ago an article was published in Newsweek magazine describing Willie's contributions entitled "All These Guys Owe Willie." This article gives some insight into the depth of Willie's commitment to the Hispanic community, as well as his personal achievements, and I ask unanimous consent that it be entered in the RECORD at the conclusion of my remarks.

I have known Willie personally and admire his work in my home State of California during this last year to increase the registration of Californians to vote. I and countless others will miss Willie. His death should give us all an occasion to recommit ourselves to see that the intent of the Voting Rights Act is adhered to in all parts of our country.

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

[From the Newsweek, Mar. 16, 1987]

ALL THESE GUYS OWE WILLIE—AN ACTIVIST BUILDS HISPANIC CLOUT AT THE GRASS ROOTS

(By Daniel Pedersen)

He has lectured at Harvard, collected studies of British prime ministers and mastered with equal ease the vernacular Spanish of poverty and the polished tongues of the capitols in Washington and Mexico City. But, Willie Velasquez's highest calling—and his great passion—is persuading the dispossessed to take political power into their own hands. He does this by talking pavement: "When we got Mexican-American candidates saying, 'Vote for me and I'll pave the streets,' goddammit, that's when the revolution started." For 13 years Velásquez has doggedly prodded his fellow Mexican-Americans into running for office, knowing that this was the only way to get Hispanics into the system. Rodolfo de la Garza, director of Mexican-American studies at the University of Texas, calls Velásquez "the single most important political actor since Cesar Chavez. And in terms of representational politics, the most important ever. Henry Cisneros owes Willie in a direct way. All these guys owe Willie."

The attainments of Velásquez's San Antonio-based Southwest Voter Registration Education Project over the last 10 years are almost as unheralded as Velásquez himself. Nationwide, Hispanics still hold only a fraction of the country's 490,000 elective offices. But in the last decade the number of Hispanic officeholders has doubled to 3,202. Nearly half of those are in Texas, where Velásquez's organization has challenged an ingrained assumption: that U.S. Hispanics are a politically apathetic society, for reasons ranging from low education and income to fidelities south of the border. Velásquez believes there is a simpler explanation. "You don't vote if you can't win," he says. In an effort to win, he has tried to change the structure and developed a strategy in which the most important elections are local. "We

voted for Roosevelt, Truman and Kennedy," says Velásquez. "It didn't pave the streets."

Some call the region "Little Texas" for its oil wells and vast cattle ranches. But to New Mexico Hispanics, Little Texas earned its name by importing redneck racism from its big brother to the east. Smiley Gallegos, 34, remembers the segregated city of his boyhood in Clovis, N.M., a city within a city. "You couldn't cross Main and you couldn't cross Seventh, not even to shine shoes. Those were our borders." By the 1980s the outward trappings of racism had withered away. But while Mexican-Americans made up 23 percent of Clovis's population in 1984, no Clovis Hispanic had ever been elected to the school board, county board or state legislature. Southwest Voter move into the area, launching a drive to change the structure. The Southwest workers were denounced as outsiders, and a two-year struggle began, similar to those Southwest had encountered across Texas and New Mexico.

The son of a San Antonio butcher, Velásquez dropped out of graduate school in 1968 to join Cesar Chavez's fight to organize farm workers in the Rio Grande Valley. But when fellow activists formed La Raza Unida into a quixotic third party in Texas, Velásquez bolted. "It was so Mexican," he says. "What was important was not the result but making a glorious effort. Well, goddammit, we're not in Mexico." He launched Southwest Voter in 1974. The next year Congress gave wider application to the Voting Rights Act, extending its protection to all racial minorities. Thus armed, Southwest Voter has since waged 958 registration drives (adding more than a million Mexican-Americans to the rolls) and filed or joined in 82 winning lawsuits. "It's cod liver for those who have it forced down their throats," says Velásquez. "It's good medicine, but it tastes like hell."

It tasted pretty sour to Hoyt Pattison, a crusty former legislator from the Clovis area. "The Texans who came to New Mexico [to file suits] slandered us with ethnic slams," he says. Pattison had been an architect of New Mexico's 1982 redistricting. Southwest Voter sued to overturn the plan and won in 1984. The three-judge federal panel derisively likened the shapes of some of the new districts to eagles and spigots. But a fitting simile eluded them when it came to Pattison's own district. They just called it "most unusual." Clovis's compact west-side barrio had been split among three districts, diluting the Hispanic vote. The lines were redrawn, and Pattison was defeated. In addition to its case against gerrymandered legislative districts, Southwest Voter filed winning suits against at-large voting systems in city, county and school-board elections all across southeastern New Mexico.

With successes in Big Texas and Little Texas behind him, Velásquez is now drawn to what he calls the "Achilles' heel of Chicano politics in this nation"—California. The state has only 450 Hispanic officials, elected from among the roughly 5 million Hispanics who are included in California's total population of 26 million. (Texas has 1,466 such officials, a Hispanic population of about 4 million and a total of 17 million people.) "Marketers go after Hispanics here because a dollar's a dollar," says California pollster Marvin Field. "But the political community doesn't. It knows they aren't participating." Although Hispanics are 21 percent of the population, they constitute only 7 percent of the electorate in the November 1986 elections. Three months ago, after declaring California the top priority, Velásquez moved Southwest Voter's field director to Los Angeles to organize more than 250 registration drives; 23 local governments are being studied as possible targets for lawsuits under the Voting Rights Act. "You're looking at Texas 10 years ago, but it won't take 10 years here," vows Velásquez. Indeed, California appears to be fertile ground. Last month state Assemblywoman Gloria Molina became the second Hispanic on the 15-member Los Angeles City Council. "That's the big-league situation," Velásquez says of California. "It's going to prove Hispanics are on the move."

They are already on the move back in Clovis. In 1985 the town saw a five-point gain in Hispanic registration, and Mario Urioste joined the previously all-Anglo school board. He has long-term hopes of cutting the dropout rate by increasing the number of Hispanic teachers. In 1986 Lucinda Bonney became not only the county board's first Hispanic, but its chairman as well. Another success: the hiring of a black and a Hispanic by the sheriff's department. This year Smiley Gallegos, who won Hoyt Pattison's seat after the court threw out the perversely drawn redistricting plan, drove up to Santa Fe for his maiden session as a lawmaker, hoping to push small-business loans for Hispanics and other minorities. Among both Hispanics and Anglos, there is a slow but sure adjustment to the new order. "I've gotten to know this Gallegos," says Pattison, who now works as a lobbyist for soft-drink bottlers, "and I plan to lobby him right alongside everybody else."

TREATY INTERPRETATION

Mr. DOLE. Mr. President, a few weeks ago the Senate gave advice and consent to ratification of the INF Treaty. By and large, we have every right to be proud of our work. The treaty President Reagan took to Moscow was better than the one sent to us 4 months earlier.

Unfortunately, there is one major exception. For all of its 124 days in the Senate, the INF Treaty was shadowed by the ABM Treaty dispute. In fact, attempts to resolve the ABM issue on the INF Treaty threatened to derail ratification at the Moscow summit right up until the 11th hour.

Failure to ratify would have been a pure, simple, and grave error.

So many of us grimaced and swallowed a set of so-called principles of treaty interpretation which are simply wrong. From Helsinki, President Reagan did the same.

The amendment in question did not concern the Soviets, so he issued a brief statement in protest, said he would get back to us later, and went on to Moscow to finish his immediate, priority assignment.

Last Friday, with our feet firmly back on the ground here in Washington, the President did the right and predictable thing. He let the Senate know that the principles attached to the resolution of ratification are unconstitutional, and that neither he nor his successors are bound by them.

This conclusion is based on a very simple, fundamental proposition: What binds the United States is the same treaty which binds the other party, and the President is the one who interprets our obligations.

This issue has been obscured by a lot of arms control and legal mumbo-jumbo.

Now, I do not expect to settle the issue here today, but I do hope we will start thinking about the consequences of our words.

Fortunately, the Senate has not, because it cannot, overturned the time-honored rules of treaty interpretation. The President's message on the subject argues the case very well, and the debate is expanded by a Wall Street Journal editorial and an op-ed by David Rivkin.

I ask unanimous consent that these three documents be printed in the RECORD.

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

SOFAER'S REVENGE

Sam Nunn doesn't know what hit him. He had been so pleased with the idea of inserting an outrageous condition into the INF Treaty before Senate ratification, knowing that President Reagan was in Moscow and wanted a symbolic signing ceremony. Now back from the summit, Mr. Reagan has just announced that he and his successors won't be bound by Mr. Nunn's coercion.

After Senator Nunn's battle over the ABM Treaty with State Department lawyer Abe Sofaer, he and Robert Byrd pushed a provision into INF, which holds that treaties must be interpreted as the "common understanding of the treaty shared by the President and the Senate" at the time of ratification.

As David Rivkin explains nearby, there is a reason the Constitution gives the President sole power to negotiate, interpret and execute treaties. The Nunn alternative to this view is that Presidents must negotiate first with the Soviets, then with the Senate—and any restrictions the Senate adds bind only the U.S. side.

In his letter of repudiation to the Senate, President Reagan said that the Nunn-Byrd condition "subordinates fundamental and essential treaty interpretative sources such as the treaty parties' intent, the treaty negotiating record and the parties' subsequent practices." Moreover, he said, "I cannot accept the proposition that a condition in a resolution to ratification can alter the allocation of rights and duties under the Constitution; nor could I, consistent with my oath of office, accept any diminution claimed to be effected by such a condition in the constitutional powers and responsibilities of the presidency."

Mr. Reagan may have never intended to be bound, but this would have more resonance if he had said so before the treaty left the Senate. Robert Bork once suggested that faced with the War Powers Resolution, President Nixon should have said, "Thank you for your essay on your understanding of my constitutional powers. When the time permits, I will send you my essay on my understanding of my constitutional powers."

As it is, Senator Nunn said of the Reagan rejection. "The President's letter is enter-

taining but irrelevant." Barrister Nunn added. "The treaty, including this condition, is now the supreme law of the land." How's that? The Senate now believes it can make a treaty condition the law of the land—sharing the status of the Constitution—without the President, state ratification or even the Soviets.

The arrogance of congressional power requires a vigilant presidency. This administration sat in silence as Congress demoted the President's role by passing huge continuing resolutions, Boland amendments and an independent-counsel law that results in prosecutorial politics.

George Bush has promised to fight this trend, which differentiates him from the Reagan Presidency, and from Mike Dukakis. According to his issues director, Mr. Dukakis favors the War Powers Resolution, which would make him the first President to yield to this power grab.

We predict that the next President, whoever he is, will find that the government cannot function unless he guards his powers more jealously than President Reagan has. The constitutional system requires each branch to play its role—no more but also no less. When it reaches the point that the Senate believes its power to advise and consent includes the power to bind Presidents but not the Soviets, things are out of hand.

GOP MUST SHARE BLAME FOR BYRD AMENDMENT

(By David B. Rivkin, Jr.)

President Reagan issued a statement Friday asserting that the Byrd amendment to the INF Treaty had no impact on his "constitutional powers and responsibilities." This rather bland pronouncement failed to generate front-page news. Yet, it involved both constitutional principles of the highest order and a rather uninspiring effort by the Reagan administration to defend them.

What was at stake is the president's power to interpret treaties—a major component of his foreign-affairs responsibilities. This matter has been a subject of a furious debate, dating back to 1985 and the "reinterpretation" of the ABM Treaty.

During the Senate's consideration of the ABM Treaty in 1972, Nixon administration officials gave testimony suggesting that the treaty banned development and testing of all futuristic ABM systems, except for fixed-site land-based ones. This testimony stood unchallenged until 1985, when review of the negotiating record showed that the Soviets never agreed to that ban.

Presented with the problem, State Department legal adviser Abraham Sofaer concluded that since Moscow never agreed to this provision, it was not bound by mistaken explications provided to the Senate, and that the U.S. and the Soviet Union were bound by the bargain struck during treaty negotiations—even if it differed from what the president told the Senate.

These assertions drew fire from congressional Democrats, especially Sen. Sam Nunn of Georgia, who claimed that the position developed by Mr. Sofaer negated the Senate's constitutional right to participate in treaty-making and provided an inducement for a president to mislead the Senate in the future. Sen. Nunn led the fight to introduce language in defense authorization bills that would have mandated compliance with the "narrow" interpretation of the ABM Treaty. Ultimately, the administration caved in to congressional pressure and agreed to a de facto compliance with Sen. Nunn's position.

This, however, was not enough for Sen. Nunn and other Senate Democrats, who decided to use the INF Treaty as a vehicle to settle the score with the administration. They introduced the Byrd amendment, which provides that the INF Treaty should be interpreted in accordance with the testimony provided by the executive branch to the Senate, and specifies that in the future the president cannot reinterpret the treaty without the Senate's consent. The possible result of the Byrd amendment is what Sen. Arlen Specter (R., Pa.) calls a "two-treaty" situation—whereby the U.S. is bound by a stricter version of the INF Treaty than is Moscow.

To be fair, the blame for the passage of the Byrd amendment does not rest entirely with the Democrats. Both the administration and some Senate Republicans bear at least some of the responsibility. To begin with, the administration's efforts to assuage Sen. Nunn's concerns about Mr. Sofaer's legal theories not only failed to bear fruit; they actually backfired. Initially, Assistant Attorney General Charles Cooper issued an opinion asserting that, as a matter of domestic law, the administration that presented mistaken testimony to the Senate was bound by it, even if, as a matter of international law, the treaty had a different meaning.

This point was reaffirmed in a March letter issued by A.B. Culvahouse, the White House general counsel. The letter posited that "the president is bound by shared interpretations which were both authoritatively communicated to the Senate . . . and clearly intended, generally understood, and relied upon by the Senate in its advice and consent to ratification."

The administration's implicit intent at the time Mr. Cooper's and Mr. Culvahouse's opinions were released was to introduce enough qualifications and hedges to ensure that testimony by executive branch officials would be considered binding only in exceptional cricumstances. This, however, was unacceptable to the Senate Democrats. In the process, however, the administration sacrificed important constitutional principles, by embracing the legitimacy of the "two-treaty" approach.

The administration's efforts to prevent the passage of the Byrd amendment were at best halfhearted, and, in the end, the White House simply dropped the ball. With the Moscow summit rapidly approaching, the administration abandoned any efforts to rally the Senate Republicans against the amendment. Instead, White House Chief of Staff Howard Baker made a trip to Capitol Hill to meet with Republican leaders, and to their considerable surprise, appealed to them to vote for the Byrd amendment. No price seemed too high to enable President Reagan to sign the treaty at the Moscow summit.

The problem with the amendment is that it addresses a nonexistent issue. The claim that, in the absence of the amendment, a president would feel emboldened to habitually misinform the Senate about the treaties for which he was seeking its consent is absurd. For a president knowingly to furnish false testimony to the Senate would constitute an impeachable offense. Not surprisingly, this has never occurred.

The real problem arises, as was the case with the ABM Treaty, when the executive branch makes a mistake or unwittingly provides confusing testimony. In such a situation, the solution favored by Sens. Nunn and Byrd seems to involve punishing the U.S., by making it abide by a treaty provision that the other treaty partner does not have to follow.

Moreover, the Byrd amendment is unconstitutional. Under the Constitution, the president alone has the right to determine U.S. international treaty obligations. The president also has the right to interpret, for purposes of domestic law, what any treaty or statute means. While the courts have the ultimate power to adjudicate the validity of the president's interpretation, they habitually defer to his interpretation, and would not disturb any reasonable determination unless there is clear and unmistakable evidence that Congress intended something else.

There is an additional basis for maintaining that the Byrd amendment does not have the force of law. Under the Constitution, a treaty cannot create binding domestic obligations that exceed the international obligations agreed to by the treaty parties. Thus, an extra provision, allegedly created by the executive-branch testimony, is not a "supreme" law of the land. At the same time, such a provision does not have the force of a regular law, since it has not been properly enacted by both houses of Congress. As such it is at most a political decoration that any president is free to disregard.

It is regrettable that the Senate saw fit to mar the INF Treaty with a legally defective and unconstitutional amendment. It is even more regrettable that the president failed to correct this mistake prior to the treaty's ratification by declaring that the Byrd amendment is null and void and that he has no intention of complying with it.

Mr. DOLE. Mr. President, I would also like to include in the RECORD President Reagan's message to the Senate on the ratification of the INF Treaty and his views on the ABM question.

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

To the Senate of the United States:

I was gratified the United States Senate gave its advice and consent to the ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate- and Shorter-Range Missiles (INF Treaty). It was my honor to exchange instruments of ratification on June 1 in Moscow, and the Treaty has now entered into force.

During the past 4 months, the Senate has performed its constitutional duties with respect to the advice and consent to this Treaty in an exceptionally serious and diligent manner. On the Administration's part, we spared no effort to respond to the Senate's needs, and to do our best to ensure that the Senate had all the information it needed to carry out its constitutional responsibilities. Administration witnesses appeared in more than 70 formal hearings and many more informal briefings; we provided detailed written answers to over 1,300 questions for the record from the Committees and individual Senators; and we provided access to the negotiating record of the Treaty, comprising 31 bound volumes.

In short, I believe the Executive branch and the Senate took their responsibilities very seriously and made every effort to work together to fulfill them in the common interest of advancing the national security of the United States and our Allies

and friends. The Treaty will bear witness to the sincerity and diligence of those in the Executive Branch and the Senate who have taken part in this effort.

As noted in my statement issued on May 27, the date of final Senate action, one provision of the Resolution to Ratification adopted by the Senate causes me serious concern.

The Senate condition relating to the Treaty Clauses of the Constitution apparently seeks to alter the law of treaty interpretation. The accompanying report of the Committee on Foreign Relations accords primacy, second only to the Treaty text, to all Executive branch statements to the Senate above all other sources which international forums or even U.S. courts would consider in interpreting treaties. It subordinates fundamental and essential treaty interpretative sources such as the treaty parties' intent, the treaty negotiating record and the parties' subsequent practices.

Treaties are agreements between sovereign states and must be interpreted in accordance with accepted principles of international law and United States Supreme Court jurisprudence. As a practical matter, the Senate condition only can work against the interests of the United States by creating situations in which a treaty has one meaning under international law and another under domestic law. Unilateral restrictions on the United States should be avoided, especially in a treaty affecting vital national security interests. With respect to U.S. law, the President must respect the mutual understandings reached with the Senate during the advice and consent process. But Executive statements should be given binding weight only when they were authoritatively communicated to the Senate by the Executive and were part of the basis on which the Senate granted its advice and consent to ratification. This is in accordance with the legal standards applied by our courts in determining legislative intent. I commend the thoughtful statements made during the Senate debate by Senators Specter, Roth, Wilson, and others which amplify these concerns.

This Administration does not take the position that the Executive branch can disregard authoritative Executive statements to the Senate, and we have no intention of changing the interpretation of the INF Treaty which was presented to the Senate. On the contrary, this Administration has made it clear that it will consider all such authoritative statements as having been made in good faith. Nonetheless the principles of treaty interpretation recognized and repeatedly invoked by the courts may not be limited or changed by the Senate alone, and those principles will govern any future disputes over interpretation of this Treaty. As Senator Lugar pointed out during the debate, the Supreme Court may well have the final judgment, which would be binding on the President and Senate alike. Accordingly, I am compelled to state that I cannot accept the proposition that a condition in a resolution to ratification can alter the allocation of rights and duties under the Constitution; nor could I, consistent with my oath of office, accept any diminution claimed to be effected by responsibilities of the Presidency.

I do not believe that any difference of views about the Senate condition will have any practical effect on the implementation of the Treaty. I believe the Executive branch and the Senate have a very good common understanding of the terms of the Treaty, and I believe that we will handle any question of interpretation that may arise in a spirit of mutual accommodation and respect. In this spirit I welcome the entry into force of the Treaty and express my hope that it will lead to even more important advances in arms reduction and the preservation of world peace and security.

RONALD REAGAN.

THE WHITE HOUSE, *June 10, 1988.*

COMPUTER SCIENCES CORP.

Mr. CRANSTON. Mr. President, in the late 1950's computers began to change our lives. Today, computers facilitate much of what we do in our personal lives as well as the way we conduct our business. Most notable to a Senate office is the vastly increased ease computers give us to keep in touch with our constituents.

Integrated computer systems have made the United States a leader in the information age, an age which demands quick, accurate, and timely information.

In building the world's most technologically advanced defense and space exploration programs, the Government pioneered the use of computers. Demand by private sector manufacturing and business quickly followed.

Our national demand for computer technology has grown so quickly that information technology's share of the gross national product rose from 0.5 percent in 1967 to 3 percent in 1987.

Back in 1959, when most Americans knew little of how computers were changing the way they lived and worked, a company called Computer Sciences Corp., was founded. CSC has developed some of the advanced computer software available for our Government. CSC is also expanding its services in the commercial sector.

The computer industry well deserves recognition for its part in ensuring our Nation's continued world leadership role. I would like to extend particular congratulations to CSC, one of the nation's first information technology corporations, as it enters its third decade.

BIOTECHNOLOGY COMPETITIVENESS ACT OF 1988

Mr. HATCH. Mr. President, I am pleased to join with the chairman of the Labor and Human Resources Committee in support of this legislation as reported from committee. As my colleagues know, this legislation established a process for looking at existing Federal and private sector efforts to develop biotechnology. The intent is to establish a process to identify those areas which can be performed best by the Federal Government, identify those areas which can be performed best by the private sector, and identify obstacles which are preventing the development of this important technology.

Biotechnology may provide answers to many of the questions which have long plagued mankind. It may give us the key to unlock the secrets to many, so far, untreatable diseases. For example, the technology may furnish new options for treating genetic and congential diseases. Or, it may give us new drugs which are more effective, have fewer side effects, and cost less than ever before. In short, biotechnology provides hope for many Americans affected with chronic and life threatening diseases.

At the same time that biotechnology provides us with new answers, it also raises serious policy questions, questions we must address. This legislation establishes a process for addressing this need through the existing Congressional Bioethics Board.

I would like to commend Senator CHILES, Senator HUMPHREY, and Senator KENNEDY for the work they have put into this legislation and the willingness of all concerned to accommodate the views and concerns of others. I think this is good legislation, and I hope that my colleagues join us in expeditiously approving this legislation.

PRESIDENT REAGAN SPEAKS OF THE SPREAD OF FREEDOM IN REMARKABLE SPEECHES HE GAVE IN MOSCOW AND LONDON

Mr. DOMENICI. Mr. President, I have had the opportunity to read two important speeches that President Reagan gave during his recent summit trip to Moscow.

Frankly, these are as fine speeches as I have heard the President give. In each, he spoke of freedom and opportunity.

The first was made on May 31 to students and faculty of Moscow State University. In that speech, Mr. Reagan spoke of a "revolution that is taking place right now, quietly sweeping the globe, without bloodshed or conflict," the technology revolution.

"The explorers of the modern era are the entrepreneurs, men with vision, with the courage to take risks and faith enough to brave the unknown."

The President went on to speak of "the power of economic freedom spreading around the world," a fact that this Senator is convinced is the most significant event that is taking place in the world today. It is the driving force behind the Soviet efforts to reform its system.

The President told the students that "there are no bounds on human imagination and the freedom to create is the most precious natural resource."

These are things we know, but the President spoke of them with great eloquence.

In the second speech, to the Royal Institute of International Affairs in London, President Reagan reiterated his Moscow theme, the thirst for freedom. He spoke of making "a pilgrimage toward those things we honor and love: human dignity, the hope of freedom for all peoples and for all nations."

He told the audience in London that the success achieved in Moscow had its roots in the soil of steadfastness that had been shown by the allies, a steadfastness that produced the remarkable INF treaty in the face of "voices of retreat and hopelessness."

Mr. President, as I indicated, I believe these speeches are remarkable both for their eloquence and for their wisdom. I am convinced that when our grandchildren study this period in world history, they will read these speeches, they will study the foresight in each.

To enable my colleagues to study these important speeches with care, I ask unanimous consent that they be printed at this point in the RECORD.

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

REMARKS BY THE PRESIDENT TO THE STUDENTS AND FACULTY OF MOSCOW STATE UNIVERSITY

LECTURE HALL, MOSCOW STATE UNIVERSITY, MOSCOW, USSR

The PRESIDENT: Thank you, Rector Logunov, and I want to thank all of you very much for a very warm welcome. It's a great pleasure to be here at Moscow State University, and I want to thank you all for turning out. I know you must be very busy this week, studying and taking your final examinations. So let me just say Zhelayu vam uspekha. (Applause.) Nancy couldn't make it today because she's visiting Leningrad, which she tells me is a very beautiful city—but she, too, says hello and wishes you all good luck.

Let me say it's also a great pleasure to once again have this opportunity to speak directly to the people of the Soviet Union.

Before I left Washington, I received many heartfelt letters and telegrams asking me to carry here a simple message—perhaps, but also some of the most important business of this summit—it is a message of peace and goodwill and hope for a growing friendship and closeness between our two peoples.

As you know, I've come to Moscow to meet with one of your most distinguished graduates. In this, our fourth summit, General Secretary Gorbachev and I have spent many hours together and I feel that we're getting to know each other well.

Our discussions, of course, have been focused primarily on many of the important issues of the day—issues I want to touch on with you in a few moments. But first I want to take a little time to talk to you much as I would to any group of university students in the United States. I want to talk not just of the realities of today, but of the possibilities of tomorrow.

Standing here before a mural of your revolution, I want to talk about a very different revolution that is taking place right now, quietly sweeping the globe, without bloodshed or conflict. Its effects are peaceful, but they will fundamentally alter our world, shatter old assumptions, and reshape our lives.

It's easy to underestimate because it's not accompanied by banners or fanfare. It's been called the technological or information revolution, and as its emblem, one might take the tiny silicon chip—no bigger than a fingerprint. One of these chips has more computing power than a roomful of old-style computers.

As part of an exchange program, we now have an exhibition touring your country that shows how information technology is transforming our lives—replacing manual labor with robots, forecasting weather for farmers, or mapping the genetic code of DNA for medical researchers. These microcomputers today aid the design of everything from houses to cars to spacecraft—they even design better and faster computers. They can translate English into Russian or enable the blind to read—or help Michael Jackson produce on one synthesizer the sounds of a whole orchestra. Linked by a network of satellites and fiber-optic cables, one individual with a desktop computer and a telephone commands resources unavailable to the largest governments just a few years ago.

Like a chrysalis, we're emerging from the economy of the Industrial Revolution—an economy confined to and limited by the Earth's physical resources—into, as one economist titled his book, "The Economy in Mind," in which there are no bounds on human imagination and the freedom to create is the most precious natural resource.

Think of that little computer chip. Its value isn't in the sand from which it is made, but in the microscopic architecture designed into it by ingenious human minds. Or take the example of the satellite relaying this broadcast around the world, which replaces thousands of tons of copper mined from the Earth and molded into wire.

In the new economy, human invention increasingly makes physical resources obsolete. We're breaking through the material conditions of existence to a world where man creates his own destiny. Even as we explore the most advanced reaches of science, we're returning to the age-old wisdom of our culture, a wisdom contained in the book of Genesis in the Bible: In the beginning was the spirit, and it was from this spirit that the material abundance of creation issued forth.

But progress is not aforeordained. The key is freedom—freedom of thought, freedom of information, freedom of communication. The renowned scientist, scholar, and founding father of this University, Mikhail Lomonosov, knew that. "It is common knowledge," he said, "that the achievements of science are considerable and rapid, particularly once the yoke of slavery is cast off and replaced by the freedom of philosophy."

You know, one of the first contacts between your country and mine took place between Russian and American explorers. The Americans were members of Cook's last voyage on an expedition searching for an Arctic passage; on the island of Unalaska, they came upon the Russians, who took them in, and together, with the native inhabitants, held a prayer service on the ice.

The explorers of the modern era are the entrepreneurs, men with vision, with the courage to take risks and faith enough to brave the unknown. These entrepreneurs and their small enterprises are responsible for almost all the economic growth in the United States. They are the prime movers of the technological revolution. In fact, one of the largest personal computer firms in the United States was started by two college students, no older than you, in the garage behind their home.

Some people, even in my own country, look at the riot of experiment that is the free market and see only waste. What of all the entrepreneurs that fail? Well, many do, particularly the successful ones. Often several times. And if you ask them the secret of their success, they'll tell you, it's all that they learned in their struggles along the way—yes, it's what they learned in their struggles along the way—yes, it's what they learned from failing. Like an athlete in competition, or a scholar in pursuit of the truth, experience is the greatest teacher.

And that's why it's so hard for government planners, no matter how sophisticated, to ever substitute for millions of individuals working night and day to make their dreams come true. The fact is, bureaucracies are a problem around the world. There's an old story about a town—it could be anywhere—with a bureaucrat who is known to be a good for nothing, but he somehow had always hung on to power. So one day, in a town meeting, an old woman got up and said to him, "There is a folk legend here where I come from that when a baby is born, an angel comes down from heaven and kisses it on one part of its body. If the angel kisses him on his hand, he becomes a handyman. If he kisses him on his forehead, he becomes bright and clever. And I've been trying to figure out where the angel kissed you so that you should sit there for so long and do nothing." (Laughter and applause.)

We are seeing the power of economic freedom spreading around the world—places such as the Republic of Korea, Singapore, Taiwan have vaulted into the technological era, barely pausing in the industrial age along the way. Low-tax agricultural policies in the sub-continent mean that in some years India is now a net exporter of food. Perhaps most exciting are the winds of change that are blowing over the People's Republic of China, where one-quarter of the world's population is now getting its first taste of economic freedom.

At the same time, the growth of democracy has become one of the most powerful political movements of our age. In Latin America in the 1970's, only a third of the population lived under democratic government. Today over 90 percent does. In the Philippines, in the Republic of Korea, free, contested, democratic elections are the order of the day. Throughout the world, free markets are the model for growth. Democracy is the standard by which governments are measured.

We Americans make no secret of our belief in freedom. In fact, it's something of a national pastime. Every four years the American people choose a new president, and 1988 is one of those years. At one point there were 13 major candidates running in the two major parties, not to mention all the others, including the Socialist and Libertarian candidates—all trying to get my job.

About 1,000 local television stations, 8,500 radio stations, and 1,700 daily newspapers, each one an independent, private enterprise, fiercely independent of the government, report on the candidates, grill them in interviews, and bring them together for debates. In the end, the people vote—they decide who will be the next president.

But freedom doesn't begin or end with elections. Go to any American town, to take

just an example, and you'll see dozens of churches, representing many different beliefs—in many places synagogues and mosques—and you'll see families of every conceivable nationality, worshipping together.

Go into any schoolroom, and there you will see children being taught the Declaration of Independence, that they are endowed by their Creator with certain unalienable rights—among them life, liberty, and the pursuit of happiness—that no government can justly deny—the guarantees in their Constitution for freedom of speech, freedom of assembly, and freedom of religion.

Go into any courtroom and there will preside an independent judge, beholden to no government power. There every defendant has the right to a trial by a jury of his peers, usually 12 men and women—common citizens, they are the ones, the only ones, who weigh the evidence and decide on guilt or innocence. In that court, the accused is innocent until proven guilty, and the word of a policeman, or any official, has no greater legal standing than the word of the accused.

Go to any university campus, and there you'll find an open, sometimes heated discussion of the problems in American society and what can be done to correct them. Turn on the television, and you'll see the legislature conducting the business of government right there before the camera, debating and voting on the legislation that will become the law of the land. March in any demonstration, and there are many of them—the people's right of assembly is guaranteed in the Constitution and protected by the police.

Go into any union hall, where the members know their right to strike is protected by law. As a matter of fact, one of the many jobs I had before this one was being president of a union, the Screen Actors Guild. I led my union out on strike—and I'm proud to say, we won.

But freedom is more even than this: Freedom is the right to question, and change the established way of doing things. It is the continuing revolution of the marketplace. It is the understanding that allows us to recognize shortcomings and seek solutions. It is the right to put forth an idea, scoffed at by the experts, and watch it catch fire among the people. It is the right to stick—to dream—to follow your dream, or stick to your conscience, even if you're the only one in a sea of doubters.

Freedom is the recognition that no single person, no single authority or government has a monopoly on the truth, but that every individual life is infinitely precious, that every one of us put on this world has been put there for a reason and has something to offer.

America is a nation made up of hundreds of nationalities. Our ties to you are more than ones of good feeling; they're ties of kinship. In America, you'll find Russians, Armenians, Ukrainians, peoples from Eastern Europe and Central Asia. They come from every part of this vast continent, from every continent, to live in harmony, seeking a place where each cultural heritage is respected, each is valued for its diverse strengths and beauties and the richness it brings to our lives.

Recently, a few individuals and families have been allowed to visit relatives in the West. We can only hope that it won't be long before all are allowed to do so, and Ukrainian-Americans, Baltic-Americans, Armenian-Americans, can freely visit their homelands, just as this Irish-American visits his.

Freedom, it has been said, makes people selfish and materialistic, but Americans are one of the most religious peoples on Earth. Because they know that liberty, just as life itself, is not earned, but a gift from God, they seek to share that gift with the world. "Reason and experience," said George Washington, in his farewell address, "both forbid us to expect that national morality can prevail in exclusion of religious principle. And it is substantially true, that virtue or morality is a necessary spring of popular government."

Democracy is less a system of government than it is a system to keep government limited, unintrusive: A system of constraints on power to keep politics and government secondary to the important things in life, the true sources of value found only in family and faith.

But I hope you know I go on about these things not simply to extol the virtues of my own country, but to speak to the true greatness of the heart and soul of your land. Who, after all, needs to tell the land of Dostoevsky about the quest for truth, the home of Kandinsky and the Scriabin about imagination, the rich and noble culture of the Uzbek man of letters, Alisher Navoi, about beauty and heart.

The great culture of your diverse land speaks with a glowing passion to all humanity. Let me cite one of the most eloquent contemporary passages on human freedom. It comes, not from the literature of America, but from this country, from one of the greatest writers of the 20th century, Boris Pasternak, in the novel "Dr. Zhivago." He writes, "I think that if the beast who sleeps in man could be held down by threats—any kind of threat, whether of jail or of retribution after death—then the highest emblem of humanity would be the lion tamer in the circus with his whip, not the prophet who sacrificed himself. But this is just the point—what has for centuries raised man above the beast is not the cudgel, but an inward music—the irresistible power of unarmed truth."

The irresistible power of unarmed truth. Today the world looks expectantly to signs of change, steps toward greater freedom in the Soviet Union. We watch and we hope as we see positive changes taking place. There are some, I know, in your society who fear that change will bring only disruption and discontinuity—who fear to embrace the hope of the future.

Sometimes it takes faith. It's like that scene in the cowboy movie "Butch Cassidy and the Sundance Kid," which some here in Moscow recently had a chance to see. The posse is closing in on the two outlaws, Butch and Sundance, who find themselves trapped on the edge of a cliff, with a sheer drop of hundreds of feet to the raging rapids below. Butch turns to Sundance and says their only hope is to jump into the river below, but Sundance refuses. He says he'd rather fight it out with the posse, even though they're hopelessly outnumbered. Butch says that's suicide and urges him to jump, but Sundance still refuses, and finally admits, "I can't swim." Butch breaks up laughing and says, "You crazy fool, the fall will probably kill you." And, by the way, both Butch and Sundance made it, in case you didn't see the movie. I think what I've just been talking about is perestroika and what its goals are.

But change would not mean rejection of the past. Like a tree growing strong through the seasons, rooted in the earth and drawing life from the sun, so, too, positive change must be rooted in traditional values—in the land, in cultural, in family and community—and it must take its life from the eternal things, from the source of all life, which is faith. Such change will lead to new understandings, new opportunities, to a broader future in which the tradition is not supplanted, but finds its full flowering.

That is the future beckoning to your generation. At the same time, we should remember that reform that is not institutionalized will always be insecure. Such freedom will always be looking over its shoulder. A bird on a tether, no matter how long the rope, can always be pulled back. And that is why, in my conversation with General Secretary Gorbachev, I have spoken of how important it is to institutionalize change—to put guarantees on reform. And we have been talking together about one sad reminder of a divided world, the Berlin Wall. It's time to remove the barriers that keep people apart.

I'm proposing an increased exchange program of high school students between our countries. General Secretary Gorbachev mentioned on Sunday a wonderful phrase, you have in Russian for this. "Better to see something once than to hear about it a hundred times." Mr. Gorbachev and I first began working on this in 1985; in our discussion today, we agreed on working up to several thousand exchanges a year from each country in the near future. But not everyone can travel across the continents and oceans. Words travel lighter; and that's why we'd like to make available to this country more of our 11,000 magazines and periodicals; and our television and radio shows, that can be beamed off a satellite in seconds. Nothing would please us more than for the Soviet people to get to know us better and to understand our way of life.

Just a few years ago, few would have imagined the progress our two nations have made together. The INF Treaty—which General Secretary Gorbachev and I signed last December in Washington and whose instruments of ratification we will exchange tomorrow—the first true nuclear arms reduction treaty in history, calling for the elimination of an entire class of U.S. and Soviet nuclear missiles. And just 16 days ago, we saw the beginning of your withdrawal from Afghanistan, which gives us hope that soon the fighting may end and the healing may begin, and that that suffering country may find self-determination, unity, and peace at long last.

It's my fervent hope that our constructive cooperation on these issues will be carried on to address the continuing destruction of conflicts in many regions of the globe and that the serious discussions that led to the Geneva accords on Afghanistan will help lead to solutions in Southern Africa, Ethiopia, Cambodia, the Persian Gulf, and Central America.

I have often said, nations do not distrust each other because they are armed; they are armed because they distrust each other. If this globe is to live in peace and prosper, if it is to embrace all the possibilities of the technological revolution, then nations must renounce, once and for all, the right to an expansionist foreign policy. Peace between nations must be an enduring goal—not a tactical stage in a continuing conflict.

I've been told that there's a popular song in your country—perhaps you know it—whose evocative refrain asks the question, "Do the Russians want a war?" In answer it

says, "Go ask that silence lingering in the air, above the birch and poplar there; beneath those trees the soldiers lie. Go ask my mother, ask my wife; then you will have to ask no more, 'do the Russians want a war?'"

But what of your one-time allies? What of those who embraced you on the Elbe? What if we were to ask the watery graves of the Pacific, or the European battlefields where America's fallen were buried far from home? What if we were to ask their mothers, sisters, and sons, do Americans want war? Ask us, too, and you'll find the same answer, the same longing in every heart. People do not make wars, governments do—and no mother would ever willingly sacrifice her sons for territorial gain, for economic advantage, for ideology. A people free to choose will always choose peace.

Americans seek always to make friends of old antagonists. After a colonial revolution with Britain we have cemented for all ages the ties of kinship between our nations. After a terrible civil war between North and South, we healed our wounds and found true unity as a nation. We fought two world wars in my lifetime against Germany and one with Japan, but now the Federal Republic of Germany and Japan are two of our closest allies and friends.

Some people point to the trade disputes between us as a sign of strain, but they're the frictions of all families, and the family of free nations is a big and vital and sometimes boisterous one. I can tell you that nothing would please my heart more than in my lifetime to see American and Soviet diplomats grappling with the problem of trade disputes between America and a growing, exuberant, exporting Soviet Union that had opened up to economic freedom and growth.

And as important as these official people-to-people exchanges are, nothing would please me more than for them to become unnecessary, to see travel between East and West become so routine that university students in the Soviet Union could take a month off in the summer and, just like students in the West do now, put packs on their backs and travel from country to country in Europe with barely a passport check in between. Nothing would please me more than to see the day that a concert promoter in, say, England could call up a Soviet rock group—without going through any government agency—and have them playing in Liverpool the next night.

Is this just a dream? Perhaps. But it is a dream that is our responsibility to have come true.

Your generation is living in one of the most exciting, hopeful times in Soviet history. It is a time when the first breath of freedom stirs the air and the heart beats to the accelerated rhythm of hope, when the accumulated spiritual energies of a long silence yearn to break free.

I am reminded of the famous passage near the end of Gogol's "Dead Souls." Comparing his nation to a speeding troika, Gogol asks what will be its destination. But he writes, "there was no answer save the bell pouring forth marvelous sound."

We do not know what the conclusion of this will be of this journey, but we're hopeful that the promise of reform will be fulfilled. In this Moscow spring, this May 1988, we may be allowed that hope—that freedom, like the fresh green sapling planted over Tolstoi's grave, will blossom forth at last in the rich fertile soil of your people and culture. We may be allowed to hope that the marvelous sound of a new openness will keep rising through, ringing through, leading to a new world of reconciliation, friendship, and peace.

Thank you all very much and da blagoslovit vas gospod'. God bless you. (Applause.)

ADDRESS BY THE PRESIDENT TO THE ROYAL INSTITUTE OF INTERNATIONAL AFFAIRS

THE GREAT HALL, GUILDHALL, LONDON, ENGLAND, JUNE 3, 1988

The PRESIDENT. Thank you all very much. My Lord Mayor, Prime Minister, Your Excellencies, my lords, aldermen, sheriffs, ladies and gentlemen, I wonder if you can imagine what it is for an American to stand in this place. Back in the States, we're terribly proud of anything more than a few hundred years old; some even see my election to the presidency as America's attempt to show our European cousins that we too have a regard for antiquity. (Laughter.)

Guildhall has been here since the 15th century and while it is comforting at my age to be near anything that much older than myself—(laughter)—the venerable age of this institution is hardly all that impresses. Who can come here and not think upon the moments these walls have seen—the many times that people of this city and nation have gathered here in national crisis or national triumph. In the darkest hours of the last world war—when the tense drama of Edward R. Murrow's opening—"This is London" was enough to impress on millions of Americans the mettle of the British people—how many times in those days did proceedings continue here, a testimony to the cause of civilization for which you stood. From the Marne to El Alamein, to Arnhem, to the Falklands, you have in this century so often remained steadfast for what is right—and against what is wrong. You are a brave people and this land truly is, as your majestic, moving hymn proclaims, a "land of hope and glory." And it's why Nancy and I—in the closing days of this historic trip—are glad to be in England once again. After a long journey, we feel among friends, and with all our hearts we thank you for having us here.

Such feelings are, of course, especially appropriate to this occasion; I have come from Moscow to report to you, for truly the relationship between the United States and Great Britain has been critical to NATO's success and the cause of freedom.

This hardly means that we've always had a perfect understanding. When I first visited Mrs. Thatcher at the British Embassy in 1981, she mischeviously reminded me that the huge portrait dominating the grand staircase was none other than that of George III—though she did graciously concede that today most of her countrymen would agree with Jefferson that a little rebellion now and then is a good thing. (Laughter.)

So there has always been, as there should be among friends, an element of fun about our differences. But let me assure you, it is how much we have in common and the depth of our friendship that truly matters. I have often mentioned this in the States, but I have never had an opportunity to tell a British audience how during my first visit here 40 years ago I was, like most Americans, anxious to see some of the sights and those 400-year-old inns I had been told abound in this country.

Well, a driver took me and a couple of other people to an old inn, a pub really—and what in America we would call a "mom and pop place." This quite elderly lady was waiting on us, and finally, hearing us talk to one another, she said, "You're Americans, aren't you?" And we said we were. "Oh," she said, "there were a lot of your chaps stationed down the road during the war." And she added, "They used to come in here of an evening, and they'd have a songfest. They called me Mom, and they called the old man Pop." And then her mood changed and she said, "It was Christmas Eve. And, you know, we were all alone and feeling a bit down. And, suddenly, they burst through the door, and they had presents for me and Pop." And by this time she wasn't looking at us anymore. She was looking off into the distance, into memory, and there were tears in her eyes. And then she said, "Big strapping lads they was, from a place called Ioway." (Laughter.)

From a place called Ioway. And Oregon, California, Texas, New Jersey, Georgia. Here with other young men from Lancaster, Hampshire, Glasgow, and Dorset—all of them caught up in the terrible paradoxes of that time—that young men must wage war to end war, and die for freedom so that freedom itself might live.

And it is those same two causes for which they fought and died—the cause of peace, the cause of freedom for all humanity—that still brings us, British and American, together.

For these causes, the people of Great Britian, the United States, and other allied nations have, for 44 years, made enormous sacrifices to keep our alliance strong and our military ready. For them, we embarked in this decade on a new post-war strategy, a forward strategy of freedom, a strategy of public candor about the moral and fundamental differences between statism and democracy, but also a strategy of vigorous diplomatic engagement. A policy that rejects both the inevitability of war or the permanence of totalitarian rule, a policy based on realism that seeks not just treaties for treaties' sake, but the recognition and resolution of fundamental differences with our adversaries.

The pursuit of this policy has just now taken me to Moscow and, let me say, I believe this policy is bearing fruit. Quite possibly, we're beginning to take down the barriers of the post-war era, quite possibly, we are entering a new era in history, a time of lasting change in the Soviet Union. We will have to see. But if so, it's because of the steadfastness of the allies—the democracies—for more than 40 years, and especially in this decade.

The history of our time will undoubtedly include a footnote about how, during this decade and the last, the voices of retreat and hopelessness reached a crescendo in the West—insisting the only way to peace was unilateral disarmament, proposing nuclear freezes, opposing deployment of counterbalancing weapons such as intermediate-range missiles or the more recent concept of strategic defense systems.

These same voices ridiculed the notion of going beyond arms control—the hope of doing something more than merely establishing artificial limits within which arms build-ups could continue all but unabated. Arms reduction would never work, they said, and when the Soviets left the negotiating table in Geneva for 15 months, they proclaimed disaster.

And yet it was our double-zero option, much maligned when first proposed, that provided the basis for the INF Treaty, the first treaty ever that did not just control offensive weapons, but reduced them and, yes,

actually eliminated an entire class of U.S. and Soviet nuclear missiles.

This treaty, last month's development in Afghanistan, the changes we see in the Soviet Union—these are momentous events. Not conclusive. But momentous.

And that's why, although history will duly note that we too heard voices of denial and doubt, it is those who spoke with hope and strength who will be best remembered. And here I want to say that through all the troubles of the last decade, one such firm, eloquent voice, a voice that proclaimed proudly the cause of the Western Alliance and human freedom, has been heard. A voice that never sacrificed its anticommunist credentials or its realistic appraisal of change in the Soviet Union, but because it came from the longest-serving leader in the Alliance, it did become one of the first to suggest that we could "do business" with Mr. Gorbachev.

So let me discharge my first official duty here today. Prime Minister, the achievements of the Moscow summit as well as the Geneva and Washington summits say much about your valor and strength and, by virtue of the office you hold, that of the British people. So let me say, simply: At this hour in history, Prime Minister, the entire world salutes you and your gallant people and gallant nation.

And while your leadership and the vision of the British people have been an inspiration, not just to my own people but to all of those who love freedom and yearn for peace, I know you join me in a deep sense of gratitude toward the leaders and peoples of all the democratic allies. Whether deploying crucial weapons of deterrence, standing fast in the Persian Gulf, combating terrorism and aggression by outlaw regimes, or helping freedom fighters around the globe, rarely in history has any alliance of free nations acted with such firmness and dispatch, and on so many fronts.

In a process reaching back as far as the founding of NATO and the Common Market, the House of Western Europe, together with the United States, Canada, Japan, and others—this House of Democracy—engaged in an active diplomacy while sparking a startling growth of democratic institutions and free markets all across the globe—in short, an expansion of the frontiers of freedom and a lessening of the chances of war.

So it is within this context that I report now on events in Moscow. On Wednesday, at 08:20 Greenwich time, Mr. Gorbachev and I exchanged the instruments of ratification of the INF Treaty. So, too, we made tangible progress toward the START Treaty on strategic weapons. Such a treaty, with all its implications, is, I believe, now within our grasp.

But part of the realism and candor we were determined to bring to negotiations with the Soviets meant refusing to put all the weight of these negotiations and our bilateral relationship on the single issue of arms control. As I never tire of saying, nations do not distrust each other because they are armed, they are armed because they distrust with each other. So equally important items on the agenda dealt with critical issues, like regional conflicts, human rights, and bilateral exchanges.

With regard to regional conflicts, here, too, we are now in the third week of the pullout of Soviet troops from Afghanistan. The importance of this step should not be underestimated. Our third area of discussion was bilateral contacts between our peoples. An expanding program of student exchanges and the opening of cultural centers—progress toward a broader understanding of each other.

And finally, on the issue of human rights—granting people the right to speak, write, travel, and worship freely—there are signs of greater individual freedom.

Now originally I was going to give you just an accounting on these items. But, you know, on my first day in Moscow, Mr. Gorbachev used a Russian saying: "Better to see something once than to hear about it a hundred times." So if I might go beyond our four-part agenda today and offer just a moment or two of personal reflection on the country I saw for the first time.

In all aspects of Soviet life, the talk is of progress toward democratic reform. In the economy, in political institutions, in religious, social, and artistic life. It is called glasnost—openness. It is perestroika—restructuring. Mr. Gorbachev and I discussed his upcoming party conference where many of these reforms will be debated and, perhaps, adopted. Such things as official accountability, limitations on length of service in office, an independent judiciary, revisions of the criminal law, and lowering taxes on cooperatives. In short, giving individuals more freedom to run their own affairs, to control their own destinies.

To those of us familiar with the post-war era, all of this is cause for shaking the head in wonder. Imagine, the President of the United States and the General Secretary of the Soviet Union walking together in Red Square, talking about a growing personal friendship and meeting, together, average citizens, realizing how much our people have in common.

It was a special moment in a week of special moments. My personal impression of Mr. Gorbachev is that he is a serious man seeking serious reform. I pray that the hand of the Lord will be on the Soviet people—the people whose faces Nancy and I saw everywhere we went. Believe me, there was one thing about those faces that we will never forget—they were the faces of hope, the hope of a new era in human history, and, hopefully, an era of peace and freedom for all.

And yet, while the Moscow summit showed great promise and the response of the Soviet people was heartening, let me interject here a note of caution and, I hope, prudence. It has never been disputes between the free peoples and the peoples of the Soviet Union that have been at the heart of post-war tensions and conflicts. No, disputes among governments over the pursuit of statism and expansionism have been the central point in our difficulties.

Now that the allies are strong and expansionism is receding around the world and in the Soviet Union, there is hope. And we look to this trend to continue. We must do all we can to assist it. And this means openly acknowledging positive change, and crediting it.

But let us also remember the stategy that we have adopted is one that provides for setbacks along the way as well as progress. Let us embrace honest change when it occurs; but let us also be wary. Let us stay strong.

And let us be confident, too. Prime Minister, perhaps you remember that upon accepting your gracious invitation to address the members of the Parliament in 1982, I suggested then that the world could well be at a turning point when the two great threats to life in this century—nuclear war and totalitarian rule—might now be overcome. In an accounting of what might lie ahead for the Western Alliance, I suggested that the hard evidence of the totalitarian experiment was now in and that this evidence had led to an uprising of the intellect and will, one that reaffirmed the dignity of the individual in the face of the modern state.

I suggested, too, that in a way Marx was right when he said the political order would come into conflict with the economic order—only he was wrong in predicting which part of the world this would occur in. For the crisis came not in the capitalistic West but in the communist East. Noting the economic difficulties reaching the critical stage in the Soviet Union and Eastern Europe, I said that at other times in history the ruling elites had faced such situations and, when they encountered resolve and determination from free nations, decided to loosen their grip. It was then I suggested that the tides of history were running in the cause of liberty, but only if we, as free men and women, joined together in a worldwide movement toward democracy, a crusade for freedom, a crusade that would be not so much a struggle of armed might—not so much a test of bombs and rockets as a test of faith and will.

Well, that crusade for freedom, that crusade for peace is well underway. We have found the will. We have held fast to the faith. And, whatever happens, whatever triumphs or disappointments ahead, we must keep to this strategy of strength and candor—this strategy of hope—hope in the eventual triumph of freedom.

But as we move forward, let us not fail to note the lessons we've learned along the way in developing our strategy. We have learned the first objective of the adversaries of freedom is to make free nations question their own faith in freedom, to make us think that adhering to our principles and speaking out against human rights abuses or foreign aggression is somehow an act of beligerence. Well, over the long run, such inhibitions make free peoples silent and ultimately half-hearted about their cause. This is the first and most important defeat free nations can ever suffer. For when free peoples cease telling the truth about and to their adversaries, they cease telling the truth to themselves. In matters of state, unless the truth be spoken, it ceases to exist.

It is in this sense that the best indicator of how much we care about freedom is what we say about freedom; it is in this sense, that words truly are actions. And there is one added and quite extraordinary benefit to this sort of realism and public candor. This is also the best way to avoid war or conflict. Too often in the past, the adversaries of freedom forgot the reserves of strength and resolve among free peoples, too often they interpreted conciliatory words as weakness, and too often they miscalculated and underestimated the willingness of free men and women to resist to the end. Words of freedom remind them otherwise.

This is the lesson we've learned and the lesson of the last war and, yes, the lesson of Munich. But it is also the lesson taught us by Sir Winston, by London in the Blitz, by the enduring pride and faith of the British people.

Just a few years ago, Her Majesty, Queen Elizabeth and I stood at the Normandy beaches to commemorate the selflessness that comes from such pride and faith. It is well we recall the lessons of our Alliance.

And, I wonder if you might permit me to recall one other this morning.

Operation Market Garden, it was called, three months after Overlord and the rescue of Europe began. A plan to suddenly drop British and American airborne divisions on the Netherlands and open up a drive into the heart of Germany. A battalion of British paratroopers was given the great task of seizing the bridge deep in enemy territory at Arnhem. For a terrible 10 days they held out.

Some years ago, a reunion of those magnificent veterans—British, Americans, and others of our allies—was held in New York City. From the dispatch by The New York Times reporter Maurice Carroll, there was this paragraph: "'Look at him,' said Henri Knap, an Amsterdam newspaperman who headed a Dutch underground's intelligence operation in Arnhem. He gestured toward General John Frost, a bluff Briton who had comitted the battalion that held the bridge. 'Look at him—still with that black moustache. If you put him at the end of a bridge even today and said 'keep it,' he'd keep it.'"

The story mentioned the wife of Cornelius Ryan, the American writer who immortalized Market Garden in his book, "A Bridge Too Far," who told the reporter that just as Mr. Ryan was finishing his book—writing the final paragraphs about General Frost's valiant stand at Arnhem and about how in his eyes his men would always be undefeated—her husband burst into tears. That was quite unlike him; and Mrs. Ryan, alarmed, rushed to him. The writer could only look up and say of General Frost: "Honestly, what that man went through."

A few days ago, seated there in Spaso House with Soviet dissidents, I had that same thought, and asked myself: What won't men suffer for freedom?

The dispatch about the Arnhem veteran concluded with this quote from General Frost about his visits to that bridge. "'We've been going back ever since. Every year we have a—what's the word—reunion. Now, there's a word.' He turned to his wife, 'Dear, what's the word for going to Arnhem?' 'Reunion,' she said. 'No,' he said, 'there's a special word.' She pondered, 'Pilgrimage,'' she said. 'Yes, pilgrimage,'" General Frost said.

As those veterans of Arnhem view their time, so too we must view ours; ours is also a pilgrimage, a pilgrimage toward those things we honor and love: human dignity, the hope of freedom for all peoples and for all nations. And I've always cherished the belief that all of history is such a pilgrimage and that our Maker, while never denying us free will, does over time guide us with a wise and provident hand, giving direction to history and slowly bringing good from evil—leading us ever so slowly but every so relentlessly and lovingly to a moment when the will of man and God are as one again.

I cherish, too, the hope that what we have done together throughout this decade and in Moscow this week has helped bring mankind along the road of that pilgrimage. If this be so, prayerful recognition of what we are about as a civilization and a people has played its part. I mean, of course, the great civilized ideas that comprise so much of your heritage: the development of law embodied by your constitutional tradition, the idea of restraint on centralized power and individual rights as established in your Magna Carta, the idea of representative government as embodied by the mother of all parliaments.

But we go beyond even this. Your own Evelyn Waugh who reminded us that "civilization—and by this I do not mean talking cinemas and tinned food nor even surgery and hygienic houses but the whole moral and artistic organization of Europe—has not in itself the power of survival." It came into being, he said, though the Judeo-Christian tradition and "without it has no significance or power to command allegiance. It is no longer possible," he wrote, "to accept the benefits of civilization and at the same time deny the supernatural basis on which it rests."

And so, it is first things we must consider. And here it is a story, one last story, that can remind us best of what we're about.

It's a story that a few years ago came in the guise of that art form for which I have an understandable affection—the cinema.

It's a story about the 1920 Olympics and two British athletes: Harold Abrahms, a young Jew, whose victory—as his immigrant Arab-Italian coach put it—was a triumph for all those who have come from distant lands and found freedom and refuge here in England and Eric Liddell, a young Scotsman, who would not sacrifice religious conviction for fame. In one unforgettable scene, Eric Liddell reads the words of Isaiah.

"He Giveth power to the faint, and to them that have no might, he increased their strength, but they that wait upon the Lord shall renew their strength. They shall mount up with wings as eagles. They shall run and not be weary."

Here then is our formula for completing our crusade for freedom. Here is the strength of our civilization and our belief in the rights of humanity. Our faith is in a higher law. Yes, we believe in prayer and its power. And like the founding fathers of both our lands, we hold that humanity was meant, not to be dishonored by the all-powerful state, but to live in the image and likeness of Him who made us.

More than five decades ago, an American President told his generation that they had a rendezvous with destiny; at almost the same moment, a Prime Minister asked the British people for their finest hour. This rendezvous, this finest hour, is still upon us. Let us seek to do His will in all things, to stand for freedom, to speak for humanity.

"Come, my friends," as it was said of old by Tennyson, "it is not too late to seek a newer world." Thank you. (Applause.)

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, FISCAL YEAR 1989

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 4567 which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 4567) making appropriations for energy and water development for the fiscal year ending September 30, 1989, and for other purposes.

The Senate resumed consideration of the bill.

Mr. WALLOP. Mr. President, President Reagan's proposed budget for fiscal year 1989 assured completion of four Bureau of Reclamation projects, two of which are safety of dam projects located in my home State of Wyoming. One of those is Jackson Lake Dam located on the Snake River in Grand Teton National Park which engineering studies indicate could collapse during an earthquake. I specifically requested that funding be maintained at the level recommended because I thought it important to substantially complete stabilization of this project.

I am most disappointed that the Subcommittee on Energy and Water Development chose to decrease the funds as recommended for Jackson Lake Dam by $2.5 million. I am pleased, however, that overall funding for Wyoming projects was not cut. I believe this shows the real sense of urgency with regard to projects within my State. When this bill goes to conference with the House of Representatives, I intend to seek to ask that the House position, which funds Jackson Lake Dam at the level requested, be adopted. In addition, I hope to see a higher level of funding for remedial work needed on Glendo dikes in southeast Wyoming. I also support funding for the Bureau of Reclamation's Atmospheric Water Resources Management Program. Thank you.

Mr. SIMPSON. Mr. President, I rise to join my good friend and colleague, the senior Senator from Wyoming concerning certain aspects of the appropriation for the Bureau of Reclamation contained in the committee's report. Specifically, I joined Senator WALLOP in requesting that the committee adopt the House allowance of $3.5 million for Glendo Reservoir. The Senate committee report accurately notes the danger caused by weakened dikes at Glendo. The committee, however, failed to adequately appropriate funds to do the job by reducing the House appropriation by $1.5 million.

Additionally, the Senate Appropriations Committee has reduced funding for Jackson Lake Dam by the amount of $2.5 million from the House allowance. The House allowance equals the President's budget request. That money is needed to complete "safety of dams" repairs of the Jackson Lake Dam in order to prevent the chance of catastrophic failure.

While the attention which the committee has given Wyoming through Bureau of Reclamation appropriations is very important and appreciated, I remain concerned about the deductions in the two programs which I just mentioned. Mr. President, I intend to join my senior colleague from Wyoming in pressing the Senate conferees to reinstate funding at a level equal to the House allowance for Glendo Reservoir and Jackson Lake Dam.

Mr. WILSON. Mr. President, I would like to take this opportunity to congratulate the Energy and Water Ap-

propriations Committee for their fine work in bringing this distinguished body an appropriations bill (H.R. 4567) that falls within the guidelines of the budget agreement. I know it is a difficult task to decide which projects will be funded and which cannot.

There are a number of projects funded in this bill which are important to California. For example, I am pleased to note that the committee included $500,000 to allow the corps to finish all necessary preconstruction, engineering and design work for the Redondo Beach-King Harbor breakwater. This money is needed because of the $17 million in damages done by a storm that hit the coast of California last January.

Another project I would like to thank the committee for is the general investigation funding that is provided for the breakwater at Oceanside Harbor. This is another much needed project to protect the harbor from the damage that a large Pacific storm can do and has done in the past.

In addition, the continued funding of the Small Reclamation Loan Program project for the United Water Conservation District in Ventura will allow construction to continue on the Freeman diversion project, including work on a conveyance canal and a desilting basin adjacent to spreading ponds.

There are a few projects in this bill, however, that did not receive their full recommended allocation. Recognizing that this committee is operating under severe budget constraints, I would ask the committee to consider increasing the funding for the projects that I am about to list in the event that funds become available in the course of the forthcoming conference with the other body on this bill.

In particular, I am interested in an appropriation of $350,000 for the continuation of a feasibility study of the Sunset Harbor-Bolsa Chica project in Orange County, CA. This project was authorized by Congress 2 years ago and is particularly interesting because it requires a 100-percent payback of all Federal moneys committed to this project. But we can't test this new financing mechanism until we have provided the necessary financing for this small harbor project.

The House has also provided $299,000 for the Los Angeles-Long Beach Harbor project for preconstruction, engineering and design work. This will speed up construction to improve this harbor which is becoming one of the world's busiest.

There is also a need for increased funding for the operation and maintenance of the Central Valley project, California. The California Water Commission carefully considered all requests before recommending an increase of approximately $8.5 million over the President's request of $44.96 million. The water commission's recommendation was adopted in the House version of this bill, and I urge my colleagues to carefully consider this request in conference.

Again, I appreciate the willingness of the committee to work with my office on the myriad of California concerns that we have with a bill of this magnitude and congratulate the committee on a job well done and look forward to a successful conference.

YAZOO BASIN PROJECT

Mr. KASTEN. Mr. President, I rise today to discuss an important conservation problem currently affecting the wetlands of Mississippi.

I have been following the excellent work being done on this issue by my colleague from Mississippi, Mr. COCHRAN, and Mr. LOTT in the other House. The progress made by these distinguished legislators on the preservation of Southern wetlands is well appreciated by all concerned.

I would like at this time to raise some questions and make some comments I think will be of use to my colleagues tackling this problem.

Today, we are being asked to appropriate funds for the construction and maintenance of a variety of projects of the Army Corps of Engineers in the Lower Mississippi River Valley. Of particular concern to me is a project know as the Yazoo basin project.

This particular project is an example of a generic problem shared by many older water projects. This project was authorized before the 1986 water resources bill. A critical change was made in that landmark legislation to place increased emphasis on environmental management. The Yazoo project lacks the environmental sensitivity I believe our standards require today.

As many Senators know. Wisconsin and other States in the Upper Midwest are joined to the States to our South to form the Mississippi flyway—the route of migration taken by a major portion of North America's ducks, geese, and other migratory birds. For eons, migratory waterfowl have made this round trip each year, breeding in the wetlands of the Great Lakes Basin and prairie potholes, and wintering in the bottomlands of the Lower Mississippi Valley.

Enormous changes have been made to important habitat at both ends of the flyway. The Federal Government, together with the States and our neighbors in Canada, is taking steps to correct this problem.

Thanks to the landmark conservation provisions of the Food Security Act of 1985, we have removed Federal financial incentives for the draining of wetlands.

We have also embarked upon the North American waterfowl management plan with Canada. This plan sets population goals for waterfowl and identifies habitat needs in specific regions of both countries.

One of the highest priorities in the North American plan is the protection and improvement of wintering habitat in the Lower Mississippi River Valley.

For these reasons, and others, there is increasing concern over one of the more costly undertakings of the corps in the Lower Mississippi Valley—the Yazoo basin project. This is a $1.4 billion flood control and drainage project in Mississippi, for which the administration has requested and the other body has appropriated $32.6 million in fiscal 1989.

The Yazoo basin contains some of the most valuable remaining wetlands and forests in the Lower Mississippi Valley. The area of current controversy is in the low-lying portion of the basin known locally as the delta. Corps expenditures in this area have reached $500 million to date, making it possible to clear and plant 1 million acres.

The Yazoo Delta has been transformed, first with cotton and later with soybeans, into a major agricultural area.

Today, however, more than $700 million remains to be spent on the project before the corps' scheduled completion date of July 2013, and the value of this additional investment has been called into question. Since the Yazoo basin project was first authorized over 40 years ago, conditions have changed greatly in the project area and in the Nation. The agricultural commodities that corps drainage activities promote are now in surplus. The last thing that farmers in Mississippi, Wisconsin, or the rest of the Nation need is more agricultural commodities dumped onto the market.

We cannot forget, of course, that the Federal budget deficit compels us to evaluate further expenditures more carefully than ever before. In 1986, in an effort to stretch limited Federal dollars and to weed out marginal activities, Congress enacted new cost-sharing requirements for Corps of Engineers projects. However, the corps has interpreted this statute as not applying to most of the remaining work yet to be undertaken in the Yazoo basin.

This means that most of the remaining work will be built with 100-percent Federal funding. None of the local funding requirements that tend to temper the local appetite for flood control and drainage projects will apply in the Yazoo Delta.

Finally, there are major unresolved environmental questions about the Yazoo basin project. These questions must be answered to assure my constituents in Wisconsin—as well as other sportsmen and taxpayers throughout the Mississippi flyway States—that their tax dollars are not being spent in ways that are harmful

to the restoration and protection of North America's waterfowl populations.

Although $500 million has already been spent to clear, channelize, and drain the bayous and bottomland forests of the Yazoo basin, mitigation of damages to fish and wildlife habitat—required by the Fish and Wildlife Coordination Act—trails far behind.

The corps is proceeding this year with additional flood control work on the Upper Yazoo projects even though the agency has not yet gotten around to even approving a mitigation plan—let alone presenting it to Congress for authorization or funding. Also, the corps has yet to request funding for another delta mitigation plan authorized in 1986, even though the major portion of the mitigation was necessitated by work on the yazoo backwater levee—work completed in 1979.

It has also been brought to the attention of this Senator that the environmental impact statement for this project may well be obsolete.

At the time the final EIS was filed in 1976, the corps stated that supplemental EIS's would be produced on various individual features and elements of the plan as needed. To date, these have not appeared.

Mr. President, on March 23, 1986, the Mississippi Flyway Council adopted a resolution expressing its opposition to one of the major unbuilt features of the Yazoo basin project, the Yazoo backwater pumping plant. This resolution notes the tremendous environmental losses that have already resulted from corps activities in the Lower Mississippi Valley.

Ten of the leading national conservation organizations announced the formation of the National Coalition to Save the Yazoo Delta.

The coalition is made up of American Rivers, the Environmental Defense Fund, the Environmental Policy Institute, Friends of the Earth, the National Audubon Society, the National Wildlife Federation, the Sierra Club, Wilderness Society, the Wildlife Society, and the North American Wildlife Foundation.

These widely respected national organizations are asking for Congress to take a hard look at the work of the Corps of Engineers in the Yazoo basin. I note also that the State's largest newspaper, the Jackson Clarion-Ledger, has called for a halt to the project.

Mr. President, all the facts are not yet in on this complex and costly project. There are some encouraging indications that the State of Mississippi itself is undertaking an evaluation of the Yazoo basin project, to determine whether this project, conceived during the New Deal, should be modified to respond more adequately to today's needs and values.

There are several steps that must be taken to certify that the project merits this investment of Federal dollars today. Let me state them for the record.

The comptroller general of the General Accounting Office must review all significant financial data on the Yazoo basin project, including computations of project benefits, costs, and underlying assumptions.

The Secretary of the Interior must issue a finding of his views on the compatibility of the Yazoo basin project, as currently being implemented, with U.S. obligations and commitments under the North American waterfowl management plan.

The Secretary of Agriculture should report on compliance with the swampbuster provisions of the Food Security Act in the Yazoo Delta and provide a county by county breakdown of participation in the Conservation Reserve Program in Mississippi.

Today, I am requesting these actions.

Mr. President, I want to make my intentions perfectly clear. I recognize that there may be a legitimate need to control flooding in the Yazoo basin. I do not intend to stand in the way of that activity.

I do have very serious concerns, however, about the environmental consequences of this project as currently configured. As it stands, I believe it will have an adverse effect on the migratory waterfowl that are so important to my own State and other parts of the Nation.

My purpose is to protect some of America's most important remaining waterfowl habitat. What I am seeking is a solution that balances the needs of the people of Mississippi with the needs of the rest of the Nation. I believe such a solution is within our grasp—and look forward to working with my colleagues from Mississippi in finding that solution.

Mr. LAUTENBERG. Mr. President, the committee has provided to the Federal Energy Regulatory Commission an additional $2 million "for the specific purpose of a thorough and timely environmental review of the proposed natural gas pipeline projects being considered under the Commission's Northeast U.S. pipeline projects open season, docket No. CP87-451-004, et al."

Mr. President, the report language continues:

> The committee expects the Commission to comply with all applicable environmental laws and regulations in its environmental review of all projects to supply natural gas to the Northeast. Such funds, and any additional funds that may be necessary to complete this review, must be used to comply with the Commission's legal requirements and also to develop a comprehensive record of the environmental impacts of each natural gas proposal. This appropriation shall remain available until expended for activities in this effort.

I understand that the Senator from Connecticut [Mr. WEICKER] has been deeply involved in this matter. I would like to raise two points regarding this report language, in the hope that he might address them.

First, by making public funds available for environmental review of open season projects, am I correct in my understanding that this language is not intended to preclude the Commission from relying upon other proper means of conducting these reviews, such as the use of independent environmental experts controlled and directed by the Commission but funded by the project sponsor?

Second, would public funds be available for thorough and timely environmental review of any proposals which emerge as a result of the Commission's settlement process?

Mr. President, I wonder if the distinguished Senator from Connecticut would be willing to clarify the intent behind his report language.

Mr. WEICKER. I would be happy to respond to the Senator from New Jersey.

The language is intended to provide FERC with additional funding to aid in the timely and thorough completion of environmental studies of proposed pipeline sites. While there is no mention of private funding for environmental reviews, this should not be interpreted as a preclusion to such funding. That was not my intent.

Mr. President, in response to the second concern, the interpretation of the Senator from New Jersey is correct.

I would like to add that I believe that the planning and implementation of environmental reviews is best left to the experts. My report language was not intended, nor should it be interpreted to mean that FERC must conduct its environmental reviews in any way other than in compliance with its own legal requirements.

Mr. LAUTENBERG. I want to thank the distinguished Senator from Connecticut for his statement and express my hope that we will be able to work together in the future on environmental and energy issues of mutual interest.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

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

Mr. BYRD. Mr. President, there will be two rollcall votes, one on passage of the energy-water appropriations bill; the second one will be on the motion to proceed to take up the military construction bill. I am sure that the request to go to that bill will be objected to. I will then move and I would antici-

pate there will be a rollcall vote. Both of these will be 15-minute rollcall votes. I urge Senators on the first one not to wait until the last minute to start from their offices.

VOTE ON H.R. 4567

The PRESIDING OFFICER. Under the previous order, the Senate will now vote on passage of H.R. 4567, the Energy and Water Development Appropriations Act, fiscal year 1989. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

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

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "yea."

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

The result was announced—yeas 92, nays 5, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—92

Adams	Garn	Moynihan
Armstrong	Glenn	Murkowski
Baucus	Gore	Nickles
Bentsen	Graham	Nunn
Bingaman	Gramm	Packwood
Bond	Grassley	Pressler
Boren	Harkin	Pryor
Boschwitz	Hatch	Quayle
Bradley	Hatfield	Reid
Breaux	Heflin	Riegle
Bumpers	Heinz	Rockefeller
Burdick	Helms	Rudman
Byrd	Hollings	Sanford
Chiles	Inouye	Sarbanes
Cochran	Johnston	Sasser
Cohen	Karnes	Shelby
Conrad	Kassebaum	Simon
Cranston	Kasten	Simpson
D'Amato	Kennedy	Specter
Danforth	Kerry	Stafford
Daschle	Lautenberg	Stennis
DeConcini	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Lugar	Thurmond
Dole	McCain	Trible
Domenici	McClure	Wallop
Durenberger	McConnell	Warner
Evans	Melcher	Weicker
Exon	Metzenbaum	Wilson
Ford	Mikulski	Wirth
Fowler	Mitchell	

NAYS—5

Chafee	Humphrey	Roth
Hecht	Proxmire	

NOT VOTING—3

Biden	Matsunaga	Pell

So the bill (H.R. 4567), as amended, was passed.

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

Mr. BYRD. Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House on the disagreeing votes thereon and that the Chair be authorized to appoint conferees to serve as managers on the part of the Senate.

The motion was agreed to and the Presiding Officer (Mr. SANFORD) appointed Mr. JOHNSTON, Mr. STENNIS, Mr. BYRD, Mr. HOLLINGS, Mr. BURDICK, Mr. SASSER, Mr. DECONCINI, Mr. HATFIELD, Mr. MCCLURE, Mr. GARN, Mr. COCHRAN, Mr. DOMENICI, and Mr. SPECTER conferees on the part of the Senate.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, this is our first major executive department appropriation bill to pass, and under the schedule as set by the leadership and the chairman of the full committee, Senator STENNIS, we should be able to avoid a CR if we continue expeditiously to get our bills out.

I yield the floor.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, FISCAL YEAR 1989

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4586, the military construction appropriation bill.

The PRESIDING OFFICER. Is there objection?

Mr. GARN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. Mr. President, I move that the Senate proceed to the consideration of H.R. 4586.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the motion. The clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Rhode Island [Mr. PELL] is necessarily absent.

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

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "yea."

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

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—97

Adams	Gore	Murkowski
Armstrong	Graham	Nickles
Baucus	Gramm	Nunn
Bentsen	Grassley	Packwood
Bingaman	Harkin	Pressler
Bond	Hatch	Proxmire
Boren	Hatfield	Pryor
Boschwitz	Hecht	Quayle
Bradley	Heflin	Reid
Breaux	Heinz	Riegle
Bumpers	Helms	Rockefeller
Burdick	Hollings	Roth
Byrd	Humphrey	Rudman
Chafee	Inouye	Sanford
Chiles	Johnston	Sarbanes
Cochran	Karnes	Sasser
Cohen	Kassebaum	Shelby
Conrad	Kasten	Simon
Cranston	Kennedy	Simpson
D'Amato	Kerry	Specter
Danforth	Lautenberg	Stafford
Daschle	Leahy	Stennis
DeConcini	Levin	Stevens
Dodd	Lugar	Symms
Dole	Matsunaga	Thurmond
Domenici	McCain	Trible
Durenberger	McClure	Wallop
Evans	McConnell	Warner
Exon	Melcher	Weicker
Ford	Metzenbaum	Wilson
Fowler	Mikulski	Wirth
Garn	Mitchell	
Glenn	Moynihan	

NAYS—1

Dixon

NOT VOTING—2

Biden	Pell

So the motion to proceed to the consideration of H.R. 4586 was agreed to.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, FISCAL YEAR 1989

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4586) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 4586

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1989, for military construction functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facili-

ties, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander in Chief, [$877,630,000] *$924,551,000*, to remain available until September 30, 1993: *Provided*, That of this amount, not to exceed [$98,328,000] *$91,000,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further, That of this amount, $36,529,000 shall be available only for construction of research and development-related facilities and equipment, including research and development-related minor construction.*

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, [$1,591,850,000] *$1,527,238,000*, to remain available until September 30, 1993: *Provided*, That of this amount, not to exceed [$138,276,000] *$120,000,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further, That of this amount, $27,784,000 shall be available only for construction of research and development-related facilities and equipment, including research and development-related minor construction: Provided further, That of this amount, $50,300,000 shall be available only for construction, rebuilding, and improvement of shore facilities of the United States Coast Guard.*

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, [$1,293,406,000] *$1,227,587,000*, to remain available until September 30, 1993: *Provided*, That of this amount, not to exceed [$115,000,000] *$109,000,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further, That of this amount, $61,697,000 shall be available only for construction of research and development-related facilities and equipment, including research and development-related minor construction.*

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, [$777,500,000] *$537,972,000*, to remain available until September 30, 1993: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed [$62,229,000] *$47,000,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor[: *Provided further*, That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 100-202, $29,548,000 is hereby rescinded.]

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, [$502,100,000] *$492,000,000*, to remain available until expended.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$163,500,000] *$248,414,000*, to remain available until September 30, 1993, [of which $100,000 shall be for the design of an armory in Clovis, New Mexico.]

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction Acts, [$152,170,000] *$177,728,000*, to remain available until September 30, 1993.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$81,702,000] *$87,303,000*, to remain available until September 30, 1993.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$54,400,000] *$72,075,000*, to remain available until September 30, 1993.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$65,800,000] *$72,675,000*, to remain available until September 30, 1993: *Provided further, That none of the funds available for the Air Force Reserve for fiscal year 1989 may be obligated or expended for planning, design, or construction of facilities to support the transfer of C-141 or C-5A strategic airlift aircraft from the Active Air Force to the Air Force Reserve until the Committees on Appropriations of the Senate and House of Representatives have been provided with a report from the Secretary of the Air Force detailing the specific schedule for transferring additional C-141 aircraft from the Active Air Force to the Air National Guard.*

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, [$170,278,000] *$179,778,000*; for Operation and maintenance, and for debt payment, [$1,340,093,000] *$1,330,324,000*; in all [$1,510,371,000] *$1,510,102,000*: *Provided*, That the amount provided for construction shall remain available until September 30, 1993.

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, [$240,440,000] *$211,445,000*; for Operation and maintenance, and for debt payment, [$554,988,000] *$552,988,000*; in all [$795,428,000] *$764,433,000*: *Provided*, That the amount provided for construction shall remain available until September 30, 1993: *Provided further, That of this amount, not to exceed $50,000 shall be available to liquidate obligations incurred for debt payment during fiscal year 1987.*

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, [$195,685,000] *$132,000,000*; for Operation and maintenance, and for debt payment, [$741,766,000] *$735,266,000*; in all [$937,451,000] *$867,266,000*: *Provided*, That the amount provided for construction shall remain available until September 30, 1993.

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisi-

tion, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $513,000; for Operation and maintenance, $20,187,000; in all $20,700,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1993.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $2,000,000, to remain available until expended.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided,* That the low responsive and responsible bid of a United States contractor does not exceed the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 110. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 111. No part of the funds appropriated in this Act may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

SEC. 112. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 113. None of the funds in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 114. None of the funds appropriated in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 115. None of the funds appropriated in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided,* That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 116. The Secretary of Defense is to inform the Committees on Appropriations and Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 117. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1989, shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 118. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 119. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the second session of the One Hundredth Congress.

SEC. 120. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1989, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1989 to encourage other member nations of the North Atlantic Treaty Organization and Japan to assume a greater share of the common defense burden of such nations and the United States.

SEC. 121. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 122. Notwithstanding any other provision of law, the Secretary of the Air Force is required to maintain legislative liaison to the House and Senate Appropriations Subcommittees on Military Construction and budgetary and fiscal management of the Military Construction and Military Family Housing appropriations in a manner identical to the method employed as of September 30, 1986.

SEC. 123. None of the funds appropriated in this Act, except for North Atlantic Treaty Organization Infrastructure funds, may be used for planning, design, or construction of military facilities or family housing to support the relocation of the 401st Tactical Fighter Wing from Spain to another country.

SEC. 124. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law*: Provided, That this section shall be applicable only during fiscal year 1989.*

SEC. 125. Notwithstanding any other provision of law, the Secretary of Defense shall include in the fiscal year 1990 program a legislative proposal to authorize the installment purchase of family housing units, and the budget request for fiscal year 1990 shall include such sums as necessary to implement a pilot program for not to exceed 3,000 units.

[SEC. 126. No funds appropriated under this Act shall be expended in any workplace that is not free of illegal possession or use of controlled substances which is made known to the Departments and Agencies covered under this Act.]

SEC. 126. None of the funds appropriated in this Act for operations and maintenance of family housing may be used for contract cleaning of family housing units.

SEC. 127. None of the funds appropriated in this Act may be used for the design, construction, operation or maintenance of new family housing units in the Republic of Korea: Provided, That funds may be utilized for operations, maintenance, and improvements of only those units already built or under construction by June 6, 1988.

SEC. 128. None of the funds appropriated in this Act for military construction overseas may be obligated for payments to foreign contractors from countries which permit their national banking institutions to make untied, general purpose loans to the Soviet Union, Warsaw Pact nations, Cuba, Vietnam, Libya, or Nicaragua: Provided, That this provision may be waived by the Secretary of Defense upon certification to the Committees on Appropriations of the Senate and House of Representatives that individual projects are vital to the security of the United States.

SEC. 129. None of the funds appropriated in this Act may be obligated or expended for the purpose of transferring any equipment, operation, or personnel from the Edgewood Arsenal, Maryland, to any other facility during fiscal year 1989.

SEC. 130. None of the funds appropriated in this Act for planning and design activities may be used to initiate design of the Pentagon Annex.

SEC. 131. Notwithstanding any other provision of law, the Secretary of Defense shall notify the Committees on Appropriations within twenty-four hours after a determination by the President or the Secretary to utilize premobilization construction authority.

SEC. 132. None of the funds appropriated in this Act or any other Act for the National Test Facility or any other components of the National Test Facility may be used to provide any operational battle management, command, control or communications capabilities for an early deployment of a ballistic missile defense system: Provided, That the goal of the National Test Bed shall be to simulate, evaluate, and demonstrate architectures and technologies that are technically feasible, cost-effective at the margin, and survivable.

SEC. 133. None of the funds appropriated in this Act for use by the Department of Defense in fiscal year 1989 may be used for the purpose of the design or construction of any facilities relating, directly or indirectly, to the deactivation, relocation or transfer of any part of the 474th Tactical Fighter Wing at Nellis Air Force Base, Nevada.

SEC. 134. During the current fiscal year, $19,548,000 of the funds appropriated to the appropriation "Military Construction, Defense Agencies" of the Military Construction Appropriations Act, 1988, may be transferred to the appropriation "Research, Development, Test, and Evaluation, Air Force" of the Department of Defense Appropriations Act, 1988.

SEC. 135. Notwithstanding any other provision of law, upon final settlement of the pending Rossmoor litigation against the United States, the Secretary of the Navy (hereafter in this section referred to as the "Secretary"), is authorized to accept and use monetary consideration paid by the plaintiffs, for the purposes of constructing additional military family housing for Marine Corps Air Station, Tustin: Provided, That the Secretary may use any funds paid to the Secretary for the purpose of conducting a military construction project for not to exceed one hundred, fifty military family housing units at Marine Corps Air Station, Tustin: Provided further, That the Secretary shall use the funds solely for the purpose of constructing military family housing at Marine Corps Air Station, Tustin. Any such funds not used for construction shall be deposited to the general fund of the Treasury within sixty months of receipt: Provided further, That the Secretary may not enter into any contract for the construction of military family housing units until after the twenty-one-day period beginning on the date on which the Secretary transmits to the Committee on Armed Services and the Committee on Appropriations of the Senate and House of Representatives a report of the full details of the contract.

SEC. 136. None of the funds available to the Navy may be utilized by the Secretary of the Navy to initiate agricultural leases of more than one year's duration on land in and around Naval Air Station Fallon, Nevada.

Mr. CHILES. Mr. President, each appropriations bill is subject to a spending limit known as a 302(b) allocation. As chairman of the Senate Budget Committee, I am pleased to report that H.R. 4586, the military construction appropriation bill for fiscal year 1989 is under its 302(b) budget authority ceiling by $260 million and under its 302(b) ceiling by $85 million. I commend the distinguished chairman of the subcommittee, Senator SASSER and the ranking minority member, Senator SPECTER for their success in crafting this measure.

I ask unanimous consent that a table prepared by the Senate Budget Committee staff reflecting spending totals be printed in the RECORD.

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

SENATE BUDGET COMMITTEE SCORING OF H.R. 4586—MILITARY CONSTRUCTION, SPENDING TOTALS (SENATE REPORTED)

[In billions of dollars]

	Fiscal year 1989	
	Budget authority	Outlays
302(b) bill summary:		
H.R. 4586, Senate reported (new budget authority and outlays)	8.5	2.5
Enacted to date	.2	5.4
Adjustment to conform mandatory programs to resolution assumptions		
Later requirement of 1989 pay raise	+(1)	+(1)
Bill total	8.7	8.0
Subcommittee 302(b) allocation	9.0	8.1
Difference	−.3	−.1
Bill total above (+) or below (−):		
President's request	−.3	−.1
House-passed bill	−.3	−.1
Summit cap summary:		
Defense (050) spending in bill	8.7	8.0
Allocation under defense cap	9.0	8.1
Difference	−.3	−.1

(1) Less than $50,000,000.

Note.—Details may not add to totals due to rounding. Prepared by Senate Budget Committee staff.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SASSER. Mr. President, I am pleased to bring before the Senate the military construction appropriations bill for fiscal year 1989.

This was the first appropriations bill to be reported to the Senate. I can report to my colleagues that the Appropriations Committee is determined this year to report out each bill and have all 13 bills passed by the Congress and sent to the President for signature.

There should be no reason to pass another large continuing resolution. This year, the Congress has completed work on the budget resolution. As a result of the cooperation between the Congress and the administration, during last year's budget summit, the appropriations process should have a clear road ahead.

I hope that each of our colleagues shares the conviction of the committee and the leadership of this body that in 1988, we are going to complete the budget and appropriations business of the Congress, and complete it on time.

If we find later in the year that another continuing resolution cannot be avoided, it will not be because the Appropriations Committee failed to do its job.

Each year, we have done our duty and reported out separate bills. This year, we intend to do the same.

Mr. President, the military construction appropriations bill is for $8.745 billion. This amount is $266 million under the President's budget request and is within the committee's 302(b) budget allocation.

The committee has made a number of changes to the priorities reflected in this budget.

First, we have provided substantial increases for the National Guard and for our Reserve forces. The budget we received in January was totally inadequate for the Guard and Reserve.

The request was $110 million less than the Congress appropriated for the Guard and Reserve last year. This Congress is not going to agree with a 23-percent real reduction in spending for the National Guard and Reserve.

This Congress is proud of our Guard and Reserve Forces. As the Nation and the world enters the post-INF age, we will find that we must place greater reliance on our conventional forces for deterrence and for keeping the peace.

The Guard and Reserve, in my view, is the very backbone of our conventional strength. Should deterrence fail, our Guard and Reserve Forces would be called into action very quickly.

It is the Guard and Reserve which makes it possible for us to present to the Soviets or to any other adversary, a sustained and strong conventional defense. The Soviets know that the citizen-soldier, throughout history, has fought harder and smarter to protect his freedoms.

Mr. President, the increases we have made to the Guard and Reserve were made with that in mind. Congress is not going to countenance short changing our most cost-effective component of our military forces.

I believe that as we enter a sustained era of budgetary restraint, we will have to place even greater reliance on the Guard and Reserve. Whether the active services want to admit it or not, the day is rapidly approaching when hard choices of force structure reductions will have to be confronted. Without active force structure reductions, and with declining budgetary resources, we will soon face a return to the hallow forces of the early post-Vietnam era.

The plain simple truth is that we cannot continue to field and fund, in the future, the active force structure we have in place today.

I believe that as this realization becomes more accepted, more attention will be directed toward the Guard and Reserve. There are some unique missions where the Guard and Reserve can play an increasing role—in strategic airlift, for example.

Mr. President, I think we will find that only the Guard and Reserve can give us the total force structure our democracy needs to keep the peace in the world and still live within our fiscal means in the coming years.

Any discussion of alternate force structure must include the imperative of conventional arms controls in Europe.

Conventional arms control, with emphasis on the elimination of the Soviet and Warsaw Pact's ability to engage in a successful surprise attack on Western Europe, must become a major goal of our foreign policy.

As difficult as conventional arms control will be to achieve, we must devote the resources and energies of the NATO alliance for concluding assimetrical reductions in conventional forces.

I submit, Mr. President, that we should also use the opportunity of conventional arms control negotiations to encourage our NATO allies to become more responsible for their own defense.

My colleagues will recall that for a number of years now, I have been advocating increased burden sharing on the part of our NATO allies, advocating that they undertake more of the expense of providing a defense of the free world. I do not advocate unilateral and deep reductions in our forces deployed in Europe. Such a move, without the careful consultation and concurrence of our allies, would be counterproductive and would inevitability lead to a less stable military balance in Europe.

But the time has come for our increasingly affluent allies, not only in Europe, but also in the Pacific, to begin to provide increased contributions toward the common defense.

To this end, I commend the leadership of Secretary Carlucci for creating a task force on burden sharing headed by the Deputy Secretary of Defense, Mr. Taft.

That task force, formed in response to section 120 of last year's Military Construction Act, has begun its work.

Certainly, we are not going to see results overnight. But early indications are that our allies are beginning to understand the magnitude of the concerns of the Congress and the probability that, if they do not act on their own to bring about a more appropriate balance in sharing the defense burden, the American people will demand substantial changes as our relative budgetary resources available for domestic priorities continue to shrink.

In the report accompanying the military construction bill, we have repeated previous suggestions, made by the subcommittee, that our allies and the administration should consider the whole question of burden sharing.

Clearly, there are limitations on the expenditures for weapons of war by some of our allies—notable Japan. And I think few of us in this Chamber, and certainly none of Japan's Asian neighbors, would wish to see the Japanese nation totally rearmed. A rearmed Japan would drastically alter the military balance in the Pacific and I firmly believe could have a very destabilizing influence on the whole region.

But we still should urge Japan to stay on track with its current modernization program. And beyond that, we should seek to find new ways of soliciting Japanese contributions to the common defense. We have included numerous suggestions in the report accompanying the military construction bill to the end of recommending ways that the Japanese could make a more substantial contribution.

Later in the debate, I will offer an amendment dealing with the issue of our allies granting billions of dollars each year in so-called untied loans to the Soviet Union and its allies.

These loans, I believe, are actually adding to the defense burdens of the United States and the West.

I will discuss this issue in more detail when I offer my amendment.

I would be remiss if I did not mention a recent burden-sharing success story.

Last year, when it became apparent that Spain was planning to kick the F-16, 401st Tactical Fighter Wing out of Spain, the subcommittee included a general provision in the Military Construction Act which required that NATO pay for the cost of relocating the wing.

Since these F-16's were in Spain to provide for the common NATO defense and Spain being a member of the North Atlantic Treaty Organization, it appeared to the subcommittee that it would be inequitable for the United States to be forced to pick up the total costs, unilaterally, of moving this wing from Spain to another area of Europe. The provision is again included in the bill before us today.

I am pleased to report that the pressure that was generated by the subcommittee and by the Congress has met with some success. During numerous meetings with Secretary Carlucci, I made it clear that the subcommittee saw the relocation of the 401st Tactical Fighter Wing as a litmus test of burden sharing with our allies.

I believe that base rights is a litmus test of burden sharing. And when a member of the alliance fails to provide base rights for vital missions, the NATO alliance, itself, should help us find new locations and pay for the lion's share of the cost of relocating.

If a NATO nation wants to move an American unit attached to NATO out of their country, then the American taxpayers should not have to shoulder the burden unilaterally. It ought to be a cost shared by NATO.

I am happy to report that in the case of the 401st Tactical Fighter Wing, NATO is moving in the right direction.

Working with NATO, the Government of Italy announced yesterday that the 401st Tactical Fighter Wing can be relocated out of Spain and into southern Italy.

I want to take this opportunity to commend the leaders of the Italian Government for their support of NATO and for their willingness to assure that a very vital mission in southern Europe is maintained.

I also want to commend those in NATO for working with Italy toward this end.

The arrangement is not totally complete but it is moving in the right direction.

The success of the 401st moving to Italy, I think in large part, is due to the efforts of the Secretary of Defense, Mr. Carlucci. I followed his work with the NATO allies very closely on this matter. He made it very clear to our allies that it was imperative that NATO assist us on this important issue.

This is an example where the executive branch of Government and the Congress, working together, can bring about a more appropriate sharing of the defense burden with our allies around the world rather than having the burden shouldered in a dispropor-

tionate way by the taxpayers of the United States.

There is one additional issue I would like to briefly discuss. That is the issue of TACAMO. There are no funds in this bill to provide facilities for the new TACAMO aircraft.

There are no funds in the bill for that purpose for only one reason—the Navy has failed to provide the subcommittee with clear justification that Tinker Air Force Base is the most cost effective and most secure basing option for the TACAMO mission.

I will not dwell on this issue. Suffice it to say that in my experience in the Senate never has one of the services handled the matter so poorly when it came before our subcommittee as the Navy has handled this whole TACAMO controversy.

I have taken the position from the very beginning of this controversy, that I wished to support the position of the Navy. But the Navy, I am sad to say, has failed to give the subcommittee the support and information it needs to recommend the funding for TACAMO facilities at this time.

Mr. President, I strongly support providing funds for TACAMO basing once the main operating base issue has been settled to the satisfaction of the administration and the Congress.

TACAMO is an extremely important national defense mission which the Navy has permitted to lie in limbo for a year and a half without giving the Congress enough justification for proceeding with a basing plan that commands a consensus of the Congress.

I want to assure my colleagues that no one wants this issue settled any more than the chairman of the Military Construction Subcommittee. I have had to deal with this issue now for almost 2 years. I have had to discuss it at great length with the Navy. I have discussed it at great length among our colleagues. It is a matter that has generated a lot of interest and, I might say, Mr. President, a matter which has generated not only some controversy, but some heat.

I look forward to working with the Navy and with all of my colleagues with an interest toward basing TACAMO in the most cost effective and secure location.

Mr. President, I would be remiss if I did not conclude my remarks by expressing my appreciation to the distinguished ranking member of the subcommittee, the Senator from Pennsylvania, Senator SPECTER, for his continuing assistance and support throughout the year. He has been a very constructive and perceptive member of our subcommittee and has served very, very well as the ranking member. I relied upon his judgment and his counsel as we have proceeded through to bring this bill to the floor today. I want to express my appreciation to him.

I would also like to pay tribute to each and every member of the subcommittee who participated in the hearings and markups throughout the year. They have all worked very diligently and very hard. To my colleagues on the subcommittee, I wish to express my appreciation.

We are also, Mr. President, I think, very fortunate to have a fine professional staff on the subcommittee, and I want to express my appreciation to them.

Mr. President, I now yield the floor to the distinguished ranking member for any comments he might have at this time.

Mr. SPECTER. Mr. President, at the outset, I commend the distinguished chairman of the Military Construction Subcommittee, Senator SASSER of Tennessee, for the outstanding job which he has done during the course of the past year, summarized by the presentation which he has just made.

The subcommittee has been very active in carrying forward hearings in a diligent and incisive way, going into many issues of controversy, handling the witnesses with gentility but also with firmness in moving through a number of very tough issues which the committee has faced. The chairman, Senator SASSER, has demonstrated ability and leadership in carrying the committee forward and it has been a pleasure for me to work with him and to see his quiet but effective and incisive way in questioning witnesses and in bringing forward very important facts.

I join Senator SASSER in thanking other members of the subcommittee and the very distinguished professional staff for the work which has brought us here.

Mr. President, I am pleased to support H.R. 4586, the military construction appropriations bill for fiscal year 1989.

Mr. President, this bill provides important facilities to support the Department of Defense as well as providing improved living and working conditions for our military personnel and their dependents throughout the United States and the world.

The bill as reported by the committee recommends an appropriation of $8.75 billion. The amount is under the House bill by $264 million; under the budget request by $266 million; and over last year's appropriation by $245 million. I think it is important to note that the bill is within the subcommittee's 302(b) allocation for both budget authority and outlays. However, it should be noted that the $266 million under the budget request is not "extra"—but in fact, is reserved for supplementals and projects that were deferred for various reasons but which may be reprogrammed during the next fiscal year. We also must resolve a number of major differences with the House when we go to conference.

Mr. President, the distinguished chairman of the subcommittee, the Senator from Tennessee has provided to the Senate detail on many of the specifics included in the bill. I, therefore, will not take the Senate's time to repeat the highlights of the bill as reported.

I do, however, want to commend Senator SASSER for his dedicated work in the preparation of the bill. I want to thank him, also, for the spirit of cooperation in which he makes recommendations. I believe that with few exceptions we have been able to meet the needs of the Department of Defense as well as the interests expressed to us by our colleagues.

I am particularly pleased with the increased funding for the Guard and Reserve facilities program. These are vital to continue to make the Guard and Reserve components an integral part of our total defense force. One other item of special interest is the issue of burden sharing which was discussed in a special hearing before the subcommittee as well as at nearly every hearing on other accounts. I believe that the reductions we have taken reflect a very serious concern of the committee about the need for our allies to help pay for facilities that in many cases are used by American troops who are stationed overseas in direct support of our allies.

Mr. President, I understand that there will be a number of issues discussed on the floor today with regard to this bill and some amendments will be offered. I am hopeful that we can finish this legislation as soon as possible, and I urge my colleagues to use restraint in offering amendments.

Mr. President, the issue of burden sharing in NATO, I believe, is a very important item. I believe that our NATO allies should be on notice of the very deep concern that is expressed not only on the floor of the U.S. Senate and the House of Representatives, as well, but a concern that exists throughout the country about the need to have others, our allies, to have a greater share in the cost of defense.

In the numerous open house town meetings which I have throughout Pennsylvania, and from other quarters, I hear the constant comment about the question as to why the United States assumes so much of the pro rata share than do others. And the comments which Senator SASSER has made on burden sharing, I think, are right on target. I think we are going to have greater recognition from our NATO allies on this important subject.

On the issue of Japan, I think it is a more acute problem. While there are good reasons, as articulated by the chairman, why Japan should not be rearmed, there are no good reasons

why Japan should not have a greater share in the cost. That is an easy matter to accommodate too. It is a matter of determining a fair share and writing a check, maybe not 100 cents on the dollar, but 90 cents on the dollar; if not 90 cents on the dollar, 80, but at least something, and I do not think that has happened.

That, of course, Mr. President, is a very complex relationship. It involves the trade bill; it involves our overall relationship with the Japanese. But I think it is important to note today and to repeat—and these comments again are reflected by a very strong sentiment in my State that I hear in open house town meetings about concern that the Japanese do not undertake fair share. This is something we have to be a great deal more diligent on and a great deal stronger.

Mr. President, I think it is important that we have moved ahead on increased funding for the National Guard and Reserve, very important aspects of our national defense. I believe, in the vanguard of the INF Treaty-signing, that additional emphasis should be placed upon the development and buildup of our conventional forces, something that would be even more important, hopefully, as we move toward a strategic arms reduction treaty.

Mr. President, those are some of the highlights on my mind.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Pennsylvania yields the floor.

Who seeks recognition?

WISCONSIN PROJECTS LIST

Mr. KASTEN. Mr. President, I should like to enter into a discussion with the distinguished chairman of the Appropriations Subcommittee on Military Construction with regard to the committee-approved project listing for Wisconsin. Is the Senator from Tennessee willing to discuss the listing?

Mr. SASSER. Mr. President, I will be very pleased to enter into a discussion with the distinguished Senator from Wisconsin.

Mr. KASTEN. I thank the subcommittee chairman. I actually am looking for a clarification with regard to the Wisconsin projects approved by the Committee on Appropriations and printed on page 124 of Senate Report 100-380. I believe there may be some confusion as to the individual projects and locations which the committee intended be approved.

Mr. SASSER. I am glad to clarify the Wisconsin State listing for my friend, and he is indeed correct that there could be some information on that list. Unfortunately, our computer runs combine several different columns into one, and somehow, some errors were made. The total for the State is correct at $10,740,000; however, the individual projects and locations are in error. To correct this, I will submit for the RECORD a new State list for Wisconsin which will be used when the conferees meet on this bill. I can assure the distinguished Senator that in conference we will correct the errors in the listing to identify the correct projects and locations.

Mr. KASTEN. I thank the gentleman from Tennessee for explaining this unfortunate error. I also commend him for his overall bill, especially the increase in funding to support projects for the Guard and Reserve forces.

Mr. SASSER. I thank the Senator for his kind words. And with that, Mr. President, I ask unanimous consent that a listing of projects approved by the committee for the State of Wisconsin be printed in the RECORD.

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

Project listing for Wisconsin, fiscal year 1989, as approved by Committee on Appropriations in Senate Report 100-380

Army: Fort McCoy: Electrical substation	$2,100,000
Air National Guard:	
Billy Mitchell Field:	
Fire protection (128th TCF)	28,000
Fuel storage (128th ARG)	500,000
Paint spray booth (128th TCF)	20,000
Taxiway (128th ARG)	2,470,000
Truax Field:	
Add to hangar 400—Welding shop	145,000
Alter bldg. 402—weapons system security/communications	990,000
Alter vehicle maintenance shop/construct vehicle storage	937,000
Volk Field:	
ACMI range support facility	1,500,000
Alter dispensary	185,000
Security facility—East gate	165,000
Air Force Reserve: Billy Mitchell Field: Composite training facility	1,700,000
Wisconsin State total	10,740,000

CENTER FOR AEROSPACE MEDICAL RESEARCH

Mr. BURDICK. Mr. President, I commend the subcommittee chairman, Mr. SASSER, for including report language which provides up to $1 million to initiate planning and design of a facility which would house the Center for Aerospace Medical Research and Education at the University of North Dakota.

It is my understanding that the funds will be used for the initial planning and design for the facility, and that the funds will be available to the University of North Dakota upon enactment of this legislation. Is that the intent of the committee?

Mr. SASSER. Yes, that is the intent of the committee.

Mr. BURDICK. The committee report language states that "The committee has included up to $1 million to initiate planning and design of an aerospace medicine facility at Grand Forks, ND." My question is this: Is the full $1 million in the bill and will it be available for use by the University of North Dakota if needed?

Mr. SASSER. Yes. The $1 million is included in the bill under the military construction, Defense Agencies account. I fully expect that the University of North Dakota will receive these funds if needed to complete the planning and design of the aerospace medicine facility.

Mr. BURDICK. The University of North Dakota has a nationally recognized program in aerospace sciences and, with its school of medicine, is beginning work with the Air Force on research relating to hyperbaric—high altitude—physiology. The Air Force is planning to assign an aviation medicine specialist to the university to assist in the development of the Aerospace Medicine Program.

Mr. SASSER. Grand Forks is not only the location of the University of North Dakota, but also the Grand Forks Air Force Base. It is our intent that the Air Force work closely with the University of North Dakota in the development of this pioneering field of medicine.

Mr. BURDICK. It is my understanding that the Air Force is extremely interested in working with the university to establish an aerospace medicine program. The funds that have been provided in the military construction appropriations legislation for fiscal year 1989 will be the first step toward this end.

I am grateful for the assistance that you have provided, Mr. Chairman. I look forward to working with you in the future toward the completion of this important project.

MEDICAL COLLEGE OF PENNSYLVANIA

Mr. SPECTER. Mr. President, I wish to discuss an item of importance to the future of military medicine research and to Pennsylvania. I believe the distinguished chairman of our subcommittee is familiar with this matter. It involves the Medical College of Pennsylvania and their desire to work with the Department of Defense to study the feasibility of a Center for Mental Health and the Aging Process at the Medical College. In addition, this outstanding institution might be of valuable assistance in helping the Defense Department and the Navy to meet their requirements for a replacement facility or partial replacement facility for the Naval Regional Medical Center in Philadelphia.

I am hopeful that my distinguished friend from Tennessee can agree that when our bill goes to conference that appropriate report language can be included in the statement of the managers—conference report. I am seeking language which would direct the De-

fense Department to study such a proposal in conjunction with the naval hospital and the Medical College of Pennsylvania to consider requesting funds to build such a facility in the next available budget cycle.

Mr. SASSER. Mr. President, I am aware of the situation surrounding the request of the Senator from Pennsylvania and my distinguished ranking member on the Appropriations Subcommittee on Military Construction. I am aware that the Senator had originally sought to include bill language by amendment on this matter. I thought that would be inappropriate because it would normally have been handled by report language.

Let me say to my colleague that I will work with him during our conference to insure that appropriate report language is included in the statement of the managers on the conference agreement urging the Defense Department to study this proposal.

Mr. SPECTER. I thank the distinguished Senator for his continued spirit of cooperation, and I look forward to working with him on the conference agreement.

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

The PRESIDING OFFICER. The absence of a quorum is noted. 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.

BRIEFING BY SECRETARY OF STATE

Mr. BYRD. Mr. President, the Secretary of State will be in room S-407 at 2:45 p.m. today to brief Senators on the Moscow summit and his Middle East trips. I make that announcement so that all Senators will be aware of the presence of the Secretary of State in room S-407 at 2:45 p.m. today. The Senate will not recess but will continue to transact business.

Mr. SASSER. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, provided that no point of order shall be considered as having been waived by reason of this agreement and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

The committee amendments were agreed to en bloc.

AMENDMENT NO. 2363

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

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Tennessee.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. SASSER], proposes an amendment numbered 2363.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

PAY RAISES

Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Mr. SASSER. Mr. President, this amendment is being offered at the request of the distinguished chairman of the full committee, Senator STENNIS, of Mississippi. This amendment, which was also included on the energy and water bill by the Senate yesterday, will be included on every appropriations bill. It provides that any pay raises in the agencies funded in this bill must be absorbed within the amounts appropriated for the agencies. Mr. President, this is a matter which has been cleared on both sides of the aisle.

Mr. NICKLES. Mr. President, the Senator is correct. It is a good amendment. It is concurred in on this side of the aisle.

Mr. SASSER. Mr. President, I urge adoption of the amendment.

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

The amendment (No. 2363) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will please call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2364

(Purpose: To allocate funds for a new building at Scott Air Force Base in Illinois for the headquarters of a U.S. Transportation Command)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON] proposed an amendment numbered 2364.

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

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

The amendment is as follows:

On page 3, line 21, strike "$1,227,587,000" and insert "$1,227,599,800, $12,800,000 of which shall be available solely for the purpose of the construction of the unified Transportation Headquarters Building at Scott Air Force Base."

Mr. DIXON. Mr. President, this amendment restores $12 million to the military construction appropriations bill for the transportation command that will be situated at Scott Air Force Base near Belleville, IL. That transportation command is authorized in the authorization bills of the House and the Senate and is appropriated for in the appropriation bill in the House. This has been cleared on both sides.

I thank my good friend the distinguished senior Senator from Tennessee for his kind accommodation in connection with his agreement to accept this amendment.

Mr. SASSER. Mr. President, this amendment is acceptable. I believe it is acceptable to both sides.

Mr. NICKLES. The Senator is correct.

Mr. SASSER. Mr. President, we accept this amendment with some degree of reluctance. It was only after the persuasive argument made by the distinguished senior Senator from Illinois that the subcommittee chairman saw the wisdom of including this appropriation in the bill. It is an important appropriation and is in the national interest to include it.

Mr. DIXON. Mr. President, I appreciate the compassion and understanding of the distinguished senior Senator from Tennessee and the Senator from Oklahoma.

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

The amendment (No. 2364) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2365

(Purpose: To include funds for construction of Navy facilities at Tinker AFB, Oklahoma, in support of the E-6A aircraft)

Mr. BOREN. Mr. President, on behalf of myself and my colleague from Oklahoma [Mr. NICKLES], I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. BOREN], for himself and Mr. NICKLES, proposes an amendment numbered 2365.

On page 3, line 1, strike $1,527,238,000 and insert in lieu thereof $1,565,318,000.

Mr. BOREN. Mr. President, I have come to the floor to offer this amendment to provide $38.09 million to fund military construction for the basing of the Navy's new E-6A squadrons at Tinker Air Force Base in Oklahoma. The Appropriations Committee has provided room for this funding in the subcommittee's allocation.

Last year, the initial military construction funding budget request of $11.8 million was authorized by both the House and the Senate. The conference on the fiscal year 1989 continuing resolution also agreed to fund the basing at Tinker. The conferees stipulated that the Navy must submit a report to the subcommittee before release of the funds. That report was submitted on May 19, 1988.

Now the fiscal year 1989 military construction budget request of $38.1 million for Tinker has been authorized in both the House and Senate legislation. The House military construction appropriations bill including this funding has already passed.

To provide a little historical background on the basing decision, in January 1986, the Navy, for reasons of reduced vulnerability and less family separation, decided to consolidate and move these squadrons to an inland base. Tinker AFB, because of its maintenance operations, was an initial consideration but because of lack of excess facilities and Navy reluctance to spend military construction funding, it was not included in the original list provided by the Air Force. In April 1986, the Oklahoma delegation learned through the Oklahoma press that Tinker was considered by the Navy to be the logical choice and convinced the Navy and the Air Force to include Tinker in its analysis. The Navy concluded that, over the 30-year life cycle, Tinker AFB was the most cost-effective and operationally favorable location for the E-6A. Life cycle costs will be minimized through reduced maintenance and supply support costs.

Mr. President, I am convinced that this decision is strategically and economically sound. The GAO in January 1987, with very preliminary figures corroborated that Tinker costs less over the 30-year life cycle. The Navy has completed several studies, the most recent of which shows at least a savings of $21 million.

The Air Force leadership, both military and civilian, at Tinker have intensely cooperated over the last 20 months with the Navy and the Army Corps of Engineers to develop the most accurate facility and mission support requirements and costs data possible. The self-contained top-security compound is specifically designed for the high-priority classified E6-A mission operations which add another significant dimension to the defense of this Nation. The cooperative effort by the Air Force and the Navy has provided an in-depth survey of the mission and base operating support requirements, some of which include:

Collocation with similar type aircraft; reduced initial spares requirement; squadrons collocated with single site maintenance and aircrew training; collocation with airframe and engine depot repair facility; base supply support commonality with the Air Force AWACS; Tinker is already structured for air and ground operating of large, heavyweight aircraft; Tinker is equipped with crash and rescue of larger aircraft.

It is a wise decision by the Navy to base the new E6-A squadrons at Tinker with its onsite depot level maintenance expertise. Congress continually advocates cooperation between military branches and this collocation with the Air Force E-3A will substantially reduce the funding requirement for training, spare part replenishment, and maintenance support.

The basing of the TACAMO squadrons at Tinker offer numerous benefits not available at any other location. The commonality with present maintenance depot activity and supply point will permit joint utilization of resources from day one. The E6-A airframe is 80 percent common to the Air Force C-135 and E-3A. The E6-A engine is similar with 90 percent parts compatibility with the Air Force F-108 engine. It simply makes sense from the point of view of costs, efficiency, and reduced downtime to use the existing maintenance capability with so much interchangeability of parts and skilled work force rather than "reinvent the wheel" someplace else.

Tinker Air Force Base is the only inland aerial port of embarcation. The existing management and support structure is in place for the security and entry control for high priority aircraft including the C-5A, B-1B and the AWACS. Tinker already has the capability for crash and rescue of large aircraft.

I would like to make a few comments concerning the latest Navy report, dated May 19, which again demonstrates that Tinker is at least $21 million less costly over the 30-year cycle. In reading the report, I note that the very thorough program developed at Tinker includes nearly $13 million in support facilities including medical care, enlisted quarters, dining hall, and day care. Yet, I could find no analysis of similar funding programmed for expansion of these functions at the other locations.

Since the costs are computed over a 30-year cycle of the E6-A program, I also question the renovation and upkeep figure of $2 million that the Navy has included for the World War II vintage excess facilities at Little Rock. I also bring to the attention of my colleagues the problems in the security issues involved by the basing at Little Rock which involves buildings scattered all over the base.

It is important to note that, if the squadrons were based anywhere else, the aircraft would come to Tinker for depot level maintenance requiring transportation costs.

Concerning housing for the additional personnel, DOD policy is to use off-base housing in the continental United States. Oklahoma has an abundance of available housing, both for sale and for rent. A recent multiple listing has 11,000 homes for sale in the Oklahoma City area. There are also nearly 16,000 units for rent in the immediate area of Tinker AFB.

For the fourth quarter of 1987, the price of the average home in Oklahoma City was $74,360 compared to the mean price in 252 cities of $92,498. The average apartment rent was $563 per month versus an average of $711 for the same cities. This housing capability brings into question even the $3.3 million for bachelor enlisted quarters at Tinker.

In summary, I believe the Navy has provided the necessary testimony to demonstrate, once and for all, that Tinker Air Force Base was a logical selection for the basing of the Navy E6-A—TACAMO—squadrons.

I urge my fellow colleagues to support this appropriation as authorized by the House and Senate and appropriated in the House. This will prove to be the most economical and strategically sound decision, but basing at Tinker will have a vital impact on the success of the TACAMO mission.

Throughout the last 20 months, Air Force and civilian personnel at Tinker have worked closely with the Navy to formulate plans.

I have received several notes and letters from the commander, Maj. Gen. Billy Bowden. The most recent arrived yesterday—a handwritten note once again affirming his conviction that untold savings come from collocation at depot facilities.

His example was the track record: AWACS at Tinker; F-16's at Hill AFB

in Utah and the C-5's at Kelly AFB, TX.

To quote:

We save them the trouble of establishing many normal base maintenance facilities.

I ask unanimous consent that his letter be printed in the RECORD.

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

OFFICE OF THE COMMANDER, OKLAHOMA CITY AIR LOGISTICS CENTER,

Tinker Air Force Base, OK, June 14, 1988.

SENATOR BOREN: I read your prepared statement on E-6A basing at Tinker. I commend you on the important points regarding the Navy saving, by using our depot facilities. It by far is the most significant aspect of any argument. Our past track records of savings are shown in colocation at three depots. At Tinker with E-3 AWACS, at Hill with the F-16, and at Kelly with the C-5. We save them the trouble of establishing many normal base maintenance facilities. For example, early on, AWACS used our battery, tire, parachute shops. Engines get a break too. Colocation saves. Expertise in World Wide Airborne Command Post (our EC 135 Looking Glass, SAC) system Mgr at Tinker can help the Navy solve technical problems. Please hang tough.

BILLY BOWDEN.

Mr. President, other colleagues are on the floor wishing to engage in this debate and also others from the Armed Services Committee to enter into a colloquy.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I rise as a cosponsor of this amendment with my friend and colleague, Senator BOREN.

This amendment increases Navy construction by $38 million to provide for the basing of the E-6A aircraft at Tinker Air Force Base.

This language is already in the House appropriation bill. It is also authorized in the Defense authorization bill in both the Senate and House of Representatives.

The authorization and appropriation was also provided in fiscal year 1988. We also appropriated money in both the House and the Senate last year for Tinker Air Force Base.

Mr. President, it makes sense to base at Tinker. The Navy has testified before Congress indicating their unqualified support for Tinker basing. Last year Secretary Weinberger, in July 1987, gave Congress an initial study comparing the cost and alternatives of other bases and concluded that Tinker Air Force Base made sense economically and militarily for basing of E-6A's. Why? Because the E-6A is very similar to other aircraft that are already based at Tinker Air Force Base. It makes sense. Tinker Air Force Base is the home for the AWACS aircraft. The E-6A, for those who are not familiar with the program, is quite comparable to the AWACS. The maintenance requirements of the AWACS and the E-6A, the Navy's surveillance aircraft are very comparable. It is the same aircraft, a Boeing 707. Its intelligence capabilities and radar are very sensitive.

The AWACS aircraft are currently based at Tinker Air Force Base. The Navy and the Air Force have requested that the E-6A's be based at Tinker Air Force Base because they have a lot of common functions, parts, and maintenance, as other aircraft at Tinker. Turnover would be considerably less. Downtime would be less. Money would be saved, and that is very hard to quantify. We have had studies trying to compare Tinker Air Force Base with Little Rock, and other bases. Yet the thing that is really hard to quantify is that we will save a lot of money in downtime because they already have the maintenance personnel, other support, and the flight crews. They have common functions. It makes sense militarily and it makes sense economically. We will save money by basing these aircraft at Tinker Air Force Base.

Mr. President, I hope and I am somewhat optimistic that our colleagues will support this approach again this year. We passed it last year for Tinker. We did so in the House. It passed in the appropriation conference bill which also requested a study. We approved $12 million for fiscal year 1988 construction funds. We asked the Navy to take one final look at it and make sure. They did. They testified before Congress just recently, a few weeks ago, and repeatedly stated their support for Tinker. Lawrence Garrett the Under Secretary of the Navy, testified before the Subcommittee on Milcon of the Senate, and I will give a quote:

Tinker Air Force Base remains the most cost effective basing option.

He made several points, and I have this available for any of my colleagues if they would like more detailed information, but Mr. Garrett said that Tinker already has in place depot maintenance repair facilities that can accommodate the E-6A aircraft. He says the Navy will not need to duplicate these facilities.

We have been asking the military to start working together. With the Air Force and the Navy working together, and this is what they are doing in this case, I do not think we should disrupt it.

Mr. Garrett further stated;

Nor will the Navy need to transport the aircraft from another site to Tinker to get maintenance done. Tinker already has in place intermediate level maintenance facilities that can repair the E-6A parts. The Navy will not need to duplicate these facilities. The Air Force has already purchased common test equipment that the Navy can use to check out the E-6A aircraft operations.

Again, we are going to save the Navy some money because the Air Force has already provided these functions. I think again it just makes sense. Skilled Air Force maintenance personnel are on site. They have worked on these aircraft. These are Boeing 707 aircraft. That is what we are maintaining at Tinker.

He says, a "Close proximity to TACAMO aircraft operations, maintenance and support sites at Tinker will allow very efficient TACAMO strategic operations."

That is not the case at some other base sites.

Mr. President, we could go on and on. Studies have been done. GAO has studied this. The Navy has made two studies. It has not changed the results. The results are that militarily and economically Tinker Air Force Base is the right base to base the E-6A's, and I hope my colleagues will agree to the amendment.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Arkansas.

AMENDMENT NO. 2366 TO AMENDMENT NO. 2365

(Purpose: To restrict the availability of funds for the TACAMO mission)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] for himself and Mr. PRYOR, Mr. SARBANES, and Ms. MIKULSKI proposes an amendment numbered 2366 to amendment No. 2365. In the pending amendment, strike out "$1,565,318,000" and insert "$1,565,318,000; provided, however, that of such funds the $38,080,000 appropriated for the TACAMO mission shall not be available for obligation or expenditure before October 15, 1988."

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I think there is an outside chance that we can work out a resolution of this very volatile, controversial issue.

But pending the time whether we do or do not, I would like to make a few remarks about how this whole controversy occurred.

First of all, we have a TACAMO squadron. TACAMO does not mean much to people, but the TACAMO squadron is based half in Hawaii at Barber's Point and half at Patuxent Naval Air Station in Maryland. Those planes are designed to communicate with our missile-firing submarines at sea.

The Navy decided two things: No. 1, that the planes needed updating; No. 2, that it would be to everybody's benefit to move the planes from Hawaii, which cover the Pacific, and from Patuxent, which cover the Atlantic, to a central area in the continental United States.

So some of the people in the Pentagon were given the responsibility of

deciding where shall these 16 new TACAMO planes, called E-6's, be placed? The Air Force provided a list of 20 bases to be considered. I will not read the list, but one of the reasons I am here today is because Little Rock Air Force Base was on the list. I make no bones about that.

And so people, like Pete Aldridge, who was Under Secretary of the Air Force, Don Latham, who was Assistant Secretary of Defense for Command, Control, Communications, and Intelligence, they started studying this list of 20 bases to find the best place to base these planes. They are very important. It is a great mission. It is important that the President be able to communicate with our submarines at sea. So they narrowed the list down to 7 bases out of the 20.

Mr. President, all this is going on in 1985 and 1986, but the final lists were selected during an evaluation, which was between about the middle of April and the middle of May 1986.

Mr. President, it might be well to point out at this point that 1986 was an election year, a lot of hot Senate races, a lot of hot races, all over the country. And I know this will come as a shock to my 99 colleagues here, but, occasionally, where a mission goes is determined on a political basis. I hate to offend the sensibilities of my colleagues by saying that in public. And I am not opposed to it if everything else is OK.

So they come down and they say there are only 3 bases out of these 20 that are really ideal for this mission: Little Rock Air Force Base; Dyess Air Force Base in Abilene, TX; and one in Memphis, I suppose that was Millington Naval Air Station in Memphis, TN.

But then there are figures—and I have internal documents here which, incidentally, came to my office in a manila envelope after this thing began to heat up, and, as I say, I had this suspicion that this might have been a political decision. All of a sudden appears in my office a big brown manila envelope. We do not know where it came from; no return address or anything. It had some really interesting documents in it on how this decision was made. All that did, of course, was validate what I already knew as a politician had happened.

But here we are now with three air bases picked and, according to the studies, Little Rock Air Force Base was a suitable Air Force base and, from an economic standpoint, would have saved a lot of money for the Navy.

So people like Donald Latham and Pete Aldridge were the principal players in making this decision. That was their decision, that it ought to go to Little Rock. And the Navy came to Senator PRYOR's office and they briefed him and staffers. They said, "It is just almost certain."

Now, I must confess there were no promises made, but they said it is almost certain that this TACAMO squadron is going to Little Rock Air Force Base. We had just lost 1,300 men when the Titan II missiles were dismantled in central Arkansas. That was the 308th Strategic Missile Wing that had been stationed there. We lost all those people when we dismantled the Titans.

Senator PRYOR and I were excited because we knew this thing had 1,600 personnel with it. It was going to be a great replacement for all those troops we lost.

VISIT TO THE SENATE BY THE PRIME MINISTER OF ITALY, CIRIACO DE MITA

Mr. BYRD. Mr. President, it is my pleasure to present to the Senate today the very distinguished Prime Minister of Italy, Prime Minister Ciriaco De Mita. I have been honored to have him visit in my office with Senator WARNER, Senator DECONCINI, and myself.

Before I present him to our Members in the Chamber, may I say that Italy has been one of the very best friends of the United States and the Alliance. Italy was the first of the European States to support the deployment of INF weapons. Italy also, with respect to the Persian Gulf, sent minesweepers into the Persian Gulf, and without being asked to do so by our Government.

Italy also has worked closely with our Government and with other governments in the war against terrorists and in the war against drugs. Italy is one of the strongest supporters of the NATO alliance and are carrying their share of the defense burden.

Italy will accept the relocation of the 401st F-16 fighter wing from Spain.

In so many ways, Italy is an ally and a friend of our country. The Italian people have contributed so much to our own culture. We owe much to Italy. We Senators all have Italian-American constituents, and they are among the most patriotic and loyal of our citizens.

So it is with great pleasure and pride today that I present to the Senate Prime Minister De Mita of Italy. I hope that our colleagues will give him a warm welcome, after which I ask unanimous consent that the Senate stand in recess for 3 minutes so that we may personally greet our distinguished visitor.

[Applause.]

There being no objection, the Senate, at 12:17 p.m., recessed until 12:20 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SHELBY).

MILITARY CONSTRUCTION APPROPRIATIONS ACT, FISCAL YEAR 1989

The Senate continued with the consideration of the bill.

AMENDMENT 2366 TO AMENDMENT 2365

Mr. BUMPERS. Mr. President, just on the outside chance that we might be able to reach a compromise on this matter, such a compromise would be essentially this: that we put $38,080,000 in the appropriations bill but that it be fenced until October 15, which most of us assume will be just about the sine die adjournment date; and that the GAO—I have not gotten to that in my remarks yet—but the GAO has been requested by Senator PRYOR and me to do a study of the Navy's most recent report in support of Tinker Air Force Base as the best spot for these planes.

There are those of us who do not think much of the Navy's figures. But the same ones of us who do not think much of the Navy's figures, also have a pretty deep and abiding respect for GAO's work.

So we have asked the GAO to give us an analysis of the last study by the Navy and tell us whether the figures are flawed or not. Because that report shows that there is a $20.9 million advantage to Tinker Air Force Base.

Incidentally, these figures have changed. You know, we have had three reports and they keep changing, in my opinion, trying to justify a political situation.

But, be that as it may, to get on with this possible compromise, the substitute amendment I have here would delay any decision on obligation or expenditure of this money until after the GAO report comes out, which is now anticipated to be about August 15.

In a letter to Senator PRYOR and me, they have said that they would complete their investigation by August 1 and a report would be issued shortly thereafter. I am assuming shortly thereafter is on the order of 2 weeks.

Our distinguished colleague from Illinois, Mr. DIXON, is chairman of the Armed Services Subcommittee on Military Construction and he is in his seat at this moment. I would like to engage him in a colloquy, along the lines that we have been talking about as a possible compromise, to get on record what he would agree to do and what his obligation would be, if we accept my substitute amendment.

The PRESIDING OFFICER. The Senator may proceed.

Mr. BUMPERS. Senator DIXON, my question is this. Let us assume that the GAO report comes out at least sometime between August 1 and August 30. We have discussed this informally with you and my question is: Would you be willing to hold a hearing on the GAO report and the Navy figures too, for that matter, very soon,

and expeditiously after the GAO report is sent to our distinguished colleague, Senator PRYOR, and me?

Mr. DIXON. Mr. President, may I say to my distinguished colleague from Arkansas that, as I have indicated to the Senator from Arkansas and the Senator from Oklahoma and others who are interested and have concerns about this matter, I would be delighted to hold a hearing as soon as those figures are available.

I assure my friend from Arkansas that we will hold a committee hearing in the Subcommittee on Readiness, Sustainability and Support immediately after those figures are available, the report is available.

Mr. BUMPERS. The second question, Senator. Would you be willing to confer with both Senators from Oklahoma, both Senators from Arkansas, and both Senators from Maryland as to any suggestions they might have for the names of witnesses or any other relevant material to be presented at such a hearing?

Mr. DIXON. Mr. President, I assure my friends, the Senators from Arkansas, the Senators from Oklahoma, and the Senators from Maryland, that I will confer with all of them. We will work out a witness list that is satisfactory to all concerned and we will have a full and complete hearing and use all of those witnesses on the list in the hearing.

Mr. BUMPERS. I might also add the distinguished Senator from Tennessee, Senator SASSER, who is chairman of the Subcommittee on Military Construction of the Committee on Appropriations on that list.

Mr. DIXON. I can assure everyone I would, of course, confer with the chairman of the appropriating subcommittee, Senator SASSER.

Mr. BUMPERS. The third thing is this. The October 15 deadline which we have put on this substitute amendment was put there for a very simple reason. We assume that sine die adjournment here will be about October 15.

Some of my colleagues who are on our side of this issue were concerned about the ability of your subcommittee to report our legislation. Let me give this example. If the GAO states that the Navy's figures are seriously flawed and that this matter ought to be pursued further—which I do not mind saying I divinely hope it will, but that is neither here nor there, we are willing to abide by the decision. But if we do find that the figures are seriously flawed we are concerned about getting something through here which would further delay the obligation of this $38 million.

That might be done on a CR coming through. We would probably have some small CR coming through. Or it might be done through generic legislation out of your subcommittee; which would probably be a little more difficult, to get a freestanding bill through. But you might also, if that looked difficult, just tag it on as an amendment to some other vehicle coming through here. Of course, we always have the House to deal with.

But could I get the assurance of the Senator that if, in the judgment of a majority of members of that subcommittee, these figures are, indeed, flawed to the point that this thing should be studied further, that the Senator will do his best to take action to make sure that that occurs?

Mr. DIXON. Mr. President, the distinguished Senator from Arkansas and all of his colleagues here that are interested in the subject matter have the assurance of this Senator that if it is necessary to do further things, legislatively, that we will take whatever steps are necessary, consult with the chairman of the Armed Services Committee, the distinguished Senator from Georgia, consult with the majority leader and others to try to expedite a response to the problem.

Mr. BUMPERS. With that, Mr. President, I would like to yield to any of my colleagues—from Oklahoma, Arkansas, or Maryland—for further questioning of the distinguished chairman.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank my colleague for yielding. This, of course, has been a very difficult matter for all of us. We have sincere views that are differing on this matter, the Senator from Arkansas and his colleague, Senator PRYOR, and others have very strong feelings that the reports that have been issued by the Navy are flawed. Naturally, they feel that Little Rock would be an appropriate place for the basing of this aircraft. Likewise, we in Oklahoma have a very deep and sincere feeling that this kind of cooperation between the Air Force and the Navy is what we have been trying to encourage and that where you have the maintenance of the AWACS facility there, that it makes sense, and that the cost figures are accurate.

We have an honest difference of opinion about that and I think the Senator from Arkansas—we have had discussions, obviously, about this proposal—has made a reasonable proposal. Naturally those of us from Oklahoma are reluctant to have any more time spent on studies. We have already had I believe at least three extending over a 2-year period. But we understand also our obligation to the taxpayers and that is a very strong obligation from whichever State we may reside.

The GAO study has been requested. We have great confidence in the ability of the Senator from Illinois and the distinguished chairman of the full committee, the Senator from Georgia, to look into this. The membership of that committee are very knowledgeable on military matters.

Therefore, the understanding is that the Senator from Illinois and his committee would look at the full range of information available, at the GAO study, the previous Navy study, and would give all of us a chance, obviously, to come into a public hearing format and argue our side of the case and argue as to why we think certain figures are accurate and correct and others may not be.

That is my understanding. Is that correct? The Senator from Illinois would give us the opportunity to argue the merits fully, based upon all of these reports that would then be available?

Mr. DIXON. Mr. President, I want to assure my friend, the Senator from Oklahoma, that we will have a full and open hearing. The Senators from Maryland, the Senators from Oklahoma, the Senators from Arkansas, can present a witness list. We will try to make it a very balanced witness list. You will all have an opportunity to be heard.

Mr. BOREN. Mr. President, I thank my colleague from Illinois. As I say, I have great confidence in his fairness and integrity and also his knowledge of military matters.

With that assurance, Mr. President, I would be prepared, if it has the concurrence of my cosponsor—I see the Senator from Oklahoma also on his feet—if it has his concurrence, I will be prepared to accept this modifying amendment to my original amendment in the first degree given assurances we have heard from the representative of the Armed Services Committee, Senator DIXON.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, first I ask unanimous consent that I be placed on the Bumpers amendment as an original cosponsor.

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

Mr. BUMPERS. Mr. President, if the Senator will yield for a moment. That amendment was offered on behalf of myself, Senator PRYOR, Senator MIKULSKI, and Senator SARBANES.

Mr. PRYOR. I thank the Chair and the distinguished Senator from Arkansas. Mr. President, I am not going to take but a moment of the Senate's time. This issue of the TACAMO basing reminds me, to some extent—and I hope this will be respectful—it reminds me to some extent of the very first lawsuit that I ever had as a very young lawyer in Camden, AR. This was over which party owned a blue tick hound dog. A coon dog, you might say. Allegedly, the owners of the blue tick hound dog were out on a coon

hunt one night and the other party took my client's coon dog to their farm and claimed it as their own.

Mr. President, there was a great war over who owned this great and famous dog. I was hired to represent one of the parties. Another attorney, Mr. Purifoy, was hired to represent the party that had taken the dog. We had a case in the court. It was not a jury trial, I say this respectfully to my good friend, the senior Senator from Mississippi, the chairman of the Appropriations Committee, who is still referred to as "Judge." This case was decided by a judge.

The case of TACAMO is going to be decided ultimately by a jury, either a jury of the Armed Services Committee or the full Senate. It places all of us in a very precarious situation because many of us do not follow the facts enough, many of us are not, let us say, involved in this issue as some of us from the respective States of Arkansas, Oklahoma, and Maryland.

I might say that the final outcome of who owned the blue tick hound dog in my first lawsuit was that there were coon hunters from all over Ouachita County. They were seated not only in the seats in the courtroom, Mr. President, but they were seated in the windows and they were hanging from the balcony waiting to see who would be the rightful owner of this dog.

Finally, the judge could not decide. He told the bailiff of the court to get the dog and to bring him into the middle of the courtroom. I stood on one side of the courtroom with my client. Mr. Purifoy stood on the other side of the courtroom with his client. The dog walked into the court slowly down the center aisle, looked around, sniffed the air and finally walked to his left into the arms of my client.

We won that case, and that is somewhat like TACAMO because we have wrestled with this matter for some 2 or 3 years as to whether it should go to Oklahoma or whether it should go to the State of Arkansas. We feel Arkansas. Senator NICKLES and Senator BOREN feel Oklahoma.

I say, Mr. President, in all due respect to the various interests here, I think that the proposed compromise offered in the amendment by Senator BUMPERS and the rest of us does at least give us the opportunity to further examine what the General Accounting Office is going to report and then ultimately the Armed Services Committee and possibly the U.S. Senate as a whole will have that opportunity, maybe, to make that final decision as to whether TACAMO goes to Oklahoma or goes to the State of Arkansas.

I would like to thank my senior Senator from Arkansas for introducing this, and also the Senators from Oklahoma, Senator BOREN and Senator NICKLES, for working with us. All I can hope is that justice will prevail and that the rightful owner or the rightful State, let us say, in this case, will be the recipient of this very fine facility.

Mr. President, I yield the floor.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise in support of the 2d degree amendment offered by the Senator from Arkansas.

The Senator's amendment would include funds to upgrade Tinker Air Force Base, but would delay release of those funds until October 15, 1988, and the completion of the GAO's current study on the Navy decision to base the TACAMO squadrons in Oklahoma.

For nearly 2 years, the Navy has tried repeatedly, without success, to provide a coherent, cost-effective rationale for this move. Regrettably, their latest report on the move is as flimsy in its reasoning as their first report.

I intend to support the safest and most fiscally responsible site for the TACAMO squadrons regarless if it is based in Maryland and Hawaii or Oklahoma.

But we should make this decision on the basis of the best defense policy—for the Nation's security and for the taxpayer, not on the basis of politics.

As the distinguished Senator from Arkansas has set out in his remarks, the Navy's current decision has been a chronology of a classic political decision in search of a strategic rationale.

The TACAMO squadrons—as the key communication link between the President and our submarine fleet—have too important a mission for them to be based on the grounds of a political deal.

The decisionmaking process on this basing decision has been full of inconsistencies: First, the planes were supposed to stay in Maryland and Hawaii; the next option evolved into basing at Little Rock, AR; and then, out of almost nowhere, Oklahoma emerged as the leading candidate for the TACAMO squadrons.

Instead of trying to make a political decision, we should allow the next President to make a decision based on the merits of the issue and what is in the national interest.

The Senators from Arkansas have asked the GAO to evaluate the most recent cost comparisons of the various TACAMO basing options.

Senator SARBANES and I have asked the Defense Department's inspector general to conduct a thorough review of the strategic and fiscal issues associated with the Navy's proposed plan.

Instead of rushing headlong into an expensive basing plan, we should wait for the independent analysis by these two agencies to be finished.

STRATEGIC ARGUMENTS

Proponents of the Oklahoma site argue we need this basing location because it is the best strategic site. This conclusion is based on the fact that the TACAMO command structure would be located in the middle of the United States, further inland and allegedly safe from a Soviet missile attack launched from Soviet submarines.

This reasoning is based on a number of faulty assumptions.

First, it suggests that a coastal basing location is a strategically vulnerable location. Pax River, one of the two current locations, is only 62 miles from the Capitol.

The logical conclusion of the Navy's argument is that if it's on the coast, we ought to move it to Oklahoma: that could mean the White House, the Congress, the Pentagon, maybe even the fleet at Norfolk if we could build a big enough canal to get them to the Gulf of Mexico.

Now I know the Senators from Oklahoma would support moving all of this Federal infrastructure to their State, but it does not seem the other Armed Forces do. The Air Force has sensitive installations in Hawaii, adjacent to the TACAMO squad there, yet has taken no action to move their installations to the middle of the United States.

What does the Navy know that the Air Force does not? I don't know and neither does anyone else because the Navy has not given us any reasonable answer.

Second, the Navy's plan is based solely on the belief that the Soviets have one attack scenario to take out these planes—a cruise missile attack from submarines off of our coast.

In today's world, such a planning assumption seems naive at best and misleading at worst. It is more likely that a Soviet attack would come from a variety of fronts, like a terrorist attack on the plane's base, or those facilities which tell the TACAMO command what to do, like the Pentagon.

Given this fact, a terrorist could just as easily attack Tinker, OK, as they could Pax River, MD, or Barber's Point, HI. The location of the TACAMO command structure is vulnerable to this kind of confrontation no matter where it is.

Third, the Navy's plan places all of our strategic eggs in one basket. The Navy plans to locate the entire maintenance and command structure for the TACAMO squadrons at Tinker, rather than the dual location currently in Maryland and Hawaii.

As a result, if someone is able to knock out Tinker, they have knocked out the entire command structure. Under the current basing plan, no such risk exists. So the Navy's plan really increases the vulnerability of these planes.

Fourth, the Navy's plan places only the command structure for TACAMO in Oklahoma. The planes themselves would be at "Alert" bases on either coast. So the Navy plan for Oklahoma does not reduce the threat from a Soviet sub attack because the planes would still be within striking distance of a missile attack.

What would be relocated are the 1,500 jobs associated with the command structure, the mechanics who service the planes and other technicians. And I would ask my colleagues, if they take out the planes on the coast, what good is an obsolete command structure in Oklahoma?

Fifth, if any planes were in Oklahoma at the time of a Soviet attack, their flying time to reach an area where they could contact our subs would be about 3 hours longer than the current coastal basing plan.

If Soviet missiles are to land on U.S. soil in 30 minutes or less, what good are communication planes—whose sole mission is prompt notification of our subs when the President orders a retaliatory attack—to be 2½ hours from being able to tell our naval forces what to do?

COST ARGUMENTS

The other argument which proponents of the Oklahoma site make is that it will save money. In fact, moving to Oklahoma is going to cost us money, at a time when the deficit is shrinking the purchasing power we have for our national security.

Moving to Tinker is going to cost us between $71 million and $107 million in military construction costs alone. In addition, the General Accounting Office has concluded that basing the TACAMO squadrons in Oklahoma will likely require the Navy to purchase at least one additional E-6A plane, at a cost of $62 million.

Most of the alleged savings from moving to Oklahoma come from supposed "joint use" of maintenance support with the Air Force at Tinker Air Force Base. But the Navy does not even have a memorandum of understanding with the Air Force on this.

How can they claim any savings when they do not even have an agreement with the Air Force on what share operations and maintenance costs will be shared? They have made their cost estimates on highly technical planning assumptions which they simply cannot justify as being the right assumptions to make.

What I have found most amazing about the Navy's cost estimates is their assessment of what keeping the current basing plan in Maryland and Hawaii would cost. They have said it will cost an additional $29.8 million for 4 fire trucks, 4 fuel trucks, and related support cost. That averages out to roughly $3.7 million a truck.

I am not sure who the Navy is going to buy these trucks from, BMW, Volvo, or Mercedes-Benz, but it sounds like an extremely inflated cost estimate.

Moreover, the Navy has been unable to show that either Pax River or Barber's Point wasn't already going to receive these improvements regardless of the TACAMO basing plan. Naval air test centers need fire trucks and fuel trucks anyway. So the real issue is whether any of these costs are unique due to stationing the TACAMO squadron at a site. And the Navy has not provided us with any information that tells us what is unique.

Finally, Mr. President, it strikes me that keeping the current basing mode makes the best fiscal sense. We could simply purchase one squadron of 8 E-6A's for Barber's point, while leaving a squadron of C-130's at Pax River. That would save the Navy over $400 million in additional procurement costs, while keeping our TACAMO command strategically intact.

Mr. President, I believe we should not jeopardize an essential element of our strategic triad for the next 30 years by subjecting where we base it on the basis of political maneuvering.

For that reason, and for the fallacy of the Navy's strategic and fiscal justifications provided for the Oklahoma plan, we should adopt the amendment by the Senator from Arkansas.

Instead of putting all our eggs in one basket, let us wait for an independent evaluation of all aspects of this issue and decide it on the merits.

In summary, Mr. President, I know the other Senator from Oklahoma is anxious to speak. I rise in support of the Bumpers compromise because I think it is in the best interest of our country. The amendment of the gentleman from Arkansas would give us time and a framework to arrive at a rational decision on this issue. I think all of the Senators involved want to be sure that we place national security above petty partisan or not so much partisan but regional politics.

I just want to make it clear that I intend to support the safest and most fiscally responsible site for the TACAMO squadrons to be located regardless of whether it is in Maryland, Hawaii, or Oklahoma. We should make this decision on the basis of the best defense policy for the Nation's security and for the taxpayer and not on the basis of politics.

As the distinguished Senator from Arkansas has set out in his remarks, the Navy's current decision has been a chronology of some political decisions over a strategic rationale. TACAMO squadrons, as the key communication link between the President and our submarine fleet, are too important a mission to be based on a political decision.

They give lots of reasons why it should go to Oklahoma. Proponents say that Oklahoma should be chosen because it is the best strategic site. This conclusion is based on the fact that the TACAMO command structure will be located in the middle of the United States, further inland away, allegedly, from a Soviet attack.

I would like to make three points about that. First, it suggests that a coastal basing location is strategically vulnerable. Pax River in Maryland, one of the two current locations, however, is only 62 miles from the Capital. It is hard for me to believe that if the Communists plan an attack on the United States of America on their way to the United States they are going to say: "Well, we are not going to go to Washington; we are going to stop over Pax River in southern Maryland. I invite all of you to come to southern Maryland. We have seafood festivals and good fishing. If I were a Communist, I would want to nail Washington, DC, as compared to coming to St. Mary's County. We welcome tourists, but we really do not welcome those Communists.

Second, they also say that the Navy's plan is based solely on the belief that the Soviets have a one-attack scenario. It would be hard to believe that they would use only cruise missiles. We know that if there is to be an attack on the United States, it will be multifaceted, including terrorism. Tinker is as vulnerable as a coastal base.

Third, the Navy's plan places all its strategic eggs in one basket. The Navy wants to locate the entire maintenance and command structure for TACAMO at Tinker rather than the dual locations in Maryland and Hawaii.

Once again, let us picture a terrible scenario: The United States is under attack. What we essentially have at Tinker will be the chiefs, but the Indians and the arrows will still be located at Hawaii or Maryland for which we are proud to have them. I will tell you, again, I think I would rather protect the planes than the chiefs.

So I would raise issue again with that. I do not maintain to be a strategic whiz. A lot of the information we get from Tom Clancey, who wrote "Red Storm Rising" and who, by the way, lives near Pax River. Maybe they are going to be after him, too. But what we are saying is that there are lots of pros and cons in this and that is why we need this independent study.

Finally, there is the fiscal argument which says that the Oklahoma site will save money, but, in fact, moving to Oklahoma is going to cost us money at a time when the deficit is shrinking the purchasing power that we have for our national security. Most of the alleged savings from moving to Oklahoma come from the supposed use of joint maintenance. I support that concept because we do not need to rein-

vent the wheel. We do not have enough money to do what we really need to do. However, we do note that the Air Force has not entered into a joint agreement with the Navy and it is questionable whether they will really do what they say they will do.

Second, we hear all kinds of figures about cost estimates. They say that staying in Maryland will cost an additional $29 million for support services. They talk about close to $30 million for four fire trucks, four fuel trucks and related costs. I am not sure that is true. According to the Navy study, that works out to $3.7 million a truck. Now, I know that DOD does not like to buy American, but unless we are going to buy Volvo fire trucks that seems like an inflated cost to me.

In conclusion, Mr. Chairman, we want to be sure we do not jeopardize our strategic triad for the next 30 years by subjecting what we do to political involvement. So I say let us delay this until October 15. Let us get our independent study. Let us make it on the basis of rational analysis.

I thank Senators for listening to this argument. Though I approached it lightly, I want you to know I think this is a very serious matter. We need to make sure that when our President needs TACAMO to respond, we will have both our command structure and Navy planes ready to go. I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I do not know if anyone else cares to speak on this amendment. I compliment my friends and colleagues from Arkansas, Senator BUMPERS and Senator PRYOR. We have worked on and wrestled with this issue now for about 2 years. When there was a compromise discussed, I personally questioned whether or not a compromise was possible. Senator BUMPERS and Senator BOREN are to be congratulated for coming up with something that I believe can be accepted on both sides. It will be my intention to recommend the Senate accept this modifying amendment to the amendment offered by myself and Senator BOREN.

Mr. President, this amendment does fence some money for an additional period of time. This Senator has been opposed to that. We fenced the money for this project last year pending an additional study. The Navy study came out and said, yes, we concur with the original study. The original studies outcome was to go with Tinker. I hope we would not have any additional delays. I think it is important we move forward and move forward rapidly. However, again in the spirit of compromise, I have no objections to the amendment and urge its adoption.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I thank the Chair.

Mr. President, first of all, I want to thank the very able and distinguished chairman of the subcommittee, the Senator from Tennessee, for the extended hearing which he held on this subject and for opening that hearing to all Members of the Senate who have had a continuing interest in this question.

Mr. President, it is a clear indication of the inadequacy of the Navy studies up to this point that this issue remains so controversial and so difficult even to develop an agreed-upon factual statement of the situation. I was struck at the subcommittee hearing by the inability of the Navy to sustain some of their assertions and by the shift in premises that went into their proposal. Two years ago they made flat assertions that this could be done with 15 planes. Now with a mid-continental basing proposal they have increased the requirement to 16. That represents an extra cost of $60 million, which was not factored into the initial cost comparison.

At the hearing I asked the Assistant Secretary what assumptions they made about fuel costs, and their assumption was that the fuel costs would remain constant over a 30-year life cycle. I must say I found that to be an astounding assumption.

It is very clear that this matter needs a very thorough GAO analysis which very carefully makes sure that apples are being compared with apples and oranges are being compared with oranges. We must ensure that these comparisons are not being mixed up with changing assumptions and changing premises if we are going to be able to have any clear picture of exactly what the situation is.

The Senator from Arkansas is trying to achieve that. It may be in the last analysis that the interests of different Senators as to their respective States will diverge. Obviously, that is possible, indeed likely. What is important, whatever the divergence, is that you have arrived at an analysis on which people can say, "Well, that is a reasoned analysis. The matters have been examined, the facts have been accurately developed, and we are now in a position to make the comparisons and to draw our conclusions." I feel very strongly that has not happened to date. The studies submitted by the Navy to sustain their move do not contain that substance. I think the Navy is essentially trying to come up with a rationale to support a political decision previously made, and that is why again and again when their studies are probed they do not withstand scrutiny.

Now there is an effort to develop a study and analysis which is objective and analytical. This study will at least put us in a position to say these are the facts, these are the considerations, these are the comparisons and draw your own conclusion from it.

I am very grateful to the Senator from Tennessee for being as fair and open as he has been in examining this issue. I particularly wish to commend him for the way he has conducted the consideration of what is a very sharp controversy amongst Members of this body.

Mr. President, I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I, too, join the distinguished Senator from Maryland, Senator SARBANES, in his praise for the distinguished chairman of the Subcommittee on Military Construction of the Appropriations Committee, Senator SASSER, of Tennessee.

I imagine, Mr. President, that Senator SASSER has spent untold numbers of hours on this issue. He had nothing to benefit from it. He placed himself in the middle of friends in this issue and of two, let us say, States with adversarial positions. Whatever the reason for his patience, we owe him a great debt of gratitude in the Senate.

Mr. President, I also, while I do have the floor and am about to conclude my remarks, thank both of the Senators from Maryland, Senator MIKULSKI and Senator SARBANES, for their support in working out this effort, of course, in the best national security interests of the United States.

Mr. President, I yield the floor.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I join in the remarks that have been made of the Senator from Tennessee. I appreciate very much his fairness during these proceedings, his willingness to allow us to present our side of the case. The Senator from Tennessee has his own perspective. He has presented that openly and honestly and, at the same time, while there has been a difference of opinion with others, he has allowed us to make our case to his committee. He has been exceedingly fair. As has been said, he is one of the most diligent Members of the Senate. He works hard in this area of national security and he makes immense contributions, so I add my words of appreciation to those already spoken. It is a very difficult situation we have come through and he particularly has been in a difficult spot as chairman of the responsible subcommittee. He has certainly handled those responsibilities in the highest and best tradition of the Senate, and I appreciate it very much. I know all of my colleagues do, too.

Mr. SASSER. Mr. President, I wish to express my appreciation for the

very kind remarks made by the Senators from Maryland, Arkansas, and the Senator from Oklahoma, Mr. BOREN. They are overly generous in their remarks.

I was just curious. I very much enjoyed the story of the Senator from Arkansas, [Mr. PRYOR] about the blue tick hound and how to determine where the proper home should be for that blue tick hound. It just occurred to me that perhaps the name of that blue tick hound was Tacamo. [Laughter.]

Mr. PRYOR. Mr. President, I must respond to the distinguished Senator from Tennessee by saying that the name, and it is officially in the court records I think in Ouachita County, of that dog was "Old Blue." Not in the records of the court, Mr. President, was the fee that I received for representing my distinguished client and the lawful owner of Old Blue. My fee, Mr. President was one sack of fresh turnip greens.

I yield the floor.

Mr. BUMPERS. Mr. President, let me also add my thanks to the distinguished Senator from Tennessee. He has been at the cutting edge of this issue for a very long time, and it is extremely controversial. And obviously the reason you settle lawsuits is because you are going to take more than you are afraid you will not get.

This, as my colleague says, is the time to settle this lawsuit. I think regardless of how I hope it might have gone, if we had just gone to the mat on it I think it would have been razor thin on either side. But this at least puts everybody in the Senate on notice, and gives everybody an opportunity to study the GAO report, and to put in their 2 cents' worth at the hearing that will be scheduled after that. Hopefully, we will get this thing finally resolved before we leave here in October.

I am not saying this base has to go to Little Rock. Obviously, I have a provincial interest in it. I simply want to say that the Navy may choose something else. They may find an alternative solution. But I can tell you truthfully, I do not mind this squadron going to Tinker if it is cheaper than Little Rock, and if there are no operational inefficiencies as a result of going to Tinker.

By the same token, I would expect my colleague from Oklahoma to say the same remark about my State and Little Rock Air Force Base. And the one question I asked, the very first question I asked, the Navy and Air Force at the hearings was this: "Is there any operational difference insofar as the efficiency and the adequacy of the mission, Tacamo mission, whether it is goes to Tinker or Little Rock Air Force Base?"

And the answer was an unqualified no, there is no operational difference between Tinker and Little Rock.

So what you have are two bases that are on all fours. It then becomes a question of how much base housing you are going to have to build, what kind of operational expense you are going to have, and a whole host of other things that the Navy has in their study and GAO is now studying.

But the Senator from Tennessee has been most gracious, and, in my opinion, fair to all sides of this issue. I am very pleased that we are able to at least temporarily reconcile our differences.

But I just want to make this one point for the record which has never been made on the floor of the Senate before though it has been made in hearings; that is, the 3 bases that had been chosen out of 20 sites—bear in mind Tinker Air Force Base was not on the list of 20 bases. It was not one of the seven finalists. It was not one of the three finalists. All of a sudden in May 1986 they said "How about Tinker?"

We, I do not know who wrote the letter or who made the inquiry. I know a Congressman from Oklahoma whose district joins Tinker Air Force Base announced that he had gotten Tinker put on the list for consideration. But in a memo from Harold Williams, an Air Force major general, who was asked to critique Tinker—I am not even going to both to put this in the CONGRESSIONAL RECORD—said, "You could not shoehorn a squadron of airplanes into Tinker Air Force Base. We don't have any room to train anybody; we don't have any room for anything. And Tinker would be out of the question."

So, Mr. President, I will read a paragraph here just precisely as to what he said at that time. This is May 23, 1986:

> In response to your letter on Joint Navy/Air Force E-6A Training, we have assessed our capability to provide flight crew training under our current E-3 contract * * *

Bear in mind E-3 of the AWACS—

> * * * flight crew training program and have estimated the requirements and cost for expanding this program.

Here is what he says:

> The current E-3 contract flight crew * * *

That is AWACS—

> training program can only absorb two navigators and two flight engineers per year. Air Force E-3 pilot inputs are already at the contract limit. To expand the current contract to include E-6A training would require over 5,000 additional flying hours, two additional B-707 aircraft, one E-6A flight simulator plus a facility to house it, twenty-four additional contract personnel and E-6A training courseware development. Based on comparable E-3 contract flight crew training costs, inclusion of the E-6A in a joint E-3/E-6A contract training program would cost the Navy about $57.6 million for a five-year contract.

He points out:

> We have sufficient aircraft, equipment and facilities to accommodate a maximum of twenty maintenance OJT positions. Also, we do not have the additional aircraft, equipment or facilities to expand the capabilities of our maintenance training detachment at Tinker AFB.

Then he does a comparative study.

This thing goes on. I am not going to belabor the Senate with all of these documents that came unsolicited to my office except I will state that John Lehman, Secretary of the Navy did not write to tell me he was going to Little Rock. He wrote to Mickey Edwards to tell him that TACAMO was going to go to Tinker after Senator PRYOR and I had been told almost certainly it was going to Little Rock.

In his final paragraph, he said, first, it is going to go to Tinker—no cost justification, no nothing. And about Pete Aldridge, who at that time was Under Secretary of the Air Force, and Don Latham, at that time was Assistant Secretary of Defense, Secretary Lehman said they "* * * do not agree with out conclusion." They are the people who will be charged with making the decision. "They correctly point out that new construction will be required to base the E-6A's at Tinker."

Here is a memo from Don Latham to John Lehman, Secretary of the Navy, and Pete Aldridge, Assistant Under Secretary of the Air Force: "Subject: E-6A basing at Tinker."

Here is Don Latham, Assistant Secretary of Defense, one of the two people in charge of making this decision. "I still suggest we strongly reconsider Little Rock."

Mr. President, I will not burden the record further with those documents. But I can tell you I have talked to some people at the Pentagon, and I talked with people who used to be at the Pentagon. They say if there ever was a decision that needed investigating, this one does. We are going to get a chance to do just that.

Mr. President, again, I want to thank all my colleagues for helping work this out. I live just across the river from my distinguished colleagues in Oklahoma. We have a lot of common interests there. Sometimes we are adversaries, but more often we are friends and colleagues in the same righteous causes.

But with that, Mr. President, I urge adoption of the amendment.

Ms. MIKULSKI address the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, just very briefly, I too would like to thank my colleagues for their cooperation and civility in addressing this. I would like to particularly thank the subcommittee chair of appropriations, the Senator from Tennessee, for his excellent work. His constituents and all of

America should know that as we carried on the behind-the-scenes discussion on this, he continually urged us to focus on not the politics of the issue, but the policy of this issue. And he continually urged us and prodded us to really continue to think about what would be in America's strategic interest. His own constituents should know of his patriotism and his hard work on this issue.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment (No. 2366) was agreed to.

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Oklahoma, as amended.

The amendment (No. 2365), as amended, was agreed to.

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

Mr. BUMPERS. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I wish to express my profound gratitude to the distinguished Senator from Maryland [Ms. MIKULSKI] for her very gracious and, I might say, overly generous remarks. I thank her.

AMENDMENT NO. 2367

Mr. SASSER. Mr. President, I send an amendment to the desk, on behalf of myself, Senator BRADLEY, and Senator GRAHAM, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. SASSER], for himself, Mr. BRADLEY, and Mr. GRAHAM proposes an amendment numbered 2367:

On page 16, strike out line 23 and all that follows through page 17, line 7, and insert in lieu thereof the following:

It is the sense of the Senate that during the Toronto Economic Summit, the President of the United States should consult with the leaders of allied countries on the impact on Western Security of tied and untied loans, trade credits, direct investments, joint ventures, lines of credit, and guarantees or other subsidies to the Soviet Union, Warsaw Pact countries, Cuba, Vietnam, Libya, or Nicaragua.

Mr. SASSER. Mr. President, the amendment I offer today, in concert with my distinguished friend and colleague from New Jersey [Mr. BRADLEY] is a sense-of-the-Senate resolution which urges the President, at the Toronto summit to be held next week, to table a proposal with our allies which seeks an end to the practice of providing untied, general-purpose loans and other practices to the Soviet Union and allies of the Soviet Union.

I want to address briefly the whole question of untied loans. Many banking institutions, commercial and governmental, in Japan, West Germany, and other allied nations, are providing billions of dollars in so-called untied loans to the Soviet Union. By "untied loans," we mean general-purpose loans that are made in cash for no specific purpose.

In 1986, the most recent year for which statistics are available, allies of the United States provided $19 billion in untied, general-purpose loans to the Soviet bloc.

These loans are pure cash, just handed over to the Soviets, without being tied to any specifc export activity or tied to any project, and often at very low interest rates.

It has been documented, for example, that during 1986, these untied loans were granted to the Soviet Union, Bulgaria, and Czechoslovakia at an interest rate of 7.5 percent—only one-eighth of 1 percent over the cost of the money that was loaned.

Many American farmers would have loved to obtain a 7.5-percent loan in 1986. What small businessperson, in 1986, would not have jumped at the chance to get a 7.5-percent loan?

Mr. President, during hearings before the Committee on Appropriations, the very able Secretary of Defense, Mr. Carlucci, testified that such loans can be, and indeed are being, easily diverted by the Soviets to purposes which are contrary to the security interests of the United States and contrary to the security interests of Western nations. Secretary Carlucci agreed that such activities, the lending of large amounts of cash for no specific purpose to the Soviet bloc, are adding to the defense burden that is being carried today by the United States in its effort to guarantee the security and defense of the free world.

It is well known that the Soviet Union is short of hard currency. Hard currency amounts to only about $30 billion a year in the Soviet economy, and they get much of their hard currency from the West, primarily from the sale of oil and gas and from the sale of arms. The Soviets are in the armaments business. They are arms merchants of some substantial magnitude. The hard currency they receive from the sale of oil and gas and arms barely covers the cost of imports that the Soviets wish to buy abroad and barely covers the servicing of Soviet external debt.

So the question comes, Mr. President: Do the Soviets get their hard currency in order to finance the external activities of the KGB, to provide Fidel Castro's Cuba with the billions of dollars of aid that goes to Cuba annually, to fuel the activities—and, I might say, the excesses—that occur in Nicaragua, and perhaps Vietnam and other areas around the world?

I submit that much of the currency utilized by the Soviets to further their military and political goals comes directly from the bankers of the Western World who are granting the Soviet Union these large sums, which are not tied to any commercial activity nor to any commercial endeavor.

I want to be clear: The amendment that I offered today, in conjunction with my distinguished friend, Senator BRADLEY, does not in any way call for economic warfare against the Soviet Union or any other Eastern bloc country. The purpose of this amendment is simply to urge our allies to stop providing financing which can be utilized and subverted for Soviet adventurism around the world.

I know that many of my colleagues and some in the administration, and indeed many around the country, may feel that this is not the proper time to offer such an amendment. After all, it can be argued, and I think with some persuasiveness, we have just passed the INF Treaty; the President has just had a very warm and friendly and, we hope, fruitful summit conference in Moscow with Mr. Gorbachev.

I take just the contrary view. I would say that this is just the time to offer the amendment I am offering today, urging our allies to cease and desist from this practice of untied loans. In the euphoria of the moment, in what some have characterized as the rebirth and resurrection of détente, we must not fail to recognize that the Soviet Union has not changed its ultimate goals. The Soviets are giving us substantial reason for optimism: optimism that there will be a lessening of tension; optimism that there are fundamental changes taking place in the Soviet Union which, hopefully, will be transferred to other Soviet-bloc nations; optimism that there will be a reduction, we hope, in the not-too-distant future in the tensions between the East and the West that fuel the exorbitant expenditure for weaponry on both sides of the bloc.

But we should not surrender simply to our hopes and to the feeling of euphoria and optimism that prevails now. We must realize that, even though the Soviets are talking a good line now, the proof must be in the pudding and there must be some concrete changes, some objective evidence that they are indeed changing in the field of military policy and in the area of Soviet adventurism around the world.

I do believe that we should support every contact with the Soviets that is mutually beneficial to the United States and to the Western World. But I would submit that providing untied loans from Western banks that could be used to fuel revolution, which could be used potentially to support terrorists, is not beneficial to the United States or the Western bloc and is not beneficial to lowering tensions be-

tween the Soviets and those in the free world.

I would submit that such practices can only serve to make the world a less stable place.

The loaning of billions of dollars to the Soviet Union with no restrictions, no strings, I think in the final analysis is a destabilizing act on the part of our Western allies.

Perhaps the most vexing concern of these united loans by our allies to the Soviets is that the more the West extends credit to the Soviets and to the Eastern bloc, the more leverage the Soviet Union will begin to exert over the West and certainly over Western banks.

I remember years ago a wise old business friend counseled me. He said, "Do not go to the bank and borrow $10,000. If you are going to borrow money, go to the bank and borrow $1 million."

He went on to say, "If you just borrow $10,000, the man who owns the bank thinks he can call your loan at any time and you are subject to pressure and indeed even ridicule on occasion, but if you owe the bank $1 million, then you are going to be welcomed at the bank as a friend because you owe the bank so much money that they feel they have to incur your good will and would be very unwilling to call a loan that they feel perhaps you might not be able to pay."

The point of the story is that you reach a point where the debtor can exert undue leverage over those who have extended credit.

So, the practices of our allies to extend billions of dollars in these untied loans to the Soviet Union is adding to the cost of the free world.

If our allies were serious about responding to the burden-sharing concerns of the Congress and the American people, they could give us a signal of their sincerity by stopping the practice of untied loans. That is the purpose of this amendment.

I have been pleased to work with the distinguished Senator from New Jersey, Mr. BRADLEY, who has taken a leadership role in the whole question of East-West finance and to expand the amendment to include trade credits, lines of credits, and other subsidies.

What we seek to do is to urge the administration to come up with a firm and consistent policy on these issues and to raise these issues as a matter of concern during the Toronto summit next week.

Mr. President, I yield the floor.

Mr. NICKLES. Mr. President, I wish to compliment my friend and colleague, Senator SASSER, for this sense-of-the-Senate resolution. I think he is bringing out some points that need to be brought before the Senate and also before the Toronto summit, so I compliment him. I ask unanimous consent to be made a cosponsor. We certainly have no objection on this side of the aisle.

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

Mr. BRADLEY. Mr. President, I am pleased to join with the distinguished Senator from Tennessee in offering this amendment. I believe this is a very important provision. It initiates a consultative process to develop a comprehensive rather than a unilateral approach toward the management of Western capital as a strategic asset in its dealings with the East. Today is a time of change in East-West relations. We have an unprecedented opportunity to lower tensions and reduce the risk of a confrontation that could lead to nuclear war. Mikhail Gorbachev is calling for systemic economic reform that, if implemented, could profoundly change the Soviet Union.

From the West's standpoint, the most important consideration is whether Soviet reform will lead to a shift of resources away from military pursuits and toward improving the standard of living of the Soviet people.

While these decisions will be made by the Soviets themselves, I believe the West has a new opportunity to nudge along the reform process. But we can do so only if we recognize and use our own economic vitality as a strategic asset. This means that an effective Western strategy must have an economic as well as a military component. That strategy must recognize that the unconditional and unquestioned availability of Western capital to adversaries can threaten Western security interests. It must recognize that Western capital can be used to finance military and political activities of our adversaries that add to Western defense burdens. It must recognize that access to Western capital can free up resources for military pursuits that otherwise would finance improvements in living standards in these countries. In sum, an effective strategy must recognize that without Western capital and technology, our adversaries can increase domestic investment and consumption only by reducing their military spending or through dramatic structural reform with gigantic efficiency gains.

But the United States must understand that such a strategy requires a coordinated effort on the part of the United States, Western Europe, and Japan. Piecemeal attempts to pressure the Soviets and Eastern Europe into allocating fewer resources to military pursuits are doomed to failure and risk dividing the West.

I congratulate the Senator from Tennessee for recognizing the critical relationship between economic policy and Western security interests and for urging the President to work with allied governments in developing a coordinated Western approach to providing loans, credits, direct investments, and other means of access to international capital markets to the U.S.S.R., Eastern Europe, Cuba, Vietnam, Libya, and Nicaragua.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Rhode Island [Mr. PELL] is necessarily absent.

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

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. MCCAIN] and the Senator from Utah [Mr. STAFFORD] are necessarily absent.

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

The result was announced—yeas 96, nays 0, as follows:

YEAS—96

Adams	Garn	Mitchell
Armstrong	Glenn	Moynihan
Baucus	Gore	Murkowski
Bentsen	Graham	Nickles
Bingaman	Gramm	Nunn
Bond	Grassley	Packwood
Boren	Harkin	Pressler
Boschwitz	Hatch	Proxmire
Bradley	Hatfield	Pryor
Breaux	Hecht	Quayle
Bumpers	Heflin	Reid
Burdick	Heinz	Riegle
Byrd	Helms	Rockefeller
Chafee	Hollings	Roth
Chiles	Humphrey	Rudman
Cochran	Inouye	Sanford
Cohen	Johnston	Sarbanes
Conrad	Karnes	Sasser
Cranston	Kassebaum	Shelby
D'Amato	Kasten	Simon
Danforth	Kennedy	Simpson
Daschle	Kerry	Specter
DeConcini	Lautenberg	Stennis
Dixon	Leahy	Stevens
Dodd	Levin	Symms
Dole	Lugar	Thurmond
Domenici	Matsunaga	Trible
Durenberger	McClure	Wallop
Evans	McConnell	Warner
Exon	Melcher	Weicker
Ford	Metzenbaum	Wilson
Fowler	Mikulski	Wirth

NOT VOTING—4

Biden	Pell
McCain	Stafford

So the amendment (No. 2367) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2368

(Purpose: To deny funds for construction projects that use the services of a contractor or subcontractor of a foreign country that denies fair and equitable access to United States products and services in construction projects in that foreign country)

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

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 2368.

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

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

The amendment is as follows:

At the end of the bill, add the following:

SEC. ——. (a)(1) None of the funds appropriated by this Act may be obligated or expended to enter into any contract for the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any supplier of products of a foreign country, during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of this section.

(2) The President or the head of a Federal agency administering the funds for the construction, alteration, or repair may waive the restrictions of paragraph (1) of this subsection with respect to an individual contract if the President or the head of such agency determines that such action is necessary for the public interest. The authority of the President or the head of a Federal agency under this paragraph may not be delegated. The President or the head of a Federal agency waiving such restrictions shall, within 10 days, publish a notice thereof in the Federal Register describing in detail the contract involved and the reason for granting the waiver.

(b)(1) Not later than 30 days after the date of enactment of this Act, the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information or evidence concerning discrimination in construction projects against United States products and services that are available.

(c)(1) The United States Trade Representative shall maintain a list of each foreign country which—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) Any foreign country that is initially listed or that is added to the list maintained under paragraph (1) shall remain on the list until—

(A) such country removes the barriers in construction projects to United States products and services;

(B) such country submits to the United States Trade Representative evidence demonstrating that such barriers have been removed; and

(C) the United States Trade Representative conducts an investigation to verify independently that such barriers have been removed and submits, at least 30 days before granting any such waiver, a report to each House of the Congress identifying the barriers and describing the actions taken to remove them.

(3) The United States Trade Representative shall publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made after publication of the original list.

(d) For purposes of this section—

(1) The term "foreign country" includes any foreign instrumentality. Each territory or possession of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

(2) Any contractor or subcontractor that is a citizen or national of a foreign country, or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a contractor or subcontractor of such foreign country.

(3) Subject to paragraph (4), any product that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

(4) The restrictions of subsection (a)(1) shall not prohibit the use, in the construction, alteration, or repair of a public building or public work, of vehicles or construction equipment of a foreign country.

(5) The terms "contractor" and "subcontractor" includes any person performing any architectural, engineering, or other services directly related to the preparation for or performance of the construction, alteration, or repair.

(e) Paragraph (a)(1) of this section shall not apply to contracts entered into prior to the date of enactment of this Act.

(f) The provisions of this section are in addition to, and do not limit or supersede, any other restrictions contained in any other Federal law.

Mr. MURKOWSKI. Mr. President, a similar amendment was offered last year, applying to all federally funded projects included in the continuing resolution for fiscal year 1988. It was passed by the Senate as part of the Milcon appropriations bill.

What this does, Mr. President, is simply address the issue of reciprocity in public works and construction projects, military construction, and so forth. It states that if a country maintains its markets open to U.S. participation, then we will continue reciprocity. It is an issue that has been discussed with the majority and minority, the Senator from Tennessee and Senator from Pennsylvania. I do not believe there is any objection to it at this time.

Mr. SASSER. Mr. President, the Senator from Alaska is correct. We will accept his amendment.

Mr. SPECTER. Mr. President, I concur with what the distinguished Senator from Alaska said. I think it is a good amendment and goes to a very important issue on reciprocity. I am pleased to support it and indicate, in my position as ranking member, acceptance of it.

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

The amendment (No. 2368) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I believe that concludes all known amendments to this military construction bill. I want to thank all Senators for their help and cooperation. Again, I want to especially thank the ranking member for his support during the consideration.

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

The bill (H.R. 4586) was ordered to a third reading and was read the third time.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. If there is no further debate, the question is on the passage of the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The Senator from New Mexico.

Mr. DOMENICI. I rise in support of the military construction bill as reported. It is my understanding, with reference to the allocation to this committee, this bill is under the allocation by a substantial amount of money but I also understand that the counterpart House bill and this bill have a significant number of disparities in the hundreds of millions of dollars.

What I gather is that it is the intention to go to conference and when the differences are resolved we will probably be close to the economic summit agreement with reference to the funding of this function.

I only state this because obviously there is a standing understanding that we will not have supplementals unless they are in an emergency and I understand from the chairman that that is not why this is underfunded. It is not contemplated.

I have a statement explaining that in more detail.

Mr. President, I rise in support of the military construction appropriations bill reported by the Senate Appropriations Committee.

I would like to commend my distinguished colleague, the Senator from Tennessee, and the members of the subcommittee, for producing a bill that is consistent with the budget resolution.

The bill as reported provides $8.5 billion in budget authority and $2.5 billion in new outlays for the Department of Defense to be used for military construction and family housing in fiscal year 1989.

Taking into account outlays from prior-year budget authority and other adjustments, the Military Construction Subcommittee is well within its section 302(b) allocation.

I would note that the subcommittee has withheld appropriations of $250 million to be used for supplementals to support projects deferred by the committee for later action and to provide flexibility in resolving differences between the House and Senate bills in conference.

I anticipate that when the conference on this bill is completed, the final outcome will be fully consistent with the budget summit agreement for function 050 defense spending associated with the subcommittee.

I would simply remind my colleagues that as part of the budget summit agreement, the President and the Congress agreed that they will request no supplementals except in cases of dire emergency.

I congratulate the chairman and ranking member on this bill and thank them for the good work they did and the consideration given to the New Mexico projects contained in it.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I compliment the managers of their adept and skillful handling of this bill through the process of hearings, markups, and management on the floor.

I also congratulate them, in particular, on the skillful handling of the amendment which was very controversial.

I am going back home tonight and read the old story of Solomon, how he had to settle a matter. I am not so sure they did not even exceed him in this instance.

I suggest the absence of a quorum. It is for the purpose of alerting Senators that a 15-minute rollcall vote is about to begin.

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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.

The question occurs on the bill, as amended. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

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

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. MCCAIN] and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona [Mr. MCCAIN] would vote "yea."

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

The result was announced—yeas 93, nays 2, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—93

Adams	D'Amato	Harkin
Armstrong	Danforth	Hatch
Baucus	Daschle	Hatfield
Bentsen	DeConcini	Hecht
Bingaman	Dixon	Heflin
Bond	Dodd	Heinz
Boren	Dole	Helms
Boschwitz	Domenici	Hollings
Bradley	Durenberger	Inouye
Breaux	Evans	Karnes
Bumpers	Exon	Kassebaum
Burdick	Ford	Kasten
Byrd	Fowler	Kennedy
Chafee	Garn	Kerry
Chiles	Glenn	Lautenberg
Cochran	Gore	Leahy
Cohen	Graham	Levin
Conrad	Gramm	Lugar
Cranston	Grassley	Matsunaga
McClure	Pryor	Simpson
McConnell	Quayle	Specter
Melcher	Reid	Stafford
Metzenbaum	Riegle	Stennis
Mikulski	Rockefeller	Stevens
Mitchell	Roth	Symms
Moynihan	Rudman	Thurmond
Murkowski	Sanford	Trible
Nickles	Sarbanes	Wallop
Nunn	Sasser	Warner
Packwood	Shelby	Weicker
Pressler	Simon	Wirth

NAYS—2

Humphrey	Proxmire

NOT VOTING—5

Biden	McCain	Wilson
Johnston	Pell	

So the bill (H.R. 4586), as amended, passed.

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

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

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I move that the Senate insist on its amendments to the bill H.R. 4586.

The PRESIDING OFFICER. If the Senator will suspend, the Senate is not in order. The Senator from Tennessee is entitled to be heard.

The Senator from Tennessee.

Mr. SASSER. I thank the Chair.

Mr. President, I move that the Senate insist on its amendments to the bill H.R. 4586, and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. SHELBY) appointed, Mr. SASSER, Mr. INOUYE, Mr. PROXMIRE, Mr. REID, Mr. STENNIS, Mr. SPECTER, Mr. GARN, Mr. STEVENS, and Mr. HATFIELD conferees on the part of the Senate.

Mr. SASSER. Mr. President, I thank the Chair.

MOTION TO PROCEED TO THE CONSIDERATION OF H.R. 3251

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Ms. MIKULSKI). The majority leader.

Mr. BYRD. Madam President, the pending business before the Senate is the welfare reform bill. But as I understand it the discussions are continuing with respect to working out some matters in relation to that bill.

So that the Senate will not be in a quorum or recess, if we can I would like for the Senate to go to another bill so that we could continue our multiple-track programs. We are making good progress. I do not know how much progress will be made on this particular motion, but I would like to try to take up the bill H.R. 3251. That is Calendar Order No. 730 on the calendar, an act to require the Secretary of the Treasury to mint coins in com-

memoration of the bicentennial of the United States Congress.

Madam President, I am going to ask unanimous consent, first of all, that the Senate proceed to the immediate consideration of Calendar Order No. 730. I ask unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. Yes. Madam President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Madam President, I will shortly yield the floor. But I want to make the motion to proceed, and I do now make the motion to proceed. I understand the concerns of the Senators who are objecting at the moment. The motion to proceed is debatable of course. But I do feel that I must make that motion. The chairman of the committee, Mr. PROXMIRE, is here, Mr. GARN as I understand it is the ranking member and he will be here shortly. They both feel that we should proceed if possible to take up that bill. I likewise feel the same way. But I understand the rights of all Senators and they will be respected.

I move therefore, Madam President, that the Senate proceed to the consideration of Calendar Order No. 730, H.R. 3251.

The PRESIDING OFFICER. The question is on the motion to proceed.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Madam President, I will resist the motion to proceed not because of the matter which is being called before us which is a relatively noncontroversial coin bill but rather because of the amendment which I anticipate will be added to this legislation and the significance of that amendment in terms of our ability to deal with a very serious national issue, the state of our thrift industry. Essentially, Madam President, what I believe the procedure is intended to be is an amendment to be offered to this bill which will provide for an extension of an existing moratorium prohibiting institutions which are currently insured by the FSLIC, or Federal Savings and Loan Insurance Corporation, from moving as they would otherwise be eligible to do to be insured by the insurance agency for commercial banks, the FDIC.

Madam President, on its own it is not a bad idea to extend that moratorium so that we will avoid a run of institutions from the FSLIC into the FDIC. My concern is that it is that extension of the moratorium bill that is the only vehicle likely to be available to this Congress before we adjourn in October to give us a means of dealing with the more fundamental problems of the thrift industry.

Madam President, at this time I would like to ask unanimous consent to have printed in the RECORD an article from the current June 20, 1988 issue of Newsweek on "The Thrift Crisis, Going for Broke".

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

THE THRIFT CRISIS, GOING FOR BROKE

This could be the stuff of financial panic. Every week or so, somewhere in the nation, another troubled savings and loan association is either liquidated or taken over by a stronger institution. Remarkably, American savers seem to be taking it all in stride. When federal regulators closed down American Diversified Savings Bank and North America Savings and Loan Association in southern California last week, depositors simply reclaimed $1.35 billion of their money—the largest cash payoff in U.S. banking history. Depositor Joan Steen, a Huntington Beach marketing consultant, got to her thrift 45 minutes before its 9 a.m. opening; by 9:45 she was on her way out with a check for $90,000 tucked in her purse. "I chuckled to myself about it," she says. "They were not only validating parking tickets, they were also serving coffee and doughnuts."

Savers can afford to be calm, since accounts of up to $100,000 are guaranteed by the federal government. The nervous flutters are felt at the thrifts themselves and at the Federal Home Loan Bank Board, which regulates them. About one in six of the country's more than 3,100 thrifts is technically insolvent and about one in three is losing money. The losses are huge: a total of $13.4 billion in red ink was spilled in 1987, more than double the $6.6 billion in earnings reported by the profitable S&L's.

Many of the losers have little hope of ever recovering their health—experts refer to them as the "walking dead." That's especially true in Texas, where a number of thrifts were run into the ground by inept or even crooked operators who got rich on questionable schemes (page 42). Nationwide, the plight of the S&L's will get still worse if forecasts of rising interest rates and then a recession in 1989 come true. The only solution for most of these shaky thrifts is a government takeover. But current bailout funds, provided by the Federal Savings and Loan Insurance Corp., may be far from adequate. And while they struggle to survive, the troubled thrifts continue to lose money. "The problems in the S&L industry haven't been this widespread since the 1930s," says Wall Street analyst Henry Peltz of Keefe, Bruyette & Woods.

In the case of the two California thrifts that failed last week, FSLIC is paying $1.1 billion to American Diversified's depositors and an additional $209 million to North America's. (Regulators hope to reduce their total losses to $931 million through the sale of the thrifts' assets.) The two institutions, which shared the same sleek office building in Costa Mesa, Calif., typify much of what has gone wrong in the savings business: inexperienced management, freewheeling investment policies and overblown interest rates.

American Diversified was run by Ranbir Sahni, a former pilot in the Indian Air Force. North America was owned by Duayne Christensen, a dentist. Both thrifts solicited deposits by telephone, offering interest rates of more than 8.5 percent as a lure. FSLIC took over American Diversified in 1986, accusing Sahni of mismanagement; he denied the charges and said the government didn't understand his strategy. Among Sahni's investments: wind farms and ethanol plants. At one point, the bank board declared 98 percent of North America's loans were bad; when regulators took over in 1987, Christensen was killed in a car crash the same day. FSLIC is now seeking a fraud judgment against his estate and a former associate (who denied the charges).

PONZI SCHEME

Blame for the crisis may lie partly with Congress. In 1982 it deregulated thrifts, letting them diversify beyond the home-mortgage business. The move seemed reasonable: the thrifts were in trouble then because the interest they paid to attract deposits exceeded what they were earning on their mortgages. In theory, income from other types of business would put them back in the black. The states deregulated, too, notably Texas and California, where most of the failures are concentrated. In Texas the situation was exacerbated by the plight of the oil industry: when the price of oil plummeted, taking real estate with it, many Texas S&L's were stuck hopelessly in the red.

Last year Congress tried again, authorizing FSLIC to sell $10.8 billion in new bonds to renew the rescue fund. It wasn't enough. Without adequate cash to liquidate losers or get them in shape for a sale or merger, FSLIC had no choice but to take over thrifts or leave them in the hands of the same managers who led them astray. And thanks to federal deposit insurance, even the worst losers usually managed to stay afloat by offering higher interest rates than solvent thrifts did. Crafty savers knew the lofty rates reflected financial weakness, but they also knew that each account was guaranteed by the government. Analyst Bert Ely says some S&L's are running, in effect, "a government-sanctioned Ponzi scheme," soliciting new deposits to pay interest on existing ones.

Joan Steen was one of these "rate chasers." Her account at North America was earning about 1 percentage point more than average, but then she switched to American Diversified last month to get a still better rate. John Woolley an Orange County Superior Court judge, was playing the same game on behalf of his 73-year-old mother. "She lives off the interest, so you try to get the most you can," he says. "Anybody would."

The regulators are helpless to stop thrift failures unless they can raise enough money. Unfortunately, nobody really knows how much is needed. FSLIC appears to have sufficient funds to dispose of the 259 "hopelessly insolvent" thrifts on its books, a job expected to cost $17.4 billion. But whether it can handle the other 256 thrifts likely to fall into its lap is another question. FSLIC says the second tier of cases can be settled for $5.3 billion (the thrifts in deepest trouble are being dealt with first, so the second phase will cost less). FHLBB chairman M. Danny Wall says "There is no question we have the resources" to deal with all the problem thrifts by the end of 1991.

HUGE SHORTFALL

The General Accounting Office, however, claims the second phase might cost as much as $19 billion. Among other things, GAO says the insurance agency overestimated its revenues, which are based in part on S&L deposits. FSLIC says deposits will rise at

their historic rate of 7 percent a year, even though growth has missed that mark in each of the past three years. GAO also says that FSLIC underestimates the number of thrifts it will have to liquidate. Eugene Sherman, chief economist for the Federal Home Loan Bank Board of New York, says the shortfall could run anywhere from $10 billion to $25 billion.

Alarmed by that crushing load, some analysts suggest that FSLIC boost the rescue kitty by merging with the Federal Deposit Insurance Corp., which insures accounts at commercial banks. That strikes most experts as being basically unfair and unworkable, however. Banks, too, are now failing at a higher rate than at any time since the Depression, thanks to iffy Third World and commercial real-estate loans, and the FDIC may not have much money to spare. Who will pay for the S&L bailout? "It is ultimately going to have to come from the taxpayer," says Sherman. "There's no way around it." But Washington wants to cut federal spending, not increase it. Key congressional figures now admit more help is needed, but the problem is so sticky it probably will be passed on to the next administration and Congress. Meanwhile, the cost of saving the S&L's keeps rising—just like compound interest.

Mr. GRAHAM. Madam President, the concluding paragraph of that article states:

Key congressional figures now admit more help is needed, but the problem is so sticky it probably will be passed on to the next administration and Congress. Meanwhile, the cost of saving the S&L's keeps rising—just like compound interest.

Madam President, what I believe we ought to do is not consider this legislation to extend the moratorium at this time, but rather to present to the Senate and to our colleagues in the House of Representatives a more comprehensive set of proposals which at least will suture the hemorrhaging which is currently going on in the thrift industry, an industry behind which every deposit of up to $100,000 the Federal Government has placed its full faith and credit.

We had testimony recently before the committee which estimated that the current deficit in the insurance fund ranges from a low estimate of $20 billion to a high estimate of $60 billion, and projections that those numbers will escalate if this problem is not dealt with.

There is going to be a simple solution. I believe, however, Madam President, that there are some steps that we could take particularly removing the current incentive of the $100,000 insurance, and the tremendous range of powers available that these institutions have afforded them—the current incentive which is to speculate, to engage in risky activities, to understand that the way in which the industry is currently structured profits can be profitized, losses will be socialized, through the FSLIC system to the taxpayers of this country.

I do not believe that this Congress can stand by and see this situation continue to deteriorate. I believe we should not proceed to this legislation today, that we should readdress this issue on an expedited basis and that we can present to this Senate a more comprehensive set of proposals that will give us some hope that at least the scale of the problem will be contained.

Thank you, Madam President.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Madam President, I commend my distinguished friend from Florida for his statement today. And I join with him in expressing grave reservations about moving forward today on this so-called coin bill.

He is quite correct that this may very well be the last vehicle moving through this body this year in which we would be able to deal with the whole problem of the thrift industry.

We have heard testimony before the Banking Committee to the effect that the liability of the Federal Savings and Loan Insurance Corporation could range anywhere from $30 billion to a figure in excess of $60 billion. The present assets of the Federal Savings and Loan Insurance Corporation, after the recent liquidation of a large S&L in California and a small one, stand at about $1.5 billion.

The full faith and credit of the U.S. Government—indeed, the full faith and credit of the taxpayers of this country—stand behind FSLIC for deposits of up to $100,000, as the Senate from Florida indicated. Ultimately, this will be or could be a liability that would be imposed on the taxpayers of this country.

I feel strongly that before we get into the issue today of extending the moratorium which presently prevents financial institutions from transferring from the Federal Savings and Loan Insurance Corporation to the Federal Depositors Corporation, this matter should be discussed fully in the Banking Committee. I believe that we might be better served and the public interest might be better served if there were an in-dept discussion in the Banking Committee, and perhaps even more testimony was taken. I believe that should be done before we move today to extend this moratorium.

I might say, though, that there are other issues involved as well. First, there are some institutions across this country, in the thrift industry, that have bargained in good faith in reliance on this moratorium expiring. Should we consider this today and, most important, should the moratorium be extended today, this would do damage to those institutions that have relied in good faith on the fact that the moratorium would not be extended. Indeed, one in my State has relied in good faith on statements made by the staff of the Senate Banking Committee that the moratorium will not be extended, or indicating how they might conform with their desire to move from FSLIC into the FDIC, in the event the moratorium was extended.

So, this is a matter of some considerable moment—not just for those in the thrift industry, but of considerable moment to the overall economy of this country.

I am very concerned when I hear testimony that the liability of FSLIC may be as high as $60 billion, when their assets today stand at $1.5 billion. I am very concerned when I hear testimony that perhaps we really do not know what the liability of FSLIC is. I am very concerned when I hear stories that 70 banks could fail in one State this year, when we know that the entire assets of the FDIC stand at somewhere in the neighborhood of $17 billion.

In my judgment, we could very well be on the edge of a crisis in the financial structure of this country in the not-too-distant future. We may very well find ourselves in need of a vehicle to move such legislation through here expeditiously, to deal with that crisis.

For all those reasons, Madam President, I think the move today to deal with the whole question of the moratorium on this particular bill is ill-considered. Most important, I think the condition of FSLIC should be considered in the Senate Banking Committee. The situation, we are advised, is becoming worse every day.

For those reasons, Madam President, I rise my voice in support of the Senator from Florida, in his objection to moving to proceed to this bill today.

Mr. D'AMATO. Madam President, I, too, am tremendously concerned with the problem of adequate capital in the thrift industry, in FSLIC.

It seems to me that we can do a number of things. We can help exacerbate that problem and I think we have unintentionally done exactly that. Were it to be known, the fact is that FDIC and those depository institutions which have insurance as it relates to capital, as it relates to potential liabilities, as it relates to actual value, certainly precarious in regard to that value—it may be shocking to some; and I am not going to ask for the General Accounting Office to make a study. I think that if it were made, it would find that their situation, as it relates to outstanding Third World debts, outstanding obligations that will never be paid, would put us in a substantially negative balance—substantially—well over the asset structure of the institutions themselves, and certainly dwarfing the $17 billion that FSLIC has.

I find it rather difficult to believe that, when we have at least $1.5 billion to $2 billion that can be added to the capital of thrift institutions—the area that my colleagues have rightfully said is in deep trouble—we could not put on this floor and pass a simple bill that literally deals with one provision that places the restriction on the sale of preferred stock of Freddie Mac. That provision says that the stock can only be sold to thrift institutions.

There are 15 million shares of stock that are trading at least 100 points below value which are owned by 2,900 of the 3,100 thrifts that my colleagues on the floor complain are in dire consequences. By lifting this restriction and by saying that there should be no impediment to the sale of those 15 million shares of preferred stock, we could pump into these banks at least $1.5 billion.

Let me make a point:

You can say, "Well, that is easy. Senator, how did you come to that?"

That is a minimum of $1½ billion, maybe $2 billion.

This stock has been trading historically in the area of 42 to 60 points. When last week we offered a bill that would free up and let this stock be traded on the open market, the shares went to, I understand, above 60; some tell me they have been trading between 80 and 90 just on the possibility of this restriction taking place.

The shares pay $18 as a dividend. There would not be a money manager in America who would not at the value of $100 be willing to buy these shares and that would give him a return of 18 percent. That is pretty good. And there probably would not be too many at $125 who would not buy this stock.

But the fact of the matter is that for whatever reason we have not had the kind of attitude that says, "Let's do this and let's do it now."

The board that controls this has not come forth, although the President of Freddie Mac has said this should be done. It is an immediate infusion of a $1.5 billion to $2 billion into these institutions.

There is absolutely no logical reason except for the fact that some people in their own way would like to maybe use this $1.5 billion to $2 billion in some kind of grand scheme, instead of allowing those people who own the stock now, these thrift institutions, to get the real value of what this stock is.

I would like to know, and I address the question to the chairman and anybody else managing the bill, why it is that we cannot have consideration, have this as an amendment to this bill, and have it go through? It should go through.

And do you want to know something? I do not hold the Home Loan Bank Board as the sole criteria for making judgments. We are elected here and I have to say let the free capital system work. Here is a stock that is tremendously undervalued as a result of the restriction that says it can only be traded among the institutions. If we care for those institutions I suggest that we eliminate that restriction. Let that stock seek its value. Let those institutions benefit by $1½ billion to $2 billion. That is a lot of money. But who are we to prevent that?

Mr. PROXMIRE. Madam President, will the Senator yield?

Mr. D'AMATO. I yield for a question, certainly.

Mr. PROXMIRE. I thought the Senator was asking me a question.

Mr. D'AMATO. Yes; I would like to propose that question to the chairman, Chairman PROXMIRE. If it does not seem an incredible inconsistency to prevent these very thrifts that are experiencing the difficulties from allowing the free market to work in this system.

Mr. PROXMIRE. May I say to my good friend, I think there is considerable merit in his suggestion. I might very well favor it, but I think we should have hearings on it. It is controversial. There are people who dispute the views of the distinguished Senator from New York. We have not had 1 minute of hearings on the issue, and I will be delighted as chairman of the committee to move ahead and have those hearings. But until we have them, until we have a record, until we know precisely what the situation is on the basis of expert testimony, I think we would be irresponsible to adopt the proposal, although we all have great faith, admiration, and respect for the Senator from New York.

Mr. D'AMATO. I would say that while I have great respect for my friend and colleague, the chairman of the Banking Committee, I have discussed it with a number of people, and it simply seems to me that there is no really good reason why we would not want to lift this restriction and if somebody can offer me a reason why it should not be done I might be willing to reconsider.

I would like to know why it is, what useful purpose which restricts——

Mr. PROXMIRE. I would be happy to answer the distinguished Senator from New York. The fact is that the Federal Home Loan Bank Board, which is eminently familiar with this area, opposes the proposal and says it would be a mistake. We think we ought to give the Bank Board a chance to come in and testify before the Senate takes up the proposal. We have not heard from them, except their objections. We have not heard a detailed explanation on the record of why they are opposed to it. I think we should do that. I think it would be a mistake for us to run roughshod over the Bank Board on this issue.

Mr. D'AMATO. Let me respond, if I might: the fact is that this is a Bank Board regulation. I would not expect the Bank Board to say, "Yes, this is a regulation that doesn't make sense."

I want to tell you it does not make sense to restrict this stock which is nonvoting, which is preferred stock, which pays a dividend of $18, which has historically traded in the area of $40 to $42. By the way, it has gone up to $82 and already created $300 million in additional capital for these banks.

Mr. PROXMIRE. What is wrong with giving the Bank Board its day in court? We can do that now.

Mr. D'AMATO. When will the day be, how will it be, when will we hold it? Will it be one of these ad infinitum kinds of situations, because I do not want to lend myself to that, to be very candid.

Mr. PROXMIRE. No; we are not seeking to delay it. We want to have the record before us; we want to know what we are doing.

Mr. GARN. Madam President, if the Senator will yield for a comment, I will interject myself into the middle of this and only correct the chairman slightly.

The Federal Home Loan Bank Board is not necessarily against this. They are considering changes in the regulation and have taken no position for or against it.

But I would say to my colleague from New York that I may agree with what he is saying. In fact, I tend in that direction. But I certainly do not think it is wise to proceed today on this bill without having had the opportunity to hear the opposing viewpoints.

I would expect in the final analysis to probably be in favor of making the stock public, but I do not think we can deal with an issue that is this important and this complex on a bill that surprised us all. In fact, that is why I was late getting here and have not even made an opening statement on the bill yet.

I certainly would support the chairman in scheduling hearings as soon as possible, and I see no reason why we could not schedule those hearings and after the hearings are completed schedule a markup on the bill introduced by the Senator from New York. But I am intruding on the Senator's time now. I will expand more fully on the bill before us and what we are attempting to do today when I get a chance to make my opening statement.

Mr. D'AMATO. Madam President, I feel very strongly, and there is absolutely no reason to continue a policy which is flawed.

There is absolutely no explanation and nobody can come to this floor, I do not believe, with any kind of state-

ment that says there is something wrong with this.

There is something wrong with the regulation that restricts the trading and the sale of this stock at the present time to the thrift institutions.

Indeed, the National Council on Savings Institutions supports this bill. The U.S. League, although it has not yet taken a firm position, seems to be coming out as it relates to positive support for this bill.

I am not opposed to getting the view of the Federal Home Loan Bank Board, and I have already gotten some kind of hint that this amendment is technically flawed. It is a very, very, very simple amendment. It says that section 306(f) of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end of that section the following: The board shall remove the ownership restrictions placed on nonvoting preferred stock issued on December 31, 1984.

This is a stock that is paying $18 a share dividend that is being traded at $60. It should be trading at $180, but as a result of this restriction the only people who can buy it are member banks and you have 2,900 out of the 3,100.

Let me tell you: we have enough very smart, sophisticated lawyers right here on this floor who are familiar with this who can say, "Senator, here is the technical deficiency."

Give me the deficiency. Do we really have to hear the expert testimony of the Bank Board to know whether or not we should be doing this or not?

Instead of denigrating the FSLIC, instead of talking about the deficiencies that exist, instead of creating more in the way of fear and trepidation, I would suggest to you that is exactly what has been going on at the Banking Committee hearings, "Oh, get a new GAO study—60 billion, 80 billion, 120 billion."

As the value of the land goes up, the deficit goes down as it relates to what might be owed. If energy prices move up and those areas become stronger, why it goes down.

I dare you to do the same thing with the FDIC. I dare you to do it with the foreign loans that we owe.

Do you want to create a crisis in this country? It is based on faith. It is based on this body and the Congress having the ability to understand our banking system is one that, yes, we are going to support, and we do not need the kinds of people who rush to the floor and say, "I am opposed to the bailout" because you are going to be bailing them out if indeed circumstances create that.

And so, while I want to be cooperative, I have not had the kind of incentive placed before the Senator as it relates to a time certain for a hearing and moving this bill. As a matter of fact, I have heard "Well, we will hold a hearing; I might be supportive," et cetera.

I would like to know—we have very distinguished counsel here on this floor—where is the technical deficiency? There may be one. There may be. I am willing to modify it. And, indeed, if this bill comes into fruition and frees up maybe $2 billion or more for these ailing institutions to utilize, I would like to know what is wrong with that. Certainly there is no one who can personally profit except those institutions who own the stocks. And there are 3,100 of them who have the potential. And when we lift that cap up, let that free enterprise system that I have heard the chairman of the Banking Committee speak about so often come into fruition. And if you get an increase of $1 billion or $2 billion as it relates to the capital that these institutions hold, it is that much less, if indeed the direct consequences come, that the taxpayer has to put into the system.

Mr. PROXMIRE addressed the Chair.

Mr. D'AMATO. I am willing to respond.

Mr. PROXMIRE. I thought the Senator had yielded the floor.

Mr. D'AMATO. I yield the floor. I intend to offer the amendment, unless there can be some manner of dealing with this.

Mr. PROXMIRE. Madam President, I think so far neither the manager of the bill nor the Republican manager has had an opportunity to speak at all on this bill except in response to questions directed to us. So I would appreciate it if I could speak briefly and if Senator GARN could have an opportunity to speak.

First, let me say to my friend from New York, that if he will defer offering his amendment today I can pledge that we will have hearings within 2 weeks and a markup within 4 weeks on this proposal.

Having said that, let me just say a word first about the underlying coin bill. This is a bill that would authorize the mint to strike commemorative coins to honor the bicentennial of the Congress. This bill was introduced in the House by Representative FASCELL and was passed by the full House last September, nearly a year ago.

Many people do not realize that our Government did not actually begin under the Constitution until Congress assembled on March 4, 1789. The bill before us would authorize $5 gold pieces, $1 silver pieces, and 50-cent pieces in commemoration of that event to be issued in 1989. There will be no net cost to the Government for this program. All proceeds from the surcharges collected from the sale of these coins will be deposited in the general fund of the Treasury and be used to reduce the national debt.

Now, let me say something about the amendment which Senator GARN and I will offer to the bill to provide for a 1-year extension of the moratorium on thrift institutions withdrawing from the FSLIC.

Madam President, last year, the Congress authorized the Federal Savings and Loan Insurance Corporation to borrow $10.8 billion to close insolvent savings and loan associations. The borrowing would take place, we understood, over 3 years or so.

At that time, the Congress imposed a 1-year moratorium on savings and loan associations leaving the Federal Savings and Loan Insurance Corporation. That moratorium expires on August 10, less than 2 months from now.

Several weeks ago, the chairman of the Home Loan Bank Board requested a 1-year extension of the moratorium. Madam President, extension of the moratorium is critical, essential, to preserve the finances of the Federal Savings and Loan Insurance Corporation. Otherwise, the healthy savings and loans will leave the system and the taxpayer will be stuck with the bill for closing the insolvent S&L's. It is urgent that we act today before we are faced with pressure from many institutions who will clamor for special exceptions from the moratorium. Once we make a single exception, we will open the floodgates to dozens of institutions' demanding similar treatment. We have already seen how requests for exceptions were made on the floor before the managers could even make their opening statements.

Extending the moratorium for 1 year will give the next Congress and the next administration a chance to consider a solution to the thrift problem in an orderly way.

Madam President, this is a grave serious problem. Experts testifying before the committee have estimated that the cost of rescuing the thrifts at from $26 billion to $64 billion—not million—$64 billion, an enormous sum. And, of course, the cost could go higher.

The Senator from Florida put in the RECORD an excellent article from Newsweek. I put into the RECORD on Monday an article from the New York Times, one of the best articles analyzing a financial situation that I have read in the 30 years I have been here. I put that in on Monday. I spoke about the issue at some length yesterday and on Friday.

I am well aware, as is the distinguished Senator from Utah, of the problems of the Federal Savings and Loan Insurance Corporation.

Madam President, this is something that we need to consider in detail. The prospects for enacting a comprehensive bill to solve these problems by

August 10 are nil, zero, zip. It isn't going to happen.

On the other hand, we simply have to extend the moratorium, because if we do not FSLIC will be in very serious trouble.

All of the people who have spoken so far are on the Banking Committee. We are all anxious to move. I think we will have further hearings and markup sessions. We'll act on the distinguished Senator from New York's proposal.

But I think we should do so with all the evidence before us. It is a very, very big problem for us. I cannot think of anything more difficult than $60 billion, or whatever it is, hit on our Treasury coming on top of our enormous deficits and huge national debt.

Madam President, I yield the floor.

Mr. GARN. Madam President, I am entirely sympathetic with the Senator from New York and others who wish to attack amendments to this coinage bill. I think it is important that our colleagues understand the background of why Chairman PROXMIRE and I are asking that this moratorium to be extended for 1 year with no changes whatsoever. It is a simple change of the date, nothing else, to the moratorium provision that was passed last year.

In order to make my colleagues aware of how important it is that this moratorium be extended, in the spring of 1986, I introduced a comprehensive banking bill. I felt very strongly about passing that particular bill. Chairman PROXMIRE, then the ranking Democrat on the committee, supported me in that effort.

Part of that comprehensive bill was a provision to recapitalize FSLIC to the tune of $15 billion. And, mind you, that was 2 years ago. We had figures at that time that indicated that FSLIC was losing millions every day, including Saturdays and Sundays 365 days a year. All of the regulators and the Reagan administration were pushing me to back off my comprehensive bill and just go with FSLIC recap.

Finally, in the summer, we all agreed that the bill would continue to drag on through the end of the Congress, and even if it did pass the Senate it would probably have great difficulty passing the House of Representatives. This is exactly what is happening once again with Chairman PROXMIRE'S comprehensive banking bill this year, since the House has not yet acted on it even though it has been several months since we did.

So I made a decision in 1986 to withdraw the entire comprehensive banking bill and simply go with a $15 billion recap of FSLIC.

In early October 1986, the Senate passed that recapitalization. But the House of Representatives refused to consider it unless we added to it a housing authorization bill. That was not possible in the closing days of the session, to have that even considered, and so we had to give up on FLSIC recap because of the House of Representatives.

To make matters worse, the House of Representatives was so irresponsible, at least in this Senator's opinion, that although the emergency provisions of Garn-St Germain had expired on September 30, 1986, they did not even extend those emergency provisions. So the 99th Congress, left session in October 1986, not only failing to give the regulators new authority to solve the problem but denying them the existing authority that had been in effect for 4 years.

We went off to our Thanksgiving and Christmas vacations, all happy that Congress was out of session, leaving the regulators in very bad shape. By the time we came back into session a new GAO report indicated that FSLIC was hemorrhaging at the rate of $6 to $10 million per day. The problem had become much worse.

We now hear so many people condemning the regulators for not taking action sooner on these troubled institutions, but they were not able to take action because FSLIC simply did not have the money either to close them down or to find assisted mergers. So their liabilities and their nonperforming loan portfolios grew and grew and grew.

Finally, the Senate passed $7.5 billion recap plan in March; $7.5, half of what we should have passed in the preceding Congress. The even less generous House of Representatives said it was a $5 billion problem. Due to the efforts of the chairman and others, and of the Secretary of the Treasury, Jim Baker, we pulled off something rather unusual in the conference. We raised the amount to $10.8 billion.

Since that time we have heard estimates from the GAO that the problem is a $30 or $32 billion problem. One person that testified before the committee said it was a $64 billion problem. I do not know how big a problem it is. But it does not seem to make very much difference whether it is a $30 billion or a $64 billion problem; it is a serious and a large problem.

The point is that we must begin to address the problem with the FSLIC recap plan in place. They have only just begun to raise adequate funds and really move to shut down sick institutions.

The process is just beginning. We must let it continue to work.

Maybe I am wrong, but it would appear to this Senator that if the House of Representatives had acted responsibly in October of 1986, if it had given the Federal Home Loan Bank Board the resources, the $15 billion, and if the Board had begun to market those bonds in January and February of 1987, for the last 16 or 17 months we would have been closing and merging institutions before the problem increased so dramatically. Passing the $15 billion plan in 1986 would not have solved the problem. But it certainly would have made it much less of one. It certainly would have attacked the problem much sooner and the bank board could have gone ahead aggressively as they have the last few months, closing institutions and merging them, using the Southwest plan and others to try to alleviate the problem.

So here we are with $10.8 billion, passed 10 months later than it should have been, just getting underway. Chairman PROXMIRE and I feel very, very strongly that we must pass this extension of the moratorium on healthy institutions leaving the FSLIC. Why? If this moratorium expires in August the ones that are doing well and are profitable may decide that they do not want any part of FSLIC anymore. They may want to transfer over to the FDIC. If you have that flight, it not only leaves fewer institutions paying premiums into FSLIC, but it also exacerbates the problem by making the recapitalization bonds less marketable and more expensive. The cost of those bonds will go up.

I cannot imagine that Congress wants to be irresponsible again and be in a position where things get really bad, to try and find somebody to blame, whether it is the Federal Home Loan Bank Board, the Federal Reserve, or whoever, and absolve themselves of blame.

Congress ought to take a very good look at this, and particularly the House of Representatives, and decide that they really were irresponsible in October of 1986 to let this problem grow from a $6 million a day hemorrhage to a $10 million a day hemorrhage and even more than that now. It is a very large problem.

So the issue here today is: Do we want to try to solve this problem with funds from FSLIC, premiums that are paid by member institutions to that insurance fund? Or do we want a taxpayer bailout? Because if we do not respond once again we are making the possibility of having to go to general revenue funds to finance this problem much greater. I do not think it is the responsibility of the taxpayers to take care of this problem. It is not their responsibility. They are not responsible for some of the fraud, abuse and mismanagement that has gone on in some of these State-chartered institutions.

I want to make that point, too, because there is a lot of talk around that deregulation is the cause of this problem.

"Deregulation by State legislature and State-chartered institutions has been a good part of the problem. These are not federally chartered in-

stitutions that are in trouble as a result of congressional action. Rather, the problem is primarily with State-chartered institutions in Texas, and California. The Ohio and Maryland situation were State-chartered institutions, the five in my own State that failed were State-chartered institutions that were allowed powers far beyond what Federal law has allowed them to participate in.

But we have a choice to make here today and the reason that we are so strong on passing this with just a date change is there is no end to what amendments might be offered. That is what has happened before. That is what happened to the original FSLIC recap.

We wanted to put housing authorization on it; we wanted to put on other things. And if we do that, everyone who votes either against this extension or who votes to clutter it up with various amendments in my opinion enhances the possibility of a taxpayer bailout.

I am sorry to put it that directly, but history is on my side. The facts that I have relayed are facts. They are not my opinions. It is a factual accounting, historically, of what took place. I cannot imagine that anybody could disagree that if we had had the money for FSLIC 10 months sooner, the problem would not be as serious as it is today, although it would still have been a very difficult problem.

Are we going to put them in that position again? If we reach August without an extension of the moratorium, I guarantee healthy thrifts will leave, taking their premium dollars with them to FDIC and increasing the cost of the recapitalization bonds and greatly increasing the chances of a taxpayer bailout.

I do not doubt that some of my colleagues have good reason to want to change the grandfather provision. There are some that would like to be grandfathered under the moratorium, and I understand that. It would be nice if we could just say to the Senator from Tennessee: We will accept yours; we will take the proposal of the Senator from New York; that is a good proposal. But if we do accept these amendments, I will guarantee that those listening on the TV and listening on the squawk box will come running over here: Well, you accepted theirs and you accepted theirs; how about mine?

I do not like it when I am on this floor and some manager of a bills says: "We have to keep this bill clean. Please do not offer any amendments. We are going to move to table all of them." That is a bad precedent in some ways. I realize that.

Anyone has a right to offer amendments. All we can do is appeal for them not to and that is why I have taken so much time to explain the background.

If we get into another fight like we were in 1986 over this issue, this bill will not pass. We will still be here arguing back and forth among ourselves or with the House and all of the changes they may wish to make in this extension of the moratorium, will come and then I think we face some very dire consequences, as proved by the past.

So I appreciate my colleagues listening to this explanation why the chairman and I feel so strongly that amendments, if offered, which my colleagues have a right to do, should be defeated. We should quickly send a signal to the American people and the FSLIC that we are behind shoring up this fund, making certain that we do not have to go to a taxpayer bailout.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Madam President, this has been an interesting and important discussion so far today on this issue. I want to say to my colleague from Florida who has raised the issue today in this format of the savings and loan problem in America that it is important that that issue be raised; that attention be drawn to it; that we devote some time here on the floor today as the Senator from Tennessee, the Senator from New York and others have done, to draw attention to aspects of this problem.

This problem has grown to an enormous size without a great deal of attention or public awareness. The article that has been referred to in this week's issue of Newsweek that starts on page 40 and runs for about 5 pages is a very important article and it, I will predict, will be the first of dozens and ultimately hundreds of articles that will be written about the size of the catastrophe that has developed and continues to grow in the savings and loan industry.

I want to talk as well about some aspects of it and then relate that to the question of the legislative issue that is before us today.

I first want to draw attention in this article in Newsweek to the line that says: "Savers at savings and loans can afford to be calm, since accounts of up to $100,000 are guaranteed by the Federal Government."

That is a very important fact because we want those people out there in the country today who have deposits in savings and loans of $100,000 or less that are covered by Federal deposit insurance to know their deposits are safe and secure, and that when they go to redeem those deposits, the money will be returned to them. That is written in stone. The Federal deposit guarantee is solid. So, people who have their deposits in insured institutions can have the confidence that their money is protected.

At the same time, however, the system is in very serious trouble. That is a different issue, and that is an issue that comes back in our Federal Government as a whole, to the Nation as a whole and the structure of the savings and loan industry and how it is regulated and insured.

I would like to relate a story here today that I have not told publicly in this type forum, but I want to today in this context.

Two or three months ago I had come to my office to talk with me an individual who had been named by the Reagan administration to serve on a task force, an executive branch force, to examine the scale and the scope of the savings and loan industry problem. This individual had done so and was an expert in finance, not connected with the savings and loan industry prior to this assignment, but devoted something in excess of a year of personal time to really trying to understand the dynamics of the savings and loan industry problem, how severe it was, and what we were going to have to do to solve it.

He said: "Look, I would like to give you my conclusion first, and then I will fill the details."

He said: "I have good news, and I have bad news."

I said: "Well, let's hear the good news first."

He said: "As nearly as I can tell from examining this industry and its problems for the last year," he said, "I think today that if you were to close down the savings and loans that have now gone bankrupt but are still open and if you shut them down and liquidate the liability, it is going to cost the Federal Government about $50 billion.

He meant by that $50 billion more than the small amount that is left in the insurance fund.

I said: "Well, if that is the good news, what can the bad news be?"

He said: "I think that if you allow this problem to go on for another year and a half, you may be facing a liability, and I would predict"—I am paraphrasing him—"and I would predict that you are going to face a liability in the area of $150 billion. In other words, the problem is getting worse and it is getting worse by enormously large numbers and that that is the kind of exposure that we are facing."

In the time since that meeting, I have endeavored to talk with many of the people who are said to be experts in this field. We have had hearings before the Senate Banking Committee. The weight of the testimony and the information that has been developed is that, in fact, we do have a serious problem. Its dimensions are in that range, according to the opinions of many, and that the problem is getting worse, not better at the present

time, assurances to the contrary notwithstanding.

A very striking thing happened a week and a half ago. A week and a half ago, the FSLIC went in and they liquidated two brankrupt savings and loans in California. In order to do so and to pay back the depositors the money that had been taken and squandered, it cost the Federal Government $1.3 billion. That is right, a billion dollars; $1.3 billion just to liquidate those two.

Let me tell you about just one of them. It was a company called American Diversified. American Diversified is described here as a savings and loan that opened and was run by a man named Ranbir Sahni who is described as a former pilot in the Indian Air Force. He decided to get into the savings and loan business. He did not open up the normal kind of retail outlets that one associates with a savings and loan operation, but he set up an operation in a room somewhere. They began to collect deposits from across the country by offering above-market interest rates and, of course, with those deposits that people would make to get the high interest rate would come the Federal deposit insurance guarantee, which all of us as citizens stand behind.

In very short order, this particular individual, who had no background in this area, had attracted well over a billion dollars in deposits, which he then turned around and promptly misinvested and lost. That is why the Federal Government stepped in today and took most of what is left in the insurance fund just to go back in and make whole those depositors who had put money into that particular California institution.

My colleague, respected and admired by all of us, the chairman of the Senate Banking Committee, Senator PROXMIRE, has over the years made very famous the Golden Fleece Award which periodically he bestows on someone who is found, in his judgment to have squandered Federal money in one way or another. Here is a case with these two California savings and loans that were just shut down where they managed to squander $1.3 billion in over a relatively short space of time, but that is just the tip of the iceberg.

We have out there in addition to that, estimates that range up from 20 billion, 30 billion, 50 billion, 60 billion dollars' worth of losses that have already taken place but have not yet been faced up to and have been handled as the two were in California just these 10 days or so ago.

That is the scale of the problem we are talking about. That is not a small problem. This is an enormous problem. I have seen Golden Fleece Awards being given to people who were thought to have wasted $5,000 or $25,000 or $50,000 or $1 million or $5 million. We are talking here in just the case of these two S&L's, $1.3 billion. That is just the beginning of a list that adds up, I think, to something that is much closer at the present time to about a $50 billion exposure.

By any phrase that one wants to use, this is a problem that is going to blow up on all of us, it is going to blow up in the face of the next President and the people of this country when it finally dawns on everybody the scale of the exposure and the fact that the American taxpayer is on the hook to have to replace all of this money that has been invested by savers and, in turn, has been misinvested by the people running these institutions that have gone bankrupt and now the money is gone.

So in order to give people back their money, we are going to have to come up with several tens of billions of dollars somewhere.

I hear some of my good friends say, "Well, we can't have a taxpayer bailout." Nobody wants a taxpayer bailout, but the fact of the matter is that the system is designed with the taxpayer being the person who provides the insurance guarantee up to $100,000 in deposit values saying that if you put your money in a federally insured savings and loan, you are going to get your money back; we guarantee that you will get it back.

So now that we are beginning to see the dimensions of this problem where the regulators, in large measure, are going to sleep for a long time, both Federal and State regulators, we find out that something on the order of $50 billion has been squandered.

When people go to get their money back, fresh money is going to have to be put in there to honor these insurance guarantees. That is what we are talking about. My hat is off to Newsweek because Newsweek figured it out, ahead of a lot of other people now and at least have devoted five pages of this week's issue to this story.

But let me tell you something. The next President is going to face a lot of exploding cigars, if you will, in terms of unpleasant problems that have been papered over up until sometime next year. And probably the largest of these in terms of immediate difficulty is not the Federal budget deficit, as serious as that is, and it is very serious; not the trade deficit, as serious as that is, and it is very serious; but in fact the savings and loan problem may prove to be the most urgent of the problems that we face in the sense that the losses are continuing to mount at a time when we have not even been honest in reckoning the size of those losses let alone changing the system so the losses stop.

Now, I take the time to say this because I think the Senator from Florida is correct in raising the point that we should be trying to do something now, as difficult as it is, in the next few weeks or before this Congress adjourns to try to get this problem out into the light of day, to try to stop the hemorrhage of money, not let ourselves be fooled about the seriousness of the problem and not just let this problem float on over into next year and into the administration of the next President, whoever that happens to be, who will come in with the need to move on a lot of things and will find that there is a problem that was just left to the side and not dealt with as forcefully or strongly as it should have been.

Whether or not we should block this particular bill in order to do it, I think raises another set of issues because I think it is very important that we extend the moratorium so that solvent savings and loans not bail out of the S&L system and go over into the FDIC system. So I think between now and the time the moratorium expires in August that prevents S&L's from leaving, it has to be extended. We have to find a way to extend it. I will work very hard, whether on this piece of legislation or others, to see that it is done.

Perhaps in order to accomplish both goals—in other words, being forthright with the American people about the seriousness of the savings and loan problem today and the fact that it is worsening and at the same time to move on the issue of extending the moratorium—we could find a way to ensure that on some sort of expedited basis there is a far more searching examination of the scale of this problem and getting it out into the light of day, laying out what the alternative choices are for dealing with it, bringing about a more complete and honest public accounting of where we are today and why this problem is worsening rather than self-correcting, and to be able, at least between now and the time of the moratorium expiration in August, to get that story pulled together, the size of the problem more clearly illustrated, and to start to honestly face up to what the hard choices and alternatives are that we are going to have to choose between.

I want to support an extension of the moratorium because I want to keep the savings and loan industry intact so that we can work our way through finding a solution that shuts down the failed S&L's, stops those that are continuing to add enormous losses that are going to be palmed off on the taxpayer and at the same time protects and maintains and allows the well-run, well-managed savings and loans, of which there are many in the country, to be able to survive and continue to meet in this country housing and other major financial services needs as they presently are doing.

So we do need a practical answer, but I think it is too late in the day for anyone to think that somehow or other we can sort of float this problem past the American people this time or float it past the election, float it into next year and that can be the big surprise that everybody wakes up to sometime in the first quarter of 1989.

Although I have great regard for my colleague from Utah, Senator GARN, who spoke earlier, I do not agree—I will not take the time to go through the points of disagreement now—with the recitation in every detail of the history of how this problem developed. I should say that even the account in the Newsweek magazine story this week also differs in certain respects in terms of their assessment of how this problem evolved and how it has come to reach the magnitude and size it has today.

But leaving that to the side for now, what should be understood by the American people and by every Senator and every House Member and every public policymaker is that we have an enormous unfunded liability in the savings and loan system today. It is on the order of several tens of billions of dollars; $50 billion is probably a pretty good estimate, although the estimates vary, and the number is growing every day, every week, every month.

We have not turned the corner on this problem, and anybody who says we have is misleading themselves and misleading the public. When the taxpayer is on the dotted line to have to pick up the tab for these failures, as clearly we all are as taxpayers and citizens, with this insurance guarantee, we have an obligation to level with people as to the seriousness of the problem and not put it off for another 6 months or another year, another 5 years, but to try to deal with it now, as unpleasant and painful as that may be. So I hope we see that happen and that we have a very searching examination of this problem prior to the time the moratorium is extended in August on preventing S&L's from leaving the FSLIC system, so that we are doing our job of blowing the whistle on this problem, bringing the facts to light, and not letting anybody get fooled on the severity of the problem or the pain that is going to be involved in choosing between some very unpleasant alternatives.

I yield the floor.

(Mr. REID assumed the chair.)

Mr. D'AMATO. Mr. President, while I very much feel that this is the appropriate vehicle for this legislation to be considered because it enhances the position of at least 2,900 of the 3,100 thrifts, I recognize the admonition of the managers of the bill that to permit one amendment is to invite others who also feel they have legislation that is meritorious.

Therefore, Mr. President, after consulting with the managers of the bill, I would be open to the invitation to work out an alternative, constructive in nature, that will get the kind of opportunity for a hearing and markup in consideration of this legislative initiative. I believe that with the fullness of time both the distinguished managers would be supportive and cosponsors of this legislative initiative.

Mr. PROXMIRE. May I say to my good friend from New York, I would be perfectly willing to schedule a hearing next week, that is, the week beginning Monday, June 20. We will work it out so that it is convenient to witnesses and the distinguished Senator from New York. But it would be sometime next week with a markup thereafter. Unfortunately, July 4 intervenes but we could have a markup the week following.

Mr. D'AMATO. I thank the chairman. Obviously, we all want things done in our own schedule and time but recognizing the complexities and the problems of the schedule, I thank both managers of the bill for affording us this opportunity.

I would hope, Mr. President, that this bill will get the kind of support from both managers of the bill that would ensure its swift passage and enactment into law because it is really making the market system work to the advantage of all—to the advantage of the taxpayers, and to the advantage of these institutions. It makes sense.

So as reluctant as I am to drop that which I consider to be important, to be something of great merit, I accept the chairman's and managers' offer. Is there any possibility before we go out on the break? I accept, but I also ask the managers, depending upon the kind of support that is demonstrated for this bill after hearing, if they might even consider advancing, if possible, and if it fits their schedules, the markup. I only ask them to consider that.

Mr. PROXMIRE. If possible, we will certainly try to move it up. I think the real expectation is we will do it by the 11th but no later than that.

Mr. D'AMATO. I want to thank the managers, and Senator GARN.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, may I say I concur in the offer made by the chairman to schedule the hearings and the markup. I wish to thank the distinguished Senator from New York. This is an important issue he has brought up. It deserves consideration. I was not necessarily opposing the substance of what he was attempting to do, but the place and the time. So I appreciate his willingness to accept the offer of the chairman and proceed to the hearing and to markup at a later date.

Mr. D'AMATO. Thank you, Mr. President.

Mr. KARNES addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KARNES. Mr. President, last week, the chairman of the Senate Banking Committee and the distinguished minority member, Senator JAKE GARN, introduced legislation, S. 2451, to extend the moratorium on FSLIC-to-FDIC conversions for another 12 months, that is, from August 10, 1988, to August 10, 1989. As Senator GARN noted in his comments accompanying the introduction of the legislation, this is not a step he takes lightly since it interferes with the ability of private institutions to make their own business decisions. Historically, savings and loan associations have been able to convert to FDIC insurance, but given the vicissitudes facing the FSLIC, there appears to be strong sentiment among Members of both the House and Senate to extend this moratorium which was first imposed in 1987. This being the case, I believe it is essential that we not just take the negative step of building barriers around the FSLIC, but that we include with this legislation several affirmative features that will provide positive incentives to institutions to remain within the FSLIC system rather than converting to FDIC insurance.

Earlier this year, I introduced legislation cosponsored by Senators CRANSTON and BOND entitled the Thrift Charter Enhancement Act, S. 2073. At hearings held on this legislation in April, the Treasury and thrift industry trade groups testified in general support of this legislation althought there were specific provisions which the FHLBB and others felt were not appropriate at this time, basically because of their concern about the timeliness of these provisions; not the substance I might add, but the timeliness. We have been working to revise this legislation on the basis of the testimony, but there are numerous aspects of that bill which enjoy broad support that should be included in any legislation extending the moratorium. These provisions do not grant expanded powers to savings institutions but, for the most part, eliminate obsolete provisions of Federal laws governing savings and loan institutions and their holding companies.

I also note that on Monday of this week, Senator D'AMATO introduced legislation, S. 2467, to remove some of the ownership restrictions now applicable to the preferred stock issued by the Federal Home Loan Mortgage Corporation. These limitations have artificially depressed the value of the stock which is held on the books of the Nation's thrift institutions. Enactment of S. 2467 makes sense not just from a

public policy standpoint, but it would also add an estimated $1 billion to the net worth of the thrift industry. This is another example of a positive step which can and should be taken as part of any extension of the moratorium.

Another step which we should take immediately is to clarify the Bank Board's authority to waive the special assessment which now requires FSLIC-insured institutions to pay twice as much for deposit insurance as would a comparable FDIC-insured institution. The imposition of the special assessment is the principal reason why healthy thrift institutions are pursuing the option of conversion to FDIC, and if we are to retain a healthy and diversified base of FSLIC-insured institutions to provide the critical mortage financing function in this country, we must let these institutions know that there is some light at the end of the tunnel. The Bank Board has proposed to phase out this special assessment for institutions with 6 percent GAAP capital, but a question has arisen as to whether the Board has the legal authority to move to a system of variable deposit premiums. The Chairman of the FHLBB supports legislation to provide him with explicit authority to do so, and we should take this step immediately to counterbalance the adverse signal which an extension of the moratorium would send to potential new investors in the thrift industry.

Finally, I would note that an extension of the moratorium would place a particular hardship on institutions which have announced transactions involving FSLIC-to-FDIC conversions in anticipations of the expiration of the moratorium in early August of this year. These insitutions, of which there are a mere handful, understandably relied upon the assurances set forth in the conference report on the Competitive Equality Banking Act which stated that during the pendency of the moratorium, applications should be accepted and processed in a normal manner. If we do, in fact, reverse this position and extend the moratorium, we should, at a minimum, grandfather these institutions which relied in good faith on the assurances provided in the conference report. I know that a number of Senators have expressed an interest in a grandfather provision, and I would be very pleased to work with them to accommodate their interests in this regard.

In conclusion, Mr. President, I would state again that the FHLBB is doing an excellent job under extremely adverse circumstances.

Particular accolades should go to Chairman Gray for his hard work and articulate manner of focusing the attention of this country on the FSLIC and the thrift industry in general. There is no reason, and I reiterate once again, no reason for depositors of thrift insitutions in this country to be concerned about their accounts at insured institutions up to the insured amount of $100,000, and that if and when the moratorium is extended, we should be sure that this legislation does more than just lock institutions in the FSLIC against their will. S. 2073 is designed to attract new capital to the thrift industry, which is the only way we can avoid a massive taxpayer bailout which many industry experts already feel is inevitable.

As a former Chairman of the Federal home loan bank of Topeka and one who has spent a good deal of time working with the thrift industry prior to coming to the U.S. Senate, I feel especially committed to the goals and objectives of the FHLB System which has served this country so well for over 50 years. I hope that my colleagues will join me in taking these important affirmative steps now rather than resorting to a simple moratorium extension in the hope that this problem will hold off until 1989. In the mind of this Senator, as each day goes by, the potential costs of resolving the difficulties within the thrift system are mounting, which adds problems to the FSLIC responsibility.

In conclusion, then, Mr. President, I state that I am pleased to commit my time to work with the chairman and the ranking minority member on the Banking Committee to come up with legislation and to incorporate some of the innovative provisions which would encourage new private capital into the thrift industry and thus into the FSLIC.

Mr. President, I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I would like to direct a question, if I could, to Senator GARN. Do I understand there is another Senator who wishes to speak on the motion to proceed?

Mr. GARN. As there is the age-old statement, "The check is in the mail," "There is a Senator on his way to speak."

Mr. PROXMIRE. Will the Senator yield?

Mr. GARN. I am happy to yield.

Mr. PROXMIRE. I understand Senator ARMSTRONG is on his way. But I presume, if the Senator from Florida will permit us to do so, if we move to take up the bill, Senator ARMSTRONG had no objection to taking up the bill. In fact, he is an enthusiastic supporter of the bill. He will probably be accommodating. Is that right?

Mr. GARN. I agree with that logic. However, the Senator from Colorado did say he would like to give his statement prior to the motion to proceed being acted upon.

Mr. GRAHAM. Mr. President, in light of that statement, I would like to reserve a moment to close before the final vote on the motion to proceed.

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

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

Mr. ARMSTRONG. Mr. President, I am grateful to the managers of the bill, the Senator from Wisconsin and the Senator from Utah, for summonsing me over to the floor because I want to say a word about this.

I have grave doubts that we are making the right decision in extending for 1 year the prohibition on savings and loan associations leaving the FSLIC system and transferring to the FDIC system for insuring their deposits. As I understand the parliamentary situation it is that we are about to vote on the motion to proceed to the consideration of the bill and the expectation, I think the likely outcome, is that we will very quickly then pass the bill as well.

I am enough of a realist to bow to the inevitable, and that is what is going to happen. But I am concerned enough about it that I did not want to let it happen without coming down and laying out a couple of plain facts.

The first of the facts that occur to me is that this situation is far from stable. If somebody has the notion that we can simply extend this moratorium for another year without any consequences, without paying any price, I would completely disagree.

I would also disagree if somebody has the idea that a year from now we can again effortlessly extend the moratorium. I am not going to fight it very hard today because, frankly, I do not think that the preparations have been made for the kind of response that is needed if we do not extend the moratorium.

If we did not extend the moratorium, if we let it expire, which is what I think really ought to happen, the probable consequences are that the better savings and loan associations would be out of the FSLIC so fast it would make everybody's head swim.

But I wonder how many Senators really understand what is going on out in the Nation's financial markets in communities all over this country. There is a real two-tier system in the financial services industry. We have some savings and loans and banks and some other financial institutions in this country that are enjoying record profits, that are strongly capitalized, that are making tremendous gains.

I have talked to some people in the bank and savings and loan business who have never been as prosperous or as successful as they are now. Regrettably, they are by no means the majority of financial institutions in the country today.

There is another group of financial institutions, primarily among the thrift institutions, that are just basket cases that very few people expect to survive for a long, long period of time. We are keeping them afloat by a series of regulatory and legal fictions and gradually either selling them, merging or liquidating or doing something, and in the process, by prolonging this process of merging or closing or selling the sick institutions, we are gradually undermining those that are healthy. I want to stress this. What happens if you have a very sick institution which is out of capital or almost out of capital, which is just treading water, trying desperately to stay in business, is two things. And I have seen that pattern over and over again. This is not an isolated case. It is a common pattern in financial institutions around this country.

The first thing that happens is that they will pay almost any rate of interest to attract deposits and as a consequence they are bidding up the price of money in a way that makes it very difficult for soundly financed institutions to compete because the sound institutions, those that have strong balance sheets, and so on, are unwilling to make the risky investments necessary to earn a profit after paying extraordinarily high rates of interest on deposits.

So the first thing that happened is that the sick institutions are bidding up the cost of deposits and putting the healthy institutions at a severe disadvantage.

I will mention the second thing that has happened, and it is happening in institutions all over the country. This is, I stress, not something just happening in a couple States. A notion has been prevalent this is primarily a Texas problem or Texas and Oklahoma or just the oil patch or something. Believe me that is not the case. It is commonplace all over the county. The second thing that is happening is they are investing in a class and a quality of investment which is at best unorthodox. I think by conventional standards of conservative financial management these are highly questionable investments in many cases.

Mr. President, if we just let this situation drag on, at some point we are going to face a crisis of really staggering proportions, really stupendous proportions. I guess you know we could continue to tread water for a few more months, which is basically what this bill will have us do, and I am afraid there is not a practical alternative, although I intend to vote against the bill, but very soon we have to come to grips with this.

It was not very long ago that we were asked to provide a few billion dollars in what was characterized as a savings and loan bailout, and it was amazing to me that representatives of the thrift industry came around and said that what the administration was asking was too much. They said you do not need to have $15 billion to recapitalize the weak or failing thrifts of this country; $5 billion would be plenty. It was just about the time they were running around with a notion of a $5 billion bailout as adequate, as sufficient, that the GAO came out with a report indicating that $20 or $25 billion was the amount of the liability above what FSLIC was prepared to pay from then available funds.

I do not know whether $20 or $25 billion was the correct number at that time. My belief then, and it is strongly my belief today, is that $20 or $25 billion greatly understates the magnitude of the problem. An injection even of $20 or $25 billion at this point in my opinion would not be sufficient to merge or sell or recapitalize the institutions that are underwater.

Let me mention as a part of that concern a third situation that is developing. I mentioned the healthy segment of the industry and I mentioned the segment of the industry which is demonstrably very unhealthy, those that are very close to their capacity, those that are even in some cases visibly under water.

There is a third group, the size of which I do not know, of institutions that appear to be healthy which on their balance sheets are healthy, but which if you knew the quality of their assets, you would quickly realize they are not very healthy, that they appear to have 3, 4, 5, 6, 7, 8 percent capital, but if you mark their assets to market, you mark their loans to market, they would have a much reduced capital. We have, I think, a very volatile situation, a very dangerous situation.

What should we do about it?

In my opinion we have to do several things and we need to do them in the near future. First of all, I am convinced that we have to have a risk-based system for insuring the deposits.

I believe in January 1986 the FDIC put out proposed rules which would in essence base the insurance premium that they charge for insuring these deposits on the quality of assets in which the proceeds were invested.

I do not have exactly in mind what those standards were, but if it was cash in the vault, a zero rate; in other words, you would not have to have any reserve for that. This is FDIC. If a bank had money in short-term Government bonds, I think they weighted that at 20 percent, meaning that you only had to have one-fifth as much capital to support that kind of assets as you did if it was invested in something else; in other words, a scale of value judgments about the quality of the assets.

I do not know whether the FDIC proposal is a sound one, but what I am saying is in one way or another we have to begin to allocate the cost of insuring these deposits far more accurately to the risk.

Mr. PROXMIRE. Will the Senate yield?

Mr. GARN. I am happy to yield.

Mr. PROXMIRE. The Senator from Colorado has a very good point. I think he is right, except I am not sure that you can have a risk-based premium, have if fair, and have it realistically applied. It seems to me what we should also consider, as an alternative, denying Federal deposit insurance to State-chartered savings and loans that are allowed to get into risky investments, that do not comply with Federal standards. That is just an alternative. It may not be as attractive to many thrifts, but it seems to me it would be more workable and more practical and I think it ought to be considered at the same time.

Mr. ARMSTRONG. Mr. President, I would not dispute with what the Senator has said. In fact, I think the probable, practical outcome is the same. If a savings and loan association or a bank has to have, say, five times as much capital behind every dollar of investment in a commercial loan as they do in Government bonds—and that is, in fact, the FDIC proposal that is on the table and I am told is likely to be adopted with respect to FDIC institutions probably in the very near future, perhaps before this year is out—literally you have to have five times as much capital under that scheme to support a commercial loan as you do a Government bond, and with various gradations in between, that is going to encourage the institutions that are covered to shift away from relatively risky loans into safer loans.

Now, I am not one of those that think that a commercial loan is an improper loan or a loan that is inherently risky. But, beyond the standard business commercial loan, there is a whole spectrum of activities that savings and loans and banks are engaging in. And I assume that is what the Senator is referring to.

For example, you have a lot of savings and loan associations who find themselves now in the real estate development business. And that is a very hazardous business. I think there is a real public policy question.

Mr. PROXMIRE. Some have even invested in equities, common stock.

Mr. ARMSTRONG. That may be a proper activity, as well, but it is obviously a much more risky enterprise than, say, investing in T-bonds or T-

bills or even the bond undertakings of a commercial company.

For example, there is very little risk for financial institutions that might invest, say, in a triple-A rated industrial bond as compared with, say, the stock of that very same company.

My point is not to try to settle that today, but merely to agree that that is something we ought to look at, but sooner rather than later. My hunch is that it would be a mistake to prohibit S&L's and banks from making those investments. But simply to write the costs of insurance coverage that they get on their deposits to the risk involved, it might have the practical effect of shutting out those investments, all but the highest fliers, all but those who really wanted to extend themselves or perhaps all but those who are the most strongly capitalized.

It is one thing, for example, for a savings and loan association that has 8 or 10 percent capital to make a construction loan of a substantial size, as compared to, say, a savings and loan that has one-half of 1 percent capital. And yet it is not the heavily capitalized institutions that are making the proper but necessarily more speculative loans, it is those that are the weakest on the capital side, because they are the ones that are fighting to get every last increment of yield in order to somehow continue to tread water and keep their doors open and perhaps even raise enough capital to stay in business.

So both on the asset side and the liability side, the present situation is untenable. Keeping the sick institutions afloat encourages competition which is really almost impossible for a healthy institution to meet on the deposit side because they will just pay anything to get deposits and, second, it encourages them to make increasingly speculative and risky loans, hoping against hope. If you know you are underwater, you hope against hope that you can somehow get some high-rate business in or you can make a common stock investment or a construction project management joint venture of some sort that will bail you out and get you out of it. All of which, Mr. President, is to say that we have a big problem here that we need to address.

Now, that is not in this bill. All this bill does is says for 1 year we are going to hold hostage the healthy institutions in the FSLIC system and not permit them to leave the system.

I believe a lot of Senators who probably have not followed this matter very carefully are wondering what difference does it make; why do some of the large, strongly capitalized, well-managed, conservative savings and loans associations want to get out of the FSLIC? I do not think we ought to vote on this bill without making that point perfectly clear. They want out of FSLIC for three reasons.

First, because FSLIC insurance costs more than FDIC Insurance. It is as simple as that. It is a cost of doing business. The FSLIC institutions are not doing very well as a group. They are having to pump money into these institutions, over a billion dollars into one institution here a few days ago, in order to keep them from defaulting on the obligations they have to depositors. That kind of insurance costs money and it is being paid, in large part, by the healthy institutions.

The second reason is because they are living in fear and dread and horror of what will happen when the crunch comes of whether or not all institutions under the FSLIC umbrella will somehow be disgraced in the public mind. You know, if a bunch of FSLIC institutions go down, even the healthy ones will not be able to stand up under the force of public confidence being shaken in that way.

And the third reason, also a very practical reason, is that the market has said, even with the Federal guarantee, that FSLIC institutions have to pay a higher rate of interest in order to attract deposits. You get two comparable institutions located on opposite corners of the same town with the same kind of balance sheet, same quality of assets, same investment ratios, everything the same, and one of them is a FSLIC institution and one of them is an FDIC institution and the FDIC institution will find it possible to raise funds substantially cheaper, I believe—perhaps the Senator from Utah can tell me—but I believe maybe 50 to 100 basis points cheaper than the FSLIC institutions. So they are eager to get out of the FSLIC system.

Well, this bill will keep them hostage for another year. I guess there is no practical alternative, though I am going to vote against it just because I think it is time to come to grips with this problem.

Mr. President, I do not want to prolong it. Here is my recommendation: If this bill passes and we extend it for a year, I hope Senators will be on notice that there will be a concerted effort to prevent a similar extension a year from now.

(Mr. SANFORD assumed the chair.)

Mr. GARN. Will the Senator yield?

Mr. ARMSTRONG. Yes, indeed, I will.

Mr. GARN. Mr. President, I have listened very carefully to my distinguished colleague from Colorado, a valued member of the Banking Committee for many years. As usual, his statement is reasoned and well thought out and I agree with almost everything he has said.

But I want to very quickly recap what I said in my opening statement of why I am out here asking for a 1-year extension.

I was not around when we orginally passed regulation Q, but that was extended, and it lasted for 16 years. It is one of the reasons the thrift industry got into trouble. The interest rate ceilings should have expired long, long before they did.

So I started out from a position of not liking moratoriums as a matter of principle, that we say we hold things in place.

The only reason that I am requesting this extension—and certainly at this point I hope that it is not necessary to ask for any additional extensions after this period of time. The Senator correctly outlined that the administration asked for $15 billion. I asked for $15 billion when I was chairman of the Banking Committee and we ended up passing $10.8 billion nearly a year later, 10 months later. So the recapitalization plan, after being passed last fall, is just barely started. A little over $3 billion in bonds have been sold.

If there is a perception there is going to be a mass flow of people out of FSLIC into FDIC, there is no doubt in my mind that with the plan relying on premiums paid by the thrift institutions to pay off those bonds, the interest rates will go up, the bonds will become less marketable. This request for 1-year extension is simply to give that FSLIC recap plan an opportunity to work.

I would suggest that with another 15 months to go, we would certainly have a much greater indication if that is working. That is fine, here, to buy time for that plan to work. You are absolutely right about the sick industry or part of it paying excessively high interest rates in order to attract money and there is no better example than the two that were closed last week at an enormous amount of money. They did not even have brick and mortar offices. They were a telephone operation, people calling in and being paid higher than market interest rates to attract money, and then investing in risky investments compared to what a thrift ought to be doing.

They were State-chartered institutions. But the reason those were not closed down sooner, before it became a much larger problem, when they probably could have been taken out for much less money, maybe half what it cost FSLIC, was because FSLIC did not have the capital to do so.

You are absolutely right. If we want to protect the healthy institutions, we have got to close down those types of institutions both of us have described as quickly as possible; get them out of that process of bidding the interest rates up, making them higher, and then putting their assets in risky investments. I do not disagree with the Senator philosophically. I am saying

we need a year because this plan was delayed by almost a year and reduced in amount by the Congress, which I thought was irresponsible. We need to give the plan time to work.

I am certainly not saying that I want to come back next year and extend the moratorium. I do not, and I hope the plan will have worked sufficiently so that no one will want to do that.

So I thank the Senator for his contribution.

Mr. ARMSTRONG. Mr. President, I am grateful for the observation of the Senator from Utah. His recollection of the history of this is exactly the same as mine. I had not forgotten that his suggestion was acted on belatedly and the full amount of the capitalization which he had asked for was denied.

I hope none of my remarks today are being taken as critical of either the Senator from Wisconsin or the Senator from Utah. I am just saying this is a problem we have to address. In fact, before I sum up I should make one other observation about the payment of high interest rates on deposits. I am not against that either. I think that is great.

What does bother me is when sick institutions pay desperate rates of interest—not based upon any sound principles but just to keep the doors open 1 more day.

Some of the institutions in this country that pay high interest rates and have gathered deposits all over this country and even overseas in fact are completely sound and at least some of them that have come to my attention that pay high interest rates are very conservatively managed. Their investments are in conservative, even in some cases ultraconservative kinds of investments. Yet they are able to pay high interest rates. Why is that?

The reason is, in the cases at least that I am familiar with, they have managed to cut to the bone their operating overhead and have achieved very significant competitive advantages by simply reducing the overhead costs of occupancy, of administration and so on. And second, because in the process of a very conservative investment policy they have cut their loan losses to extraordinarily low levels.

So I am not saying—I would not want to be heard to be saying—anything that criticizes per se those institutions that are bidding high rates to attract deposits. That is part of the competitive system and I am for it.

Mr. President, my three recommendations are as follows:

First, this ought to be the last time we extend this provision. We should not indefinitely hold hostage the healthy institutions to the well-being of those that are sick.

Second, Mr. President, if anybody thinks sometime in the next year that they are going to come in here and offer to merge FSLIC and FDIC, which is a concept I hear discussed as one way to solve this problem, I will just tell you there is going to be a donnybrook around here, not because I say, but because a lot of Senators in this Chamber are not going to stand by and let that happen if we can possibly avoid it.

It is hard for me to imagine any thing more unfair. And yet I do hear discussed the concept that the way to bail out some of these ailing thrifts is to merge them in with the banks which by and large are in much better financial condition under FDIC regulation, which, by and large, has resulted in a healthier system. It just is not fair to roll the two together, merge the two funds or anything of that order.

My third recommendation is for President Dukakis or President Bush, the first thing the new President ought to do when he gets into office, right after he is sworn in and before the Sun goes down, before he even has a chance to go to the inaugural ball, is he ought to bite the bullet on this savings and loan problem. If he does it right at the outset, the first day, the first week, the first month, he can do it without any political embarrassment; whichever President it turns out to be, he ought to do it.

If he lets 3 or 6 months or a year go by politically it is going to become his problem and then there may be a great temptation to put it off again, to stall, to think about it, to study it, to hope that another election cycle can go by.

It just seems to me that the new President and the new Congress, whether it is a Republican majority or Democratic majority, Republican President or Democratic President, ought to liquidate the problem. It is a new regime. It is a new administration and they ought to provide whatever capitalization is necessary, provide whatever regulatory changes are necessary, whatever legal changes are necessary, and do it early next year.

I think the first month or two of session would not be too soon to begin to act on this. I would be hopeful that the chairman of the FDIC and the chairman of the Home Loan Bank Board and the President and the new chairman of the Banking Committee and others will come with proposals and that we can settle that matter at the outset, because it would be a travesty if we have to extend this moratorium again.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I would like to offer a few closing comments on the motion to proceed to a noncontroversial coinage bill, so that the legislation affecting the thrift institutions can be added as an amendment.

We had discussed a great deal about history this afternoon. How did we get to where we are today?

Where we are today is a very precarious circumstance, as has been stated in many of the leading newspapers and other periodicals, as we have heard in the Banking Committee through several days of hearings.

Harvey Cox, a great American theologian, stated that not to decide is to decide. Not to decide is to decide.

What I suggest we are about to do today is, by making a decision on a fairly narrow issue of extending the moratorium, we are also making the decision that we are not going to use this opportunity for the more fundamental reforms that are necessary in order to protect a very important part of the financial services industry of this Nation and, more important, to protect the confidence of the American people in these federally insured institutions.

I suggest, Mr. President, that we have been, in part, today dealing as morticians. We have been looking at the bottom, attempting to assign responsibility for the cause of illness, if not the cause of death, of those institutions, such as the two in California last week which breathed their last breath.

I suggest that we should leave the mortuary, leave that autopsy for another day because we have more urgent business to do. We need to be physicians, we need to be doing a diagnosis of what we can do to keep the remaining institutions, to keep the system healthy, alive, and justify the confidence of the American people.

My concern is we are about to give this patient an aspirin. It is an aspirin which I think needs to be administered because it will do some good. The aspirin of the extension of the moratorium beyond its now-scheduled expiration date of August of this year or another period of months is important because it will stop the potential of a flow of institutions from FSLIC into the commercial banks insurance corporation, FDIC. I support doing that.

My concern is that this patient is only going to open its mouth once between now and the end of this session of Congress, and that what we place in that mouth in the form of a remedy is going to be all that the patient is likely to receive.

I think the patient, Mr. President, needs more than an aspirin. I think we need to be looking for some strong antibiotics to give to this patient so that we have at least some hope that we will stabilize the condition, not just mask the condition, as we look for even more fundamental changes with the new administration.

My feeling is that we need to proceed as follows: One, we need to first

proceed by not proceeding to take up this bill today so that we would have the opportunity over the next few weeks, between now and some date in July, to come to the Senate with a more comprehensive set of prescriptions. There is no real urgency to move today. We have 6 weeks before the moratorium runs out. I believe they are 6 weeks we should use wisely.

Second, I believe that we already know what the core of the stabilization plan should be, and the core of that plan, at least in this Senator's judgment, is to establish a linkage between those who would benefit by the activities of the savings and loan institutions and the risk which they are prepared to accept.

Today, through the FSLIC insurance program, we have separated those two. We have given the kind of incentives that the Newsweek article, which was submitted for the RECORD earlier today, points out in such graphic detail.

In fact, what is amazing is that we do not have more institutions that are acting that way, not that they are acting illegally, but acting legally within their powers to be very speculative, have the potential of making substantial profits but being sheltered from the adverse consequences of those decisions because if those decisions should turn sour, they do not run the risk, as it is, first, a Federal insurance fund which carries the risk, such as the $1.3 billion that was assumed just last week for two institutions in California, and ultimately the citizens and taxpayers of the United States of America whose full faith and credit stands behind those $100,000 deposits.

I think that is the fundamental illness that we have to diagnose and prescribe an appropriate remedy for. While there may be some proposals presented today as we proceed forward with this bill, I do not think they are as thoughtful as they should be and as timely as they should be in terms of the potential severity of this issue.

Mr. President, in closing, I would make a series of predictions. If we proceed to take up this bill today, and if the amendment to extend the moratorium is adopted and we take final action on the bill, and that is the extent of our physician's role for June 15, 1988, I suggest that we would do the following things: First, we would lose the only legislative engine for real reform that we are going to have in 1988 as it relates to America's thrift institutions; second, that we will do as Newsweek suggested we were likely to do, and that is procrastinate on any more fundamental actions for the remainder of this session; and third, that we are going to be running the risk of a major explosion in other institutions, in other regions and, unfortunately, in the basic safety net under the thrift institutions by our inaction. We are making those decisions today by the decision not to decide to treat this issue as an issue of urgency and severity, which I believe any physician observing the patient would state this patient deserves. Thank you, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to the consideration of H.R. 3251.

The motion was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

BICENTENNIAL OF THE UNITED STATES CONGRESS COMMEMORATIVE COIN ACT

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3251) to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the United States Congress.

The Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 3251

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bicentennial of the United States Congress Commemorative Coin Act".

SEC. 2. SPECIFICATIONS OF COINS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue not more than 1,000,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of the five dollar coins shall, in accordance with section 4, be emblematic of the Bicentennial of the United States Congress. Each five dollar coin shall bear a designation of the value of the coin, an inscription of the year "1989", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than [10,000,000] *3,000,000* one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the one dollar coins shall, in accordance with section 4, be emblematic of the Bicentennial of the United States Congress. Each one dollar coin shall bear a designation of the value of the coin, an inscription of the year "1989", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) HALF DOLLAR CLAD COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than [10,000,000] *4,000,000* half dollar coins each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(2) DESIGN.—The design of the half dollar coins shall, in accordance with section 4, be emblematic of the Bicentennial of the United States Congress. On each half dollar coin shall be a designation of the value of the coin, an inscription of the year "1989", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(d) LEGAL TENDER.—The coins minted under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

(e) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. DESIGN OF COINS.

[The Director of the Mint shall submit the proposed designs of the coins to be minted under this Act to the Commission of Fine Arts for comments. After receiving the comments on the designs from such Commission, the Director of the Mint shall submit the proposed designs together with such comments to the Secretary. After receiving the proposed designs and the comments, the Secretary shall select the design of the coins to be minted under this Act.]

The design for each coin authorized by this Act shall be selected by the Secretary after consultation with the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Commission of Fine Arts.

SEC. 5. ISSUANCE OF COINS.

(a) FIVE DOLLAR COINS.—The five dollar coins minted under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States [Bullion Depository at West Point] *Mint at West Point, New York.*

(b) ONE DOLLAR AND HALF DOLLAR COINS.—The one dollar and half dollar coins minted under this Act may be issued in uncirculated and proof qualities, except that not more than 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the coins minted under this Act beginning January 1, 1989.

(d) TERMINATION OF AUTHORITY.—Coins may not be minted under this Act after [December 31, 1989] *June 30, 1990.*

SEC. 6. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this Act at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. [Payment with respect to such prepaid orders shall be at a reasonable discount to reflect the benefit of prepayment.] *Sale prices with respect to such prepaid orders shall be at a reasonable discount.*

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 per coin for the half dollar coins.

SEC. 7. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

SEC. 8. REDUCTION OF NATIONAL DEBT.

An amount equal to the amount of all surcharges that are received by the Secretary from the sale of coins minted under this Act shall be deposited in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.

SEC. 9. REPEAL OF THE REQUIREMENT THAT UNITED STATES CURRENCY NOTES BE REISSUED AFTER REDEMPTION.

Section 5119(b)(2) of title 31, United States Code, is amended by adding at the end the following: "The Secretary is not required to reissue United States currency notes upon redemption.".

SEC. 10. AUTHORITY TO ENGRAVE AND PRINT.

(a) IN GENERAL.—Section 5114 of title 31, United States Code, is amended by adding at the end thereof the following subsection:

"(d) The Secretary, after apprising the Secretary of State, may engrave and print currency and other security documents, or engage in research and development for the engraving and printing of currency and other security documents, on behalf of a foreign country if the engraving and printing or research and development does not interfere with the production of the Bureau of Engraving and Printing necessary for domestic use. Foreign nations shall be charged their proportionate share of the costs for activities carried out under this section.".

(b) CONFORMING AMENDMENTS.—Section 5143 of title 31, United States Code, is amended—

(1) in the first sentence, by inserting "or a foreign country" after "agency"; and

(2) in the last sentence, by inserting "or the foreign country" after "agency".

AMENDMENT NO. 2369

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. PROXMIRE], proposes an amendment numbered 2369.

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

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

The amendment is as follows:

On page 8, after line 12, insert the following new section:

SEC. . AMENDMENTS TO THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION RECAPITALIZATION ACT OF 1987.

Section 306 of the Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987 (12 U.S.C. 1730 note) is amended—

(a) by striking "1-YEAR" in the caption of subsection (h) and inserting in lieu thereof "2-YEAR"; and

(b) by striking "1-year" in subsection (h)(1) and inserting in lieu thereof "2-year".

Mr. PROXMIRE. Mr. President, this amendment will extend the 1-year moratorium on thrift institutions' leaving the Federal Savings and Loan Insurance Corporation. The moratorium was imposed by the Federal Savings and Loan Recapitalization Act of 1987, and is currently set to expire on August 10, 1988.

The Federal Home Loan Bank Board has requested the 1-year extension. Recent expenditures in California and the Southwest have sorely depleted FSLIC's few remaining cash resources. FSLIC needs all the funds it can obtain to deal with a problem that is most probably beyond its current resources. In recent hearings before the Banking Committee, witnesses estimated the cost at between $26 billion and $64 billion.

If the moratorium is not extended, we face the prospect that healthy thrift institutions will move from FSLIC to the Federal Deposit Insurance Corporation. Such an exodus would reduce FSLIC's income from insurance premiums—money that is sorely needed to resolve problem cases—and could leave FSLIC with a membership consisting disproportionately of institutions too sick to qualify for FDIC insurance. A mass exodus from FSLIC could also leave the FSLIC Financing Corporation unable to meet the interest payments due on its debt; raising additional capital would be out of the question. That would be the shipwreck of the recapitalization plan adopted last year—and it would likewise jeopardize any future recapitalization of FSLIC.

This amendment should be adopted now in order to reduce immediate uncertainty about the viability of the FSLIC recapitalization. A vote against this amendment is a vote for a taxpayer bailout.

Mr. President, I yield the floor.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. I simply say after 3 hours of debate I think everyone understands my position. I hope we adopt this amendment.

AMENDMENT NO. 2370

Mr. GRAHAM. Mr. President, I send to the desk a second-degree amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida, Mr. GRAHAM, proposes an amendment numbered 2370.

SEC. . RISK-BASED SPECIAL ASSESSMENT ALLOWED.

Section 404(c) of the National Housing Act (12 U.S.C. 1727(c) is amended by adding at the end thereof the following new paragraph:

"(3) ASSESSMENTS BASED ON RISK CRITERIA ALLOWED.—

"(A) ESTABLISHMENT OF RISK CRITERIA.—The Corporation may establish criteria for measuring and determining the degree to which any insured institution poses a risk to the reserves of the Corporation.

"(B) AMOUNT OF ASSESSMENT MAY BE BASED ON RISK.—The amount of any additional premium which the Corporation may assess against any insured institution under paragraph (1) in any year may be determined by the Corporation on the basis of the Corporation's evaluation, in accordance with the criteria established under subparagraph (A), of the degree to which such insured institution poses a risk to the reserves of the Corporation in such year.

Mr. GRAHAM. Mr. President, I offer this as a second-degree amendment to the amendment which has been offered by the Senator from Wisconsin. This amendment would clearly empower FSLIC to adopt an insurance procedure in which it would relate the premiums to the risk to the fund which is evidenced by the institution which is applying for that insurance. During the hearings that we held, statements were made by both FDIC and the head of FSLIC that they felt, one, consideration of such risk-based premiums was desirable and, two, questioned whether they had the congressional authority to utilize such a risk-based premium approach.

The purpose of this amendment is to clearly give to FSLIC the authority but not the mandate to adopt a risk-based premium approach. Why do I consider this to be important? I consider it important because it goes to the heart of the illness which is driving these institutions into higher and

higher rates of speculation and placing the fund and the American taxpayers at risk, that is, there is no relationship between what an institution has to pay in order to get the insurance for each deposit up to $100,000 and the activities in which that institution is going to engage.

Mr. President, it would be like an insurance company that had two commercial buildings. One was used for standard office procedures, the other was used to store dynamite and yet the insurance premiums on both buildings was identical. Certainly the building that is storing dynamite is going to rent for a higher amount of money because it has a riskier, more highly commercially valuable activity taking place and yet the risk to the insurer is clearly much greater with the building with dynamite than the building with standard office procedures.

That is exactly what FSLIC is doing. We are saying we are going to charge the same premium for the most prudently run, for the most conservative, for the most well-managed, for the institution which has the greatest concern for protecting its own investment as well as the taxpayers' investment and the investment of the thrift industry as representative of the fund; that institution will get no benefit as distinct from the high fliers who have used the current system as a means of exploiting speculative, risky operations. The institution which was closed down last week had 98 percent of its loans in default. It had invested in such esoteric activities as windmill farms. Mr. President, that makes no sense at all. This at least allows the regulators who are responsible for the trusteeship of the American people to have the opportunity to do what they have indicated in hearings before the Banking Committee they wanted to be able to consider doing and that is to relate the premiums to the degree of risk. I think it is an appropriate, significant step that we can take now which will help to suture the hemorrhage in this industry and reduce the problem that we are likely to be facing in the weeks and months into the future.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I strongly oppose this amendment, although it has considerable merit. I congratulate my good friend from Florida in offering the amendment. The fact is that there is an enormous difference in the portfolios of different savings and loans, especially between those that are State chartered and those that are federally chartered. There is no question about that. The Senator from Colorado raised this point earlier and I pointed out that instead of having risk-based premiums we might simply provide a federally insured savings and loan should comply with Federal restrictions on its investments. That is an alternative. But this is an extraordinarily complicated matter on which we should have hearings; we should hear from the Home Loan Bank Board and other experts. We have not had a single day of hearings on this. It has been discussed, but it is the kind of thing that we should examine closely.

Now, the Senator from Florida gave the example of a savings and loan that was recently closed. Ninety-eight percent of the loans were in default. May I ask what kind of risk-based premiums they could pay when they have judgment that bad? They invested in all kinds of utterly ridiculous schemes. It seems to me that you could not possibly design a system with risk-based premiums. What do they pay, a 10 percent premium, a 20 percent premium? It is absurd.

It seems to me that we have to know exactly what we are doing here. I think we will probably end up with risk-based premiums or a limitation on the kind of investments that S&L's could make, but I would hope that we do not act on this amendment today, without hearings. I hope that we disagree with my good friend from Florida and not pass the second-degree amendment.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, the Senator from Florida is entirely correct in principle. Normally insurance premiums are based on risk. I certainly cannot buy life insurance at the same premium as my 25-year-old son, and he certainly cannot get automobile insurance as cheaply as I can. Now, it is a well-established principle that premiums should be based on risk, and it certainly makes sense to me that if institutions are going to invest in more risky types of endeavors, at least their premiums ought to be increased in relationship to that risk.

Where the difficulty comes with implementing a good proposal is how you decide on the risk and who is going to make those determinations, and then you have people coming out of the woodwork who will argue one way or another about what is risky and what is not, what is the degree of risk.

So although I agree with what the Senator from Florida is trying to accomplish, from my experience I can think of no more controversial amendment. Once you have gone beyond the principle, on which, again, I agree with the Senator from Florida, I cannot think of a single amendment that would cause more difficulty for getting this 1-year extension and helping the FSLIC recap plan to work as rapidly as possible than this particular amendment.

So I hate to oppose the Senator from Florida on a principle with which we agree, but I must overwhelmingly disagree that this is the time and the place to offer this amendment.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Unless the Senator from Florida wants to speak further, I am going to move to table, but I certainly did not want to cut off my good friend from Florida.

Mr. GRAHAM. I would just like a moment to close and then request the yeas and nays on the motion to table, if I may.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, to close briefly on the amendment, first, I recognize that the Senator from Utah said this is not an easy conceptual idea. Maybe conceptually it is easy, and maybe disarmingly easy. It is the implementation that is difficult. But it is not easy for that life insurance company to arrive precisely at what the rate should be for a 55-year-old as against a 25-year-old or against one person with a certain driving record or another. It is not easy for Lloyds of London to decide what the appropriate reinsurance rate should be for a whole fabric of variations of risk, insurance decisions, risk transfer. It is essentially a complicated issue.

What this amendment states is that the corporation, FSLIC, may establish criteria for measuring and determining the degree to which any insured institution poses a risk to the reserves of the corporation.

So we are not making the decision as to how it will be implemented. We are not even saying that it must be implemented. We are dealing, as the testimony was presented to the committee, with currently the feeling that FSLIC does not have a clear congressional authority to even consider risk-based insurance. I think that is a very modest step forward in rationalizing what clearly is a system that has fallen out of control and shows every prospect of being more out of control if we defer this issue.

No. 2, I believe while the base amendment extending the moratorium deals with one issue, which is to suture a potential flood of institutions out of FSLIC, and let us understand that if the taxpayers are not going to bail out this industry, the industry has to bail out the industry, and if the industry is depleted by a rash of exists that is going to make the industry less able to do so and, therefore, increase the prospects that there will be a serious call for a taxpayer bill.

So we are dealing with serious business here. But I believe beyond look-

ing at the task in trying to avoid further the issues that have gotten us here we also need to look at the future, and ask what can we do to keep the problem from getting worse.

I believe that one of the keys available to us now is to at least authorize FSLIC to consider establishing, based on the standards and procedures which FSLIC would implement, a risk-based insurance system and a system which has the potential of breaking this current system that privatizes profits and socializes losses to the detriment of the institution, the industry, and the confidence of the people of the United States in an important part of our financial services industry.

Thank you, Mr. President.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, we may very well come to the kind of proposal that Senator GRAHAM has made, but we certainly should do it on the basis of the record, knowing exactly what we are doing. As I say, this is a very, very complicated problem. It is one in which we have not had any hearings focusing directly.

The Senator from Utah said we did have some discussion of it before the committee. We certainly have not had the kind of exhaustive hearings that we should have had before acting on the amendment proposed by the Senator from Florida.

Mr. President, before we act on this, I would like to ask unanimous consent to temporarily lay aside the pending amendment so that we can act on the committee amendments, which we should have taken up and passed at the beginning.

I ask unanimous consent that the Proxmire amendment be laid aside, together with the second-degree amendment so we can act on the committee amendments.

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

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the committee amendments were passed.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2370

Mr. PROXMIRE. Mr. President, I move to table the amendment of my good friend from Florida.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin to lay on the table the amendment of the Senator from Florida. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

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

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. MCCAIN] and the Senator from California [Mr. WILSON] are necessarily absent.

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

The result was announced—yeas 80, nays 15, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—80

Adams	Glenn	Packwood
Baucus	Gramm	Pell
Bentsen	Grassley	Pressler
Bingaman	Harkin	Proxmire
Bond	Hatch	Quayle
Boren	Hatfield	Reid
Boschwitz	Hecht	Riegle
Breaux	Heflin	Rockefeller
Bumpers	Heinz	Roth
Burdick	Humphrey	Rudman
Byrd	Inouye	Sanford
Chafee	Karnes	Sarbanes
Cochran	Kassebaum	Shelby
Cohen	Kasten	Simon
Cranston	Leahy	Simpson
D'Amato	Levin	Specter
Danforth	Lugar	Stafford
Daschle	Matsunaga	Stennis
DeConcini	McClure	Stevens
Dixon	McConnell	Symms
Dole	Melcher	Thurmond
Domenici	Metzenbaum	Trible
Durenberger	Mikulski	Wallop
Evans	Moynihan	Warner
Exon	Murkowski	Weicker
Fowler	Nickles	Wirth
Garn	Nunn	

NAYS—15

Armstrong	Ford	Kerry
Bradley	Graham	Lautenberg
Chiles	Helms	Mitchell
Conrad	Hollings	Pryor
Dodd	Johnston	Sasser

NOT VOTING—5

Biden	Kennedy	Wilson
Gore	McCain	

So the motion to lay on the table amendment No. 2370 was agreed to.

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

The amendment (No. 2369) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

If there are no further amendments——

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

Mr. BYRD. Mr. President, as far as I can ascertain, nobody I know of is going to ask for a rollcall vote on final passage. That does not keep a Senator from asking. But that also does not mean that we have had all the rollcall votes we will have today, because I intend to stay in business for awhile.

Mr. GARN. If the Senator would yield, I have just been informed that there will be a request for a vote on final passage from our side.

Mr. BYRD. So there will be a request for a rollcall vote on final passage. You might as well just ask for it now and let everybody know.

Mr. GARN. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were 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.

AMENDMENT NO. 2376

(Purpose: To make funds available to the U.S. Capitol Restoration Commission. In recognition of the Congressional Bicentennial)

Mr. BYRD. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD) proposes an amendment numbered 2376.

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

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

The amendment is as follows:

SECTION 1. On page 7, strike Section 8 and insert the following new section in lieu thereof:

"SEC. 8. U.S. CAPITOL RESTORATION COMMISSION.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established a U.S. Capitol Restoration Commission ("Commission") which shall remain in exist-

ence until January 1, 1993, unless otherwise provided by law or resolution.

"(2) COMPOSITION.—

"(A) CO-CHAIRMAN.—The Commission shall be co-chaired by the President pro tempore of the United States Senate and Speaker of the United States House of Representatives or their designees.

"(B) COMPOSITION.—The Commission shall be composed of the following members:

"The Chairman of the Commission on the Bicentennial of the United States Senate, the Chairman of the Commission of the United States House of Representatives Bicentenary, the Chairman and Vice-Chairman of the Joint Committee on the Library, the Chairman of the Committee on Rules and Administration of the Senate, the Chairman of the Committee on Administration of the House of Representatives, the Majority Leader and Minority leader of the Senate, the Majority Leader and Minority Leader of the House of Representatives, and the Architect of the Capitol.

"(b) EXPANSION; OTHER ENTITIES.—The membership of the Commission may be expanded by Act of the Commission. The Commission, with the approval of the Co-Chairmen, may establish and maintain additional entities to further the purpose stated in this section.

"(c) EXPENDITURES.—Any expenditures by the Commission of funds available under this section or otherwise shall be authorized by act of the Co-Chairmen.

"(d) PURPOSE.—The purpose of the Commission shall be to receive funds under this section or from other sources and expend such funds for any improvements in or acquisitions for the United States Capitol Building and for any activities related thereto.

"(e) ESTABLISHMENT OF FUND.—

"(1) IN GENERAL.—There is established in the Treasury a fund for use in accordance with the provisions of this section.

"(2) DEPOSITS AND AVAILABILITY.—An amount equal to the amount of all surcharges that are received by the Secretary from the sale of coins minted under this Act shall be deposited in the fund, which shall be available to the Commission for the work of the Commission. Such funds shall be held in trust by the Secretary of the Treasury.

"(f) ACCEPTANCE OF GIFTS.—The Commission is authorized to—

"(1) accept gifts and bequests of money and other property of whatever character for the purpose of aiding, benefiting, or facilitating the work of the Commission;

"(2) hold, administer, use, invest, reinvest and sell gifts and bequests of property received under this section for the purpose stated in subsection (d); and

"(3) deposit gifts of money received under this section in the fund established in subsection (e).

"(g) TAXES.—For the purpose of Federal income, estate, and gift tax laws, property accepted under this section shall be considered a contribution to or for the use of the United States.

"(h) DISBURSEMENTS.—Disbursements from the fund established under subsection (e) shall be made on vouchers signed by both Co-Chairmen of the Commission.

"(i) CONTRACTS.—Any contract to be made with the Department of the Treasury or the Director of the Mint involving the promotion, advertising, or marketing of any coins to be minted and sold under this Act shall be approved by the Commission to be valid."

SEC. 2. Strike Section 4 and insert the following new section in lieu thereof:

"SEC. 4. DESIGN OF COINS.

"(a) DESIGN SELECTION.—The Director of the Mint shall submit the proposed designs of the coins to be minted under this Act to the Commission of Fine Arts. The Commission of Fine Arts, in consultation with the U.S. Capitol Restoration Commission, shall obtain such refinements and alterations in the submitted designs as they deem fit, and then select at least two design pairs each consisting of one obverse and reverse design per coin for each of the five dollar, one dollar, and half dollar coins. After receiving all design selections from the Commission of Fine Arts, the Director of the Mint shall submit the proposed design pairs to the Secretary in the same manner as they were submitted to the Director. After receiving the proposed design pairs for each denomination, the Secretary shall select from among them the design of the coins to be minted under this Act, but in no case shall the obverse and reverse design selections be interchanged from among the submitted design pairs.

"(b) SUBMISSIONS.—All submissions produced under this Act shall become the sole property of the U.S. Capitol Restoration Commission."

SEC. 3. In Section 5(b) strike "except that not more than 1 facility" and insert "and all facilities" in lieu thereof.

Mr. BYRD. Mr. President, this amendment would provide that the income from the bicentennial-of-the-Congress coin—this being the 200th year of the House and Senate—would be used to upgrade and restore the Capitol for the American people over a 5-year period. I can think of no finer bicentennial gift that we could give to the American people than to improve their Capitol for their viewing enjoyment and improve their sense of history.

This is a large undertaking but one which is overdue for the Capitol. Similar endeavors have been successfully undertaken for the White House, the State Department, and, most recently, Blair House, which houses official guests. I hope that the managers will be in a position to accept the amendment and that the Senate will agree to it.

The PRESIDING OFFICER. Is there further debate?

Mr. GARN. Mr. President, I certainly have no objections to the substance of the amendment. As a matter of fact, I would commend the distinguished majority leader for offering it. It is a good idea to use the proceeds and I will not oppose the amendment out of courtesy to the majority leader.

However, I do want to state that it concerns me, because we have tried, as the managers of the bill, all day to get a bill that was identical with the House bill so that it could immediately go to the President with the 1-year extension of FSLIC because of the very severe problem of the savings and loans of this country. So there will be some other amendments that will change the bill and require a conference. I am hopeful that the majority leader would help us with the House of Representatives so that we would not have delay.

I want to again make clear I have no objections to the substance of the Senator's amendment. He knows the legislative process far better than I. I just hope that, by offering this and other amendments that will now be offered because the bill will not be clean, it does not delay the process of getting the 1-year extension enacted, and I would seek his and Senator DOLE's help in that effort.

Mr. BYRD. Mr. President, I fully appreciate what the ranking Member has said and I support him in what he has said. I hope that this bill will not be unduly delayed and I will certainly do everything I possibly can in talking with the leadership of the House to try to smooth the path for this amendment in conference if indeed it goes to conference. I do appreciate the support that the ranking manager has stated.

I think it is a good amendment. I think that our Capitol will be benefited by this amendment. Certainly the American people, it seems to me, in this bicentennial year, would appreciate the fact that, as I understand it, about $35 to $40 million would flow from the adoption of this amendment toward the building and toward the repair of the Capitol.

I hope those figures are accurate. Those are the figures that have been given to me.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I have great admiration and respect for our leader. He is a wonderful leader. He has done a superb job. I have no question in my mind this amendment is going to pass.

My problem, however, is $45 or $50 million is not very much in a $2.5 trillion debt but it is something. I just cannot vote for anything that diverts money from reducing the deficit. But I am sure the amendment will be agreed to and it is an amendment which, if we have to spend $45 or $50 million may well be a good way to spend it.

But I want to make it clear that this is in no way a discourtesy or a lack of admiration for the leader, whom I truly esteem.

Mr. BYRD. Mr. President, I understand that and fully respect the concerns that have been expressed by both managers. They have worked hard on the bill. They want to see the bill go the President's desk quickly, and I want to see that done also, and I would not want this amendment to stand in the way of that in conference or anywhere else.

But to me the Congress is the No. 1 institution in this constitutional form of Government. This is the 200th year of the first branch, the people's branch, the branch that is mentioned

in the first article, about which the whole first article of the Constitution is written. And it is mentioned in the very first sentence of the first article of the Constitution.

It seems to me that in striking this coin in recognition of the bicentennial, why not let a little money flow from that coin for the people's capital? So I certainly will do everything I can to see that the House does not stumble over this amendment. If that happens—take it off and send the bill on down to the President. Is that fair enough?

Very good.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2370) was agreed to.

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

Mr. GARN. 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 both managers and thank the Senate.

AMENDMENT NO. 2377

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative cleak read as follows:

The Senator from Colorado [Mr. ARMSTRONG] proposes an amendment numbered 2377.

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

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

The amendment is as follows:

SECTION 201. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF COINS.

Subsection (d)(1) of section 5112 of title 31, United States Code, is amended by striking the fourth sentence.

SEC. 202. DESIGN CHANGES REQUIRED FOR CERTAIN COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(3) The design on the reverse side of the half dollar, quarter dollar, dime coin, 5-cent coin and one-cent coin shall be selected for redesigning. One or more coins may be selected for redesign at the same time, but the first redesigned coin shall have a design commemorating the 200th anniversary of the United States Constitution for a period of two years after issuance. After that 2-year period, the bicentennial coin shall have its design changed in accordance with the provisions of this subsection. Such selection, and the minting and issuance of the first selected coin shall be made not later than 1 year after the date of the enactment of this paragraph. All such redesigned coins shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 203. DESIGN ON OBVERSE SIDE OF COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) The design on the obverse side of the half dollar, quarter dollar, dime coin, 5-cent coin, and one-cent coin shall contain the likeness of those currently displayed and shall be considered for redesign. All such coin obverse redesigns shall comform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 204. SELECTION OF DESIGNS.

The design changes for each coin authorized by the amendments made by this title shall take place at the discretion of the Secretary and shall be done at the rate of one or more coins per year, to be phased in over six years after the date of the enactment of this Act. In selecting new designs, the Secretary shall consider, among other factors, thematic representations of the following constitutional concepts: freedom of speech and assembly; freedom of the press; right to due process of law; right to a trial by jury; right to equal protection under the law; right to vote; themes from the Bill of Rights; and separation of powers, including the independence of the judiciary. The designs shall be selected by the Secretary upon consultation with the United States Commission of Fine Arts.

SEC. 205. REDUCTION OF THE NATIONAL DEBT.

Subsection (a)(1) of section 5112 of title 31, United States Code, is amended by inserting after the third sentence the following: "Any profits received from the sale of uncirculated and proof sets of coins shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

Mr. ARMSTRONG. Mr. President, if I may, I will take just a moment to explain that the amendment is in effect bill S. 1776, which has been sponsored by, I guess, more or less 70 Members of the Senate, on which there has been a hearing by the Banking Committee, which the Banking Committee has recommended for approval of the Senate.

In brief, this legislation simply says that over a 6-year period after the date of enactment the Secretary of the Treasury shall print and issue some new coins with new designs that he has approved; that the new designs will celebrate the bicentennial of the Constitution.

This matter was suggested to me and to the others who have sponsored it by people who are interested in coins. But it also has the side effect, in addition to satisfying people who are interested in the art and beauty and collecting of coins, it has the side effect of producing about a $200 million profit, it is estimated, for the Government as a result of the seigniorage on the issuance of these coins.

So I think it is not controversial and I hope the managers will accept the amendment.

Let me say in the same spirit the majority leader has offered, I would not wish this amendment to adversely affect in any way the prospects for the underlying bill. Although I am not sympathetic to the bill I am sympathetic to the managers of the bill. They had asked that perhaps the Senators would defer offering amendments to this so the FSLIC issue could be considered on its own merits. But since we are going to take some amendments it seems fair to me to take this, which is closely related conceptually to the amendment we have just adopted.

With that word of explanation, I would be hopeful that the managers would be willing to have this ornament added to their bill.

Mr. PROXMIRE. Did I understand the distinguished Senator from Colorado said this would bring $200 million into the Treasury to reduce the deficit?

Mr. ARMSTRONG. That is correct. That is the figure provided to us by witnesses before the Banking Committee, that the seigniorage on this over a period of a few years would amount to some $200 million.

Mr. PROXMIRE. I cannot resist that argument.

Mr. GARN. Mr. President, although as I said before, I would prefer we have no amendments, I would not disagree with the substance and I reluctantly accept the amendment.

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

The amendment (No. 2377) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

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

AMENDMENT NO. 2378

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I will explain what the amendment does briefly.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for himself, Mr. HEINZ, Mrs. KASSEBAUM, Mr. MOYNIHAN, Mr. MURKOWSKI, and Mr. EXON; proposes an amendment numbered 2378.

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

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

The amendment is as follows:

At the appropriate place add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dwight David Eisenhower Commemorative Coin Act of 1987".

SEC. 2. DWIGHT DAVID EISENHOWER COMMEMORATIVE COINS.

(a) AUTHORIZATION.—subject to subsection (b), the Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue one-dollar coins in commemoration of the one hundredth anniversary of the birth of Dwight David Eisenhower.

(b) LIMITATION ON THE NUMBER OF COINS.—The Secretary may not mint more than ten million of the coins referred to in subsection (a).

(c) SPECIFICATIONS AND DESIGN OF COINS.—Each coin referred to in subsection (a) shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches;

(3) contain 90 percent silver and 10 percent copper;

(4) designate the value of such coin;

(5) have an inscription of—

(A) the year "1990"; and

(B) the words "Liberty", "In God We Trust" "United States of America", and "E Pluribus Unum";

(6) have the likeness of Dwight David Eisenhower on the obverse side of such coin; and

(7) have an illustration of the home of Dwight David Eisenhower located in the Gettysburg National Historic Site on the reserve side of such coin.

(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, the coins referred to in subsection (a) shall be considered to be numismatic items.

(e) LEGAL TENDER.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins referred to in section 1(a) only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. MINTING AND ISSUANCE OF COINS.

(a) UNCIRCULATED AND PROOF QUALITIES.—The Secretary may mint and issue the coins referred to in section 1(a) in uncirculated and proof qualities.

(b) USE OF THE UNITED STATES MINT.—The Secretary may not use more than 1 facility of the United States Mint to strike the coins referred to in section 1(a).

(c) COMMENCEMENT OF AUTHORITY TO SELL COINS.—The Secretary may begin selling the coins referred to in section 1(a) on January 1, 1990.

(d) TERMINATION OF AUTHORITY TO MINT COINS.—The Secretary may not mint the coins referred to in section 1(a) after December 31, 1990.

SEC. 5. SALE OF COINS.

(a) IN GENERAL.—Subject to subsections (b) and (c), and notwithstanding any other provision of law, the Secretary shall sell the coins referred to in section 1(a) at a price equal to—

(1) the face value of such coins; and

(2) the cost of designing, minting, dies, use of machinery, and overhead expenses.

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins referred to in section 1(a) at a reasonable discount to reflect the lower costs of such sales.

(c) PREPARED ORDERS.—Before January 1, 1990, the Secretary shall accept prepaid orders for the coins referred to in section 1(a). The Secretary shall make sales with respect to such prepaid orders at a reasonable discount to reflect the benefit to the Federal Government of prepayment.

(d) SURCHARGES.—The Secretary shall include a surcharge of $9 per coin on all sales of the coins referred to in section 1(a).

SEC. 6. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 1(a) shall result in no net costs to the Federal Government.

(b) PAYMENT FOR THE COINS.—The Secretary may not sell a coin referred to in section 1(a) unless the Secretary has received—

(1) full payment for such coin;

(2) security satisfactory to the Secretary to indemnify the Federal Government for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

SEC. 7. PROCUREMENT OF GOODS AND SERVICES.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not apply with respect to any law relating to equal employment opportunity.

SEC. 8. REDUCTION OF FEDERAL DEBT.

The Secretary shall deposit in the general fund of the Treasury for the purpose of reducing the Federal debt an amount equal to the amount of all surcharges that are received by the Secretary from the sale of the coins referred to in section 1(a).

Mr. DOLE. Mr. President, I am honored today to offer, along with Senator HEINZ, Senator KASSEBAUM, and others, an amendment which would authorize the minting of a coin commemorating the 100th birthday of President David Eisenhower—one of this Nation's most respected and beloved Presidents.

There would be no Government cost for minting and issuing this $1 coin. And the proceeds from its sale would be used to reduce the Federal deficit.

Mr. President, quite naturally as a fellow Kansan, I take special pride in the illustrious military and public career of President Eisenhower. His pivotal role as the chief of staff of the 3d Army; commander general—European theater of operations, Supreme Commander of the Allied Expeditionary Forces is well known, and laid the groundwork for his election to the Presidency in 1952.

Unfortunately, I arrived here in Washington as a Congressman just as President Eisenhower was leaving office. But he did and does serve for me as the personification of a no-nonsense, commonsense, approach, to solving the problems of government—an approach that reflects basic but essential American values.

Mr. President, I can think of no more appropriate tribute to President Eisenhower's memory, than the issuance of a coin that would be seen and used by hundreds of thousands of Americans. And I urge the adoption of this amendment.

Mr. PROXMIRE. Will the distinguished Senator yield for a question?

Mr. DOLE. I will yield.

Mr. PROXMIRE. Does this amendment cost the Treasury money, or does it bring money in?

Mr. DOLE. There would be no Government cost for minting and issuing the $1 coin, and the proceeds from its sale would be used to reduce the Federal deficit.

Mr. PROXMIRE. It would not bring money in; it would be reduction of the deficit.

Mr. DOLE. Yes.

Mr. PROXMIRE. I have no objection.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 2378) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I rise in support of H.R. 3251, the Commemoration of the Bicentennial of the U.S. Congress. For a number of years I have been actively involved in efforts to mint U.S. gold and silver coins. I have been involved for a number of reasons. One very important reason is to maximize the return to the U.S. Treasury of silver currently held in Government stockpiles. This bill and the amendments thereto has the potential of disposing of over 10 million ounces of Government silver.

H.R. 3251 calls for the minting of 3 million $1 silver coins to commemorate the bicentennial of the U.S. Congress, and the amendment offered by the minority leader in behalf of Senator HEINZ would allow an additional 10 million coins to be minted to commemorate the 100th anniversary of the birth of Dwight David Eisenhower. These coins would be 90 percent silver. The silver would come from the national defense stockpile.

Mr. President, the national defense stockpile has had as much as 136 million ounces of silver. For a number of years this administration and others have attempted to dump this silver on

the market. Not only would this have an adverse effect on the market, but it would return to the Treasury fewer dollars than what a well-planned marketing plan could return in this time of tight budgets.

For example, in 1985 the Congress passed the Statue of Liberty coin bill. This bill included language requiring the mint to use silver in the national defense stockpile to mint the Statue of Liberty coins and the new silver Liberty coin which I added as an amendment on the Senate floor. Since the passage of this bill and the great reception these coins received, each subsequent coinage measure has included language requiring the use of Government stockpiled silver in their coins. The bill before us today also requires that silver used in these coins come from the national defense stockpile.

Mr. President, let me explain the great benefit to the Government from using stockpiled silver in these coinage measures. Those who promote the dumping of this silver on the market would depress the price of silver and greatly decrease the amount of return to the Treasury. Since we have begun to use this silver in a well-planned marketing strategy, the Government has disposed of close to 30 million ounces in the last 3 years. Further, these sales have generated close to $65 million to reduce the deficit. If there has ever been a Government program where the Government has successfully covered their costs and raised money to reduce the deficit, it is the coinage programs. If the silver had been dumped, it is very possible that little, if any, return would have been realized to reduce the deficit.

Mr. President, the bill before us today is a continuation of a proven marketing strategy to dispose of Government stockpiled silver in an orderly fashion. I applaud those who have worked to make this a reality. Further, I expect that these coinage programs and future coins will be as cost effective as the Statue of Liberty, Silver Liberty, and the Bicentennial of the Constitution.

Mr. President, I ask unanimous consent that my statement appear in the RECORD as if read immediately before the passage of H.R. 3251.

Mr. LEAHY. Mr. President, I rise in support of the bill to mint a coin to commemorate the bicentennial of the Congress, but I do so reluctantly.

While I support the minting of the coin as an appropriate means of marking the bicentennial of the First Congress, I have severe reservations about one of the banking amendments that was offered on the floor.

Mr. President, an amendment was offered to extend for 1 year the moratorium which prevents savings and loans from converting to banks. This matter is extremely controversial and goes to the heart of the whole thrift crisis in this country. Yet, no committee of the Senate has held a hearing on the legislation to extend the moratorium. I believe this is unwise and, for this reason, at this time I oppose extending the moratorium. Extending the moratorium is also unfair to those thrifts which plan to convert to banks in the near future.

Mr. President, our Nation's savings and loans and our thrift deposit system is in trouble. Congress and the administration must work together to restore soundness to FSLIC and to our S&L's. But, we must do our job deliberately, with hearings and study.

I was also troubled by an amendment to allow FSLIC to change the way it collects premiums from member S&L's. The amendment would have permitted FSLIC to collect higher premiums from thrifts that make risky investments. On its face, this is a sound idea and one that bankers in my State of Vermont would support. This proposal, however, just like the extension of the moratorium, has never had a hearing in Congress. I voted to table this amendment in the hope that hearings will be held and that steps will be taken to ease the burden on sound, conservative thrift institutions.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the clerk will read the bill for the third time.

The legislative clerk read as follows:

A bill (H.R. 3251) to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the United States Congress.

The PRESIDING OFFICER. Is there further debate?

Mr. GARN. Mr. President, the yeas and nays have previously been ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered.

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

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

Mr. PROXMIRE. Mr. President, first, I ask unanimous consent that the vote whereby the first two committee amendments to H.R. 3251 were agreed to, be considered en block and that the amendments upon reconsideration be disagreed to en bloc.,

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

Mr. PROXMIRE. Second, Mr. President, the distinguished Senator from Montana, Senator BAUCUS, had intended to offer an amendment to the Armstrong amendment which was considered, but he was not notified when the Armstrong amendment was up.

He would like to offer that amendment now. I have no objection to it. It is an amendment that would not have adverse effect on the Treasury. It is an amendment which relates to the bicentennial, and I think it is a noncontroversial amendment.

I ask unanimous consent the amendment be in order in spite of the fact we had third reading.

Mr. GARN. Reserving the right to object, and I will not object, I want to make certain that this is merely for the purposes of the Baucus amendment and we immediately go to the vote on final passage. With that understanding, I will not object.

The PRESIDING OFFICER. Is there objection. There being no objection, the unanimous-consent request is agreed to.

AMENDMENT NO. 2379

(Purpose: To require the Secretary of the Treassury to mint and issue $5 coins in commemoration of the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South Dakota, Washington and Wyoming)

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana, Mr. BAUCUS, proposes an amendment numbered 2379.

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

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

The amendment is as follows:

On page 1, between lines 3 and 4, insert the following:

"TITLE I—BICENTENNIAL OF THE UNITED STATES CONGRESS COMMEMORATIVE COIN."

On page 8, after line 12, insert the following new title:

"TITLE II—STATEHOOD CENTENNIAL COMMEMORATIVE COIN

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Statehood Centennial Commemorative Coin Act of 1989'.

"SEC. 202. STATEHOOD CENTENNIAL COMMEMORATIVE COINS.

"(a) AUTHORIZATION.—Subject to subsection (b), the Secretary of the Treasury (hereinafter in this title referred to as the 'Secretary') shall mint and issue 5 dollar coins in commemoration of the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South Dakota, Washington and Wyoming.

"(b) LIMITATION ON THE NUMBER OF COINS.—The Secretary may not mint more than 350,000 of the coins referred to in subsection (a).

"(c) SPECIFICATIONS AND DESIGN OF COINS.—Each coin referred to in subsection (a) shall—

"(1) weigh 31.103 grams;

"(2) have a diameter of 1.650 inches;

"(3) contain 90 percent palladium and 10 percent alloy;

"(4) designate the value of such coin;

"(5) have an inscription of—

"(A) the year '1989'; and

"(B) the words 'Liberty', 'In God We Trust', 'United States of America', 'E Pluribus Unum', and 'Statehood 1889-1890'; and

"(6) contain an engraving of the regional logo on one side and a combination of a bust of Thomas Jefferson and Lewis and Clark overlooking the Missouri, on the other side;

"(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, the coins referred to in subsection (a) shall be considered to be numismatic items.

"(e) LEGAL TENDER.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

"SEC. 203. SOURCES OF BULLION.

"The Secretary shall obtain palladium for the coins referred to in section 202(a) by purchase of palladium mined from natural deposits in the United States within one year after the month in which the ore from which it is derived was mined and by purchase of palladium refined in the United States. The Secretary shall pay not more than the average world price for the palladium. In the absence of available supplies of such palladium at the average world price, the Secretary shall purchase supplies of palladium pursuant to the authority of the Secretary under existing law. The Secretary shall issue such regulations as may be necessary to carry out this paragraph.

"SEC. 204. MINTING AND ISSUANCE OF COINS.

"(a) UNCIRCULATED AND PROOF QUALITIES.—The Secretary may mint and issue the coins referred to in section 202(a) in uncirculated and proof qualities.

"(b) USE OF THE UNITED STATES MINT.—The Secretary may not use more than 1 facility of the United States Mint to strike the coins referred to in section 202(a).

"(c) COMMENCEMENT OF AUTHORITY TO SELL COINS.—The Secretary may begin selling the coins referred to in section 202(a) on January 1, 1989.

"SEC. 205. SALE OF THE COINS.

"(a) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount to reflect the lower costs of such sales.

"(b) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

"(c) SURCHARGE REQUIRED.—All sales shall include a surcharge of $20 per coin.

"SEC. 206. FINANCIAL ASSURANCES.

"(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 202(a) shall not result in any net cost to the Federal Government.

"(b) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses).

"SEC. 207. PROCUREMENT OF GOODS AND SERVICES.

"(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title.

"(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not apply with respect to any law relating to equal employment opportunity.

"SEC. 208. REDUCTION OF FEDERAL DEBT.

"The Secretary shall deposit in the general fund of the Treasury for the purpose of reducing the Federal debt an amount equal to the amount of all surcharges that are received by the Secretary from the sale of the coins referred to in section 202(a).".

Mr. BAUCUS. Mr. President, there are six States whose centennial is next year, 1989. This amendment very simply requires the Government to strike a coin in commemoration of those six States. There will be 350,000 coins, they will be $5 coins, and the price for the coins will be $20. It is a good amendment, in commemoration of the six States whose centennial is in 1989, and I ask the amendment be agreed to.

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

The amendment (No. 2379) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. CRANSTON. Senator PROXMIRE, I have a question concerning the debate on the amendment to H.R. 3251 which provided for a moratorium on transfers from FSLIC to FDIC.

This legislation extends the moratorium on FSLIC to FDIC transfers for an additional year, however, does this amendment have any effect on the thrift institutions which were grandfathered under the Competitive Equality Banking Act last year?

Mr. PROXMIRE. No, Senator, it does not.

Mr. GARN. I concur with that analysis.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES], is necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN], is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. MCCAIN] and the Senator from California [Mr. WILSON] are necessary absent.

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

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—96

Adams	Glenn	Moynihan
Armstrong	Gore	Murkowski
Baucus	Graham	Nickles
Bentsen	Gramm	Nunn
Bingaman	Grassley	Packwood
Bond	Harkin	Pell
Boren	Hatch	Pressler
Boschwitz	Hatfield	Proxmire
Bradley	Hecht	Pryor
Breaux	Heflin	Quayle
Bumpers	Heinz	Reid
Burdick	Helms	Riegle
Byrd	Hollings	Rockefeller
Chafee	Humphrey	Roth
Cochran	Inouye	Rudman
Cohen	Johnston	Sanford
Conrad	Karnes	Sarbanes
Cranston	Kassebaum	Sasser
D'Amato	Kasten	Shelby
Danforth	Kennedy	Simon
Daschle	Kerry	Simpson
DeConcini	Lautenberg	Specter
Dixon	Leahy	Stafford
Dodd	Levin	Stennis
Dole	Lugar	Stevens
Domenici	Matsunaga	Symms
Durenberger	McClure	Thurmond
Evans	McConnell	Trible
Exon	Melcher	Wallop
Ford	Metzenbaum	Warner
Fowler	Mikulski	Weicker
Garn	Mitchell	Wirth

NOT VOTING—4

Biden	McCain
Chiles	Wilson

So the bill (H.R. 3251), as amended, was passed.

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

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

The motion to lay on the table was agreed to.

ALLEGED FRAUD AND ABUSE IN DEFENSE CONTRACTING

Mr. WARNER. Mr. President, the press today carries a story about alleged fraud and abuse in defense contracting, and this concerns me greatly, as the ranking member of the Senate Armed Services Committee. I have served on that committee nearly 10 years, and prior thereto for over 5 years in the Department of Defense, and I have some knowledge of the procurement system.

We have now witnessed, through the past few years, a very serious series of allegations of fraud and abuse in defense contracting—hammers, toilet seats, and other things. Now we have this serious case. I say serious because while I do not have any inside information whatsoever, such stories have profound impact on our ability here in Congress to do our work in terms of legislation, in terms of guiding the Department of Defense. It affects all aspects of our national defense. Right now, just an hour ago, we adjourned

the conference between the House and the Senate for the 1989 authorization bill.

Mr. President, I have undertaken to write the Secretary of Defense a letter, and I ask my colleagues to bear with me as I read a portion of that letter.

Dear Mr. Secretary:

The wide-ranging Justice Department investigation of Defense Department officials and defense contractors and consultants, as reported in the media today, is of utmost concern. If this investigation uncovers evidence of fraud or bribery involving the improper exchange of technical or competitive data (proprietary data) between government employees and defense contractors or consultants, and if such evidence provides a basis for criminal indictments, then these actions challenge the integrity of the existing procurement process. We must ask if there is some part of our procurement process which, if not fostering, may be permitting an atmosphere in which this type of criminal activity could occur.

According to the press accounts, there are defense contractors involved in over 50 contracts which are now in existence, which may have to be reexamined, in terms of the validity of those contracts.

I recognize that this investigation is ongoing and that it may be sometime before much of the evidence about this matter becomes available. Nonetheless, a review of the procurement process must begin immediately. I ask that you undertake such a review today. I ask that you specifically focus on questions involving the safeguards in handling of competitive and technical data within the defense procurement process. Further, are the existing statutes and regulations governing these matters adequate, appropriate, internally consistent, and easily understandable? We must assure that the applicable statutes and regulations are sufficiently clear and precise to make any attempt to violate them obvious to all concerned participants in the procurement process.

If the allegations reported in today's press are shown to be true, there could be hundreds, if not thousands, of honest government employees, government contractors, and consultants who could be harmed by their mere association with the defense procurement process.

Guilt by association.

We all know that the vast number of individuals, the overwhelming number, pursue their activities in an honest way every day. Yet, this case will impact not only on their daily activities but also on their family lives and their careers, and that concerns me greatly.

It is for that reason that I want the Secretary to immediately examine this process, so as to determine how such a pervasive case could possibly have occurred, if the allegations are true, and to take immediate steps to clarify any misunderstanding in the procurement process so that it will stop.

The allegations relate to fraud in the following ways: When a contract is conceived in a military department, seniors of that department come together and determine how much money they have, what are the needs of that department, and how they should put together a proposal to send out for bids. If information is leaked at that stage, any bidder coming in would have an advantage.

The second stage is that the proposal is put out and bids are sent in. Based on the lowest bidder—that is usually the criterion, provided they have the adequate technical package—that bidder or bidders would be enabled to compete for the best and final offer.

Herein is the fertile ground for much of the allegation of fraud in this case, because you gravitate down to two or three contractors, and they are in fierce competition. If one is able to get knowledge of the other's technical data or the other's price, then that contractor has a clear advantage in working on that best and final offer.

This is a very serious case, Mr. President. I hope that those in the Department of Justice and others responsible will pursue it with all due diligence.

Mr. President, I ask unanimous consent to have my letter to Secretary Carlucci printed in the RECORD.

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

JUNE 15, 1988.

Hon. FRANK C. CARLUCCI III,
Secretary of Defense, Washington, DC.

DEAR FRANK: The wide-ranging Justice Department investigation of Defense Department officials and defense contractors and consultants, as reported in the media today, is of utmost concern. If this investigation uncovers evidence of fraud or bribery involving the improper exchange of technical or competitive data (proprietary data) between government employees and defense contractors or consultants, and if such evidence provides a basis for criminal indictments, then these actions challenge the integrity of the existing procurement process. We must ask if there is some part of our procurement process which, if not fostering, may be permitting an atmosphere in which this type of criminal activity could occur.

I recognize that this investigation is ongoing and that it may be sometime before much of the evidence about this matter becomes available. Nonetheless, a review of the procurement process must begin immediately. I ask that you undertake such a review today. I ask that you specifically focus on questions involving the safeguards in handling of competitive and technical data within the defense procurement process. Further, are the existing statutes and regulations governing these matters adequate, appropriate, internally consistent, and easily understandable? We must assure that the applicable statutes and regulations are sufficiently clear and precise to make any attempt to violate them obvious to all concerned participants in the procurement process.

If the allegations reported in today's press are shown to be true, there could be hundreds, if not thousands, of honest government employees, government contractors, and consultants who could be harmed by their mere association with the defense procurement process. We cannot allow this to continue. If the evidence shows that knowing criminal conduct occurred, those responsible must be identified and appropriate actions taken. But in the meantime, we must assure that our procurement system process does not in any way foster or contribute to an atmosphere in which criminal conduct like that alleged can occur.

Sincerely,

JOHN W. WARNER.

Mr. METZENBAUM. Mr. President, will the Senator from Virginia yield for a question?

Mr. WARNER. Yes.

Mr. METZENBAUM. First let me say the Senator from Virginia is on target on this subject. I commend him for it. As a matter of fact, I recollect the occasion when he and the senior Senator from Colorado and I met with former Secretary Weinberger and his deputy, Frank Carlucci, to talk about the entire matter of procurement.

As a consequence of that meeting, there came out 32 new proposals as to how procurement would occur in the Department of Defense, but the one thing that we emphasized at that time before was competitive bidding and that was omitted until such time as I saw the occasion to speak to the Deputy Secretary. They say, "Oh, yes, it was an oversight," and included it.

My real question is this: the Senator from Virginia knows as well as anyone in this body, certainly as well as I know and every other Member of this body, that this is deja vu. It was not too long ago that I remember that I read that 55 out of 100 defense contractors were being examined for defense fraud. It was not too long ago I remember that some defense contractors were actually suspended from getting any contracts and then they were reinstated although there were no penalties attached to it because the Department of Defense said "We need the procurement and we cannot afford to do without it."

My real question is, you can send a letter and I commend you for that, and I do not take offense, and I support you. But how do we get the Department of Defense to understand that this largest Department in the U.S. Government which spends billions upon billions of dollars is profligate in its expenditure of funds, refuses to conduct itself as any normal business would conduct itself, has well meaning people at every level when you search through the Department but the totality winds up with the American people paying the bill for guns and missiles that do not work, that are kept on the field, for equipment that costs twice what it should cost and sometimes 10 and 20 times as much, for so many other instances of waste, waste, waste?

I am speaking only out of a sense of frustration because although my colleague is a ranking member of the Armed Services Committee and a

former Secretary of the Navy, he is not responsible. He is trying to do something about it.

The letter will not solve the problem. What can we here in the Congress do more than just putting a little pressure on? It becomes a 1-day story and then it fades into the shadows.

Mr. WARNER. Mr. President, my distinguished colleague from Ohio indeed has been very much involved through the years in trying to improve the procurement process not only of the Defense Department but throughout Government contracts.

But, I would suggest we proceed with great caution on this particular case because all we have is a bare media report, and there are only allegations of fraud. Under our system of jurisprudence until proven guilty, of course, we presume innocence.

But the facts that I have learned again, primarily almost exclusively, through the media is there are over a dozen contractors involved, perhaps 50 contracts, so it is a very pervasive case within the Department and I think the Senator raises a legitimate question: How such a pervasive case, if in fact it is true, can go undetected for 2 years that this investigation was proceeding without some responsible person spotting it and then begin to take appropriate action.

What concerns me now is—and we may have a difference of opinion here, I am of the opinion that the vast majority of people in the Pentagon, in Government, proceed on the $150 billion annually the Department of Defense is appropriated in an honest way and would withstand scrutiny of any court.

Mr. METZENBAUM. We did not have a difference there.

Mr. WARNER. Also there are those who wish to take a chance and violate the law.

I say to the Secretary to come back to us as quickly as possible determining whether or not the procurement process in any way fosters or encourages these violations and in fact the existing statutory and regulatory framework is clear enough so that honest, conscientious employees can continue with their work without getting entrapped in these situations. And tens of thousands of these individuals are my constituents and I am proud of them and they live in the Commonwealth of Virginia.

ORDER OF PROCEDURE

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

Mr. WARNER. I yield.

Mr. BYRD. Mr. President, I would like to proceed to the corporate takeover bill.

I understand that the discussions are continuing on the welfare reform legislation, and there may be some hope of reaching some agreement in that regard soon. But at least I would like to get my motion in to take up this measure. Of course, welfare reform has first track. That has the inside track, in any event. I would not contemplate being on the corporate takeover bill very long today. We will still be on it tomorrow.

When the managers are ready to go forward on the welfare reform bill, we will be back to that.

I wonder if we could get consent that I be recognized in 10 minutes for the purpose of trying to get up the corporate takeover bill.

Mr. DOMENICI. Mr. President, I say to the distinguished majority leader that I would like 1 minute before that event, if the distinguished majority leader does not object.

Mr. WARNER. I say to the distinguished majority leader that I have finished, but I will remain for the purpose of responding to any questions that might be put.

Mr. BYRD. Mr. President, I suggest to Senators that they not leave for the evening yet. There may be further rollcall votes today.

I ask unanimous consent that I may be recognized at not later than 6 o'clock to make the request concerning the corporate takeover measure.

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

The Senator from Arkansas.

Mr. PRYOR. Mr. President, thank you for recognizing me.

GOVERNMENT PROCUREMENT

Mr. PRYOR. Mr. President, I am sorry the Senator from Virginia, Senator WARNER, has had to leave the floor. I heard his remarks and I applaud him for the statement he made relative to the situation today with regard to the Pentagon procurement.

First I would like to submit for the RECORD at the appropriate place an article written in the Washington Post this morning entitled "Pentagon Offices Searched," an article written in the Wall Street Journal "FBI and Navy Disclose Broad Inquiry Into Defense Contractors and Military," and an article on the front page from the New York Times, "FBI in Surprise Search of Pentagon and Suppliers."

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

[From the Washington Post, June 15, 1988]

PENTAGON OFFICES SEARCHED—FIRMS, CONSULTANTS TARGETED IN ALLEGED PROCUREMENT FRAUD

(By Ruth Marcus)

Federal agents searched the offices of two top Pentagon officials and of major defense contractors and consultants nationwide yesterday as part of what the Justice Department described as a two-year investigation of "possible widespread fraudulent activity" in Defense Department procurement.

Agents of the FBI and the Naval Investigative Service searched the office and home of Victor D. Cohen, a civilian Air Force official responsible for purchasing defense electronics, and the office of James E. Gaines, a deputy assistant secretary of the Navy for research, development and logistics, FBI spokesman Sue Schnitzer confirmed. Cohen's Pentagon office was sealed last night, and guards were posted outside.

Agents also searched the District office of defense consultant Melvyn Paisley, a former assistant Navy secretary, who was sued by the Justice Department for taking a $183,000 severance payment when he left Boeing Co. to take the Navy post in 1981. A federal appeals court ruled earlier this year that the payments to Paisley, a top procurement officer under former Navy secretary John F. Lehman Jr., were illegal.

Among the defense contractors who had offices searched yesterday were United Technologies, Unisys, McDonnell Douglas, Northrop, Litton Data Systems, Loral Corp. and Teledyne, Schnitzer said. In all, agents executed about 30 search warrants in 12 states.

The Justice Department said in a statement that the investigation "focuses on allegations of fraud and bribery on the part of defense contractors, consultants and U.S. government employees."

Sources familiar with the massive investigation described it as involving allegations of widespread bribery and corruption in the military procurement process. They said former Pentagon officials working for defense contractors or as consultants allegedly offered payoffs to Defense Department officials in exchange for valuable inside information such as amounts of competing bids, contract specifications and the criteria on which contracts would be awarded.

They said the probe also touches on the involvement of unidentified members of Congress and congressional aides and their role in helping companies obtain lucrative military contracts.

The sources said the allegations center on the Navy procurement process but that the Air Force and possibly other services also appear to be involved. They said the investigation started two years ago when a former Navy official provided evidence of possible widespread corruption in the military contracting process.

The investigation, a joint project of the Federal Bureau of Investigation and the NIS, is being coordinated by U.S. Attorney Henry E. Hudson in Alexandria.

Five defense contractors confirmed yesterday that their facilities had been searched, but declined further comment, except to say they are cooperating with authorities.

McDonnell Douglas, the nation's third-largest contractor, builds the Army Apache helicopter, Navy F18 fighter-bomber and smaller weapons.

A McDonnell Douglas spokesman said the FBI appeared at corporate headquarters early yesterday afternoon with a search warrant for records related to the work of a consultant. The spokesman would not identify the project on which the consultant was working.

Northrop, which confirmed the search of its Ventura unit in Newbury Park, Calif., makes the Stealth bomber and missiles and conducted an unsuccessful campaign to persuade the Pentagon to buy its F20 fighter.

A United Technologies spokesman said searches were conducted at the Washington offices of its Pratt & Whitney aircraft engine subsidiary and at three facilities op-

erated by another subsidiary, Norden Systems Inc., which designs and builds military communications systems.

Teledyne spokesman Berkeley Baker said the offices of Teledyne Electronics in Newbury Park, Calif., had been searched. The division manufactures electronics equipment for airplanes, including equipment that identifies approaching aircraft as friend or foe and navigation and communications equipment.

The FBI also searched Unisys facilities in Eagan, Minn., where the company makes specialized computers, and at Great Neck, N.Y., where it produces defensive electronics for ship and ground operations.

At Armtec, in Palatka, Fla., a man who identified himself as an FBI agent answered the phone, but would not give his name or say why he was there.

Navy procurement chief Paisley, who left the government last year, dealt with a wide range of contractors on multibillion-dollar projects ranging from warships to missiles to aircraft.

[From the Wall Street Journal, June 15, 1988]

FBI AND NAVY DISCLOSE BROAD INQUIRY INTO DEFENSE CONTRACTORS AND MILITARY

(By Tim Carrington)

WASHINGTON—The Federal Bureau of Investigation and the Navy are pressing ahead in a sweeping investigation of possible corruption and bribery among defense contractors, consultants and managers in the military services.

The inquiry was disclosed yesterday, when the FBI searched 31 locations under federal search warrants. Federal investigators searched three Connecticut offices of Norden Systems Inc., and the Washington office of Pratt & Whitney Aircraft. Both companies are units of Hartford-based United Technologies Corp.

Other companies searched in the federal investigation include St. Louis-based McDonnell Douglas Corp.; Northrop Corp. of Los Angeles; Hazeltine Corp. of Greenlawn, N.Y.; and the Great Neck, N.Y., offices of Unisys Corp.

The FBI and Naval Investigative Service also searched offices of Melvin Paisley, formerly the Navy's chief of research, who since 1986 has been a private consultant specializing in defense contracting. In addition, investigators searched the offices of a Navy weapons manager and an Air Force tactical air expert. The government said the searches didn't lead to any arrests. Mr. Paisley couldn't be reached for comment.

The far-flung investigation began two years ago after a former Navy official tipped off the Naval Investigative Service. The FBI got involved some months later, and the inquiry mushroomed. Currently, according to the FBI, it "focuses on allegations of fraud and bribery on the part of defense contractors, consultants, and U.S. government employees."

Among other things, the investigators are trying to find out how sensitive contract information travels within the defense community, and whether information has been shared in an effort to fix prices on contracts that the services have opened up to competition.

"This is big," said a defense contractor attorney in Washington. "But we still don't know what it's all about." Senior Pentagon officials were also surprised by the searches. "The first I knew of it was when they came in the building and sealed off an office," said an Air Force officer.

The government's inquiry differs from most other criminal investigations of the defense industry. Since the Justice Department and internal Pentagon investigators have focused on contactor fraud in the last three years, they have launched dozens of investigations into possible wrongdoing by individual companies. Typically, investigations have centered on such abuses as charging the government for inappropriate expenses, shifting costs from one contract to another, or negotiating contracts under false pretexts.

The current investigation is far wider. Although it began with the Navy, it may involve all the branches of the military. No one could explain how so many contractors and other officials could be involved in a single scheme or pattern of abuse.

The companies linked so far to the inquiry confirmed that the searches occurred yesterday, but provided no information on what the investigation may uncover. A McDonnell Douglas spokesman said that the search there involved "work of a consultant" hired by the company. The spokesman added that the company believed the work to be "entirely proper."

Altogether, the searches covered twelve states and the District of Columbia. Investigators didn't disclose all of the locations searched yesterday.

[From the New York Times, June 15, 1988]

F.B.I. IN SURPRISE SEARCH OF PENTAGON AND SUPPLIERS

(By Philip Shenon)

WASHINGTON, June 14.—Agents of the Federal Bureau of Investigation made surprise searches at the Pentagon today in what law-enforcement officials said was a major bribery investigation aimed at procurement officials of the Defense Department.

As part of the investigation, officials said, the F.B.I. and the Naval investigative Service searched the home and office of the Navy's former chief researcher, as well as the Pentagon offices of two senior procurement officers who still work for the Defense Department.

According to the officials, the F.B.I. and the Naval Investigative Service also conducted court-ordered searches of the offices of 14 military contractors, including the Northrop Corporation, the McDonnell Douglas Corporation and the United Technologies Corporation.

SEARCHES IN 12 STATES

In a prepared statement, the F.B.I. said that it was conducting searches today in 12 states "in connection with a two-year nationwide investigation regarding possible widespread fraudulent activity with the Department of Defense contracting process."

"The investigation focuses on allegations of fraud and bribery on the part of defense contractors, consultants and U.S. Government employees," the bureau said.

One Government official said that Congressional officials with ties to the military procurement process might also come under scrutiny as part of the inquiry.

The significance of the investigation was made clear by the decision to conduct surprise searches for documents at the Pentagon. It is unusual for the F.B.I. to use search warrants to obtain the files of another Federal agency.

Among those subjected to searches today, another official said, was Melvyn R. Paisley, who recently resigned his post as Assistant Secretary of the Navy for Research, Engineering and Systems, the Navy's director of research.

PHONE NOT ANSWERED

The official said Mr. Paisley's home in McLean, Va., and his Washington consulting office were expected to be searched. The phone was not answered today at either location.

Also searched, officials said, was the Pentagon office of Victor D. Cohen, the director of tactical weapons acquisitions at the Air Force Mr. Cohen did not return phone calls for comment.

Mr. Cohen's home was also expected to be searched. Pentagon aides said a guard was posted outside Mr. Cohen's office and barred visitors from entering.

The offices of a Deputy Assistant Secretary of the Navy for Acquisition Management, James Gaines, were also searched as part of the investigation, an official said Mr. Gaines did not return phone calls for comment, and it could not be determined what information might be sought from his office.

Law-enforcement officials would not explain their decision to search the offices of Mr. Cohen and Mr. Gaines. It was unclear whether they are subjects of the investigation.

Several military contractors confirmed that their offices were searched today by naval investigators and the F.B.I.

"As we speak, they're still here," said Jim Linse, a spokesman for the Washington office of Pratt & Whitney, a division of United Technologies that is one of the nation's two primary air-craft-engine manufacturers. "They presented a search warrant and have gone about their business looking for certain documents."

DATA SOUGHT ON CONTRACTS

Mr. Linse said the warrants sought information on two Pratt & Whitney contracts: one for the 404 engine for fighter jets, the other for the V22, a new military aircraft that is a hybrid between a helicopter and a fixed-wing plane.

James Reed, a spokesman for McDonnell Douglas, one of the nation's largest aircraft manufacturers, confirmed that search warrants had been served on the St. Louis-based company.

"Those search warrants relate to the work of a consultant to McDonnell Douglas," Mr. Reed said, declining to identify the consultant further. "McDonnell Douglas believes its relations with the consultant have been entirely proper."

A spokesman for Northrop, Tony Cantafio, confirmed that the company's Ventura Division in Southern California, which manufacturers aerial drones for target practice, had been served with search warrants. He would not comment further.

Among other military contractors served with search warrants today, officials said, were the Unisys Corporation, a Detroit-based computer maker; the Loral Corporation, a New York-based electronics manufacturer, and the Hazeltine Corporation, an electronics company with headquarters on Long Island.

AFFIDAVITS UNDER SEAL

Affidavits supporting the search warrants remained under seal today. Law-enforcement officials said they would be unsealed and made available to the public as soon as one of the suspects in the case tried to contest the Government's action.

Little information was available today on the nature of the bribery allegations.

In recent years, several Defense Department officials have faced bribery charges. Most recently a network of department employees and clothing companies were indicted last year on charges involving kickbacks for contracts to supply peacoats and other military garments.

Government officials said the investigation was initiated by the Naval Investigative Service in 1986 and was later joined by the F.B.I. and the Department of Justice.

JUSTICE DEPARTMENT STATEMENT

In a prepared statement, the Justice Department acknowledged that it was involved in the investigation, which is being overseen by the United States Attorney in Alexandria, Va., Henry E. Hudson.

"This investigation represents part of our continuing efforts to insure the integrity of Government procurement programs," the statement said.

A spokesman for Unisys said Federal agents served search warrants today at the company's plant in Eagan, Minn., which makes computer equipment, and its plant in Great Neck, L.I., which produces electronic equipment for the Navy.

Files were also searched at the offices of Teledyne Electronics in Newbury Park, Calif., Berkley Baker, a Teledyne spokesman, said that the search was a "surprise" and that the company did not know what allegations had prompted the visit by investigators.

Mr. PRYOR. Mr. President, on Monday, I chaired a hearing of the Governmental Affairs Subcommittee on Federal Services relevant to the Government's usage of private consulting firms and so-called experts in the private sector. That was a very interesting and fascinating hearing.

Some 8 years ago I chaired several hearings on this issue of private consultants. I have found out now that we have made absolutely no progress in trying to curtail the use of consultants, nor have we built in any policing or monitoring within our system of Government to make sure that those contracts are competitively bid.

The other thing that we discovered was that the majority of the presently employed inspector generals are not enforcing the mandate of Congress that they monitor the consulting contracts.

Finally, on yesterday, I spoke to the Senate relative to some of the findings in the Monday hearings, one that 50 percent of all of the Government consulting contracts are sole source with no competition whatsoever.

Second, that we discovered some $26 billion of taxpayers' money is today being used in the private contracting world entitled "Studies, Reports, Government Consultants and Reviews."

We are finding that 67 percent of all of the consulting and contracts in the private sector are also subject to yearend add ons where we find that contractors buying in cheap with the Government and 67 percent of those contracts, Mr. President, are being added on.

Mr. President, also we are finding what today was confirmed in the Post, New York Times, and the Wall Street Journal. We have confirmed what John Hanrahan wrote in his book entitled "Government by Contract," published in 1983. There was one chapter that I would draw my colleagues' attention to which related to the private contracts now being let by the Department of Defense. The title of that chapter, Mr. President, was "The Department of Defense: The Open Money Sack." And that is exactly what the Department is today—an open money sack.

I have three departments that we are looking specifically into today. One is the Department of Defense and the way that they manage and do not monitor their consulting contracts. Second, the Environmental Protection Agency; and, third, the Department of Energy. We have found that these three departments of government are no longer becoming what we commonly or traditionally know as departments of government. They are merely becoming a system whereby the taxpayers' money is being funneled into an agency of the Federal system only to be sent out the back door to private contractors.

Mr. President, the private contractors' influence today over governmental decisions is alarming, especially in view of the fact that the potential for conflict of interest, for repetitious statements, for redundancy of reports and unneeded services and private advice has reached the point of absolute astonishment and incredibility.

Mr. President, I am glad that the Senator from Virginia has raised this point this afternoon before the Senate. I can assure the Senator from Virginia that the Federal Services Subcommittee of the Governmental Affairs Committee is going to do a wholesale inspection of this whole matter, and I am very hopeful that our colleagues will follow as the developments unfold.

Mr. President, I thank you for recognizng me, and I yield the floor at this time.

The PRESIDING OFFICER (Mr. HARKIN). Under the previous order, the majority leader is recognized.

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Wyoming, Mr. SIMPSON, without losing my right to the floor.

The PRESIDING OFFICER. Without objection the Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I thank the majority leader for allowing me a moment or two to speak about our friend Howard Baker, while negotiations, indeed, go on right at this moment with regard to the welfare reform bill.

THANKS TO SENATOR PRYOR

Mr. SIMPSON. Mr. President, first let me thank my friend from Arkansas, Senator DAVE PRYOR, for what he is doing. He and I came to this place the same year. I have watched him. I have watched his dedication. It has been enriched by my friendship with him. He has always had this feeling about the procurement issues and the contracting and it is good to see him gearing up again because I think there is some serious abuses in that area that have been called to our attention just recently and more recently even today with some of the activities.

HOWARD BAKER

Mr. SIMPSON. Mr. President, I just wish to take a few moments to say that I think all of us know well that Howard Baker's mission at the White House is completed. I think this Nation owes him so very much, a great debt of gratitude for his service at the White House and in the Senate before that.

There is a personal sadness that I have as I see him do that and yet a knowing pleasure that the pace will slow for him.

He was my leader when I came here, the Republican leader when I first came to the U.S. Senate. My first impression of him was of a man of deep commitment to doing one thing, and that was getting the job done. He proved to be a master facilitator at the course.

Let me just say that, indeed my very first impressions of him were of a man of deep commitment to getting the job done, and that is what he has done his entire life. He has proved to be a master facilitator, and he was a great counselor to me. I appreciated that very much.

As he served as majority leader, I think he made the Senate a better place. He and Senator BYRD, in his role then as minority leader, I think made a record of achievement that is quite outstanding. He worked, cajoled, negotiated and compromised. He was, indeed, the glue and grease that held this remarkable place together at various times.

He will be deeply missed. His abilities, his skills, his personal attributes of courtesy and kindness, his ultimate patience goes often beyond comprehension—that shrug, that wide smile and that impish grin and yet it would always lead to something good.

Then, of course, he retired from the Senate and had a comfortable law practice, traveled, spent time with his family, and that had to have been a very welcomed relief from his long hours of work in the Senate.

He is the consummate patriot, in my mind. When the President required his services to operate the White

House, Howard Baker answered the call. He performed his tasks there so admirably. If there is one word to summarize his stewardship to our President, it would be simply loyalty and, indeed, unalloyed loyalty.

Obviously, there is an extraordinary laundry list of accomplishments that Howard Baker could present, or someone could present on his behalf both in his career as Senator and lawyer and chief of staff to Ronald Reagan and the White House. Indeed, during the extensive hearings and investigations on the Iran-Contra affair and, most important, during that troubling time, he kept the White House running smoothly as those investigations were under way.

He advised our President that he would stay until the successful summit with Mikhail Gorbachev was completed. There he was, steady at his side, during those negotiations at that summit. He said he would ride shotgun until that was over, and he did.

So as he returns to the private sector, we all wish him Godspeed. He is indeed entitled to a little R&R. I caution all those observers out there who would weave some intricate plot behind his decision to move on, and I do not believe it is there. He is like many of us in this body, many of us who feel the draw of privacy and of restoration and recreation in a different way, as we found with Senators CHILES, MATHIAS, LAXALT, STENNIS, and PROXMIRE, some vivid sweet solitude beyond this place.

My life as a legislator is certainly richer for having shared a portion of it with Howard Baker.

UNANIMOUS CONSENT AGREEMENT—S. 1323

Mr. BYRD. Mr. President, I ask unanimous consent that at 10 o'clock tomorrow morning a vote occur on the motion to proceed to the consideration of Calendar Order No. 502; S. 1323, a bill to amend the Security Exchange Act of 1934, to provide to shareholders more effective and fuller disclosure and greater fairness with respect to accumulations of stock and the conduct of tender offers.

Mr. SYMMS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, in making this reservation I shall not object but I would like to observe this Senate has been passing bills through here like a freight train, literally, this week. I think we are reaching the point of lacking due consideration.

A bill with this magnitude of interference in the process of the marketplace in the sale of stocks of publicly held companies—that is what this corporate takeover bill really amounts to. Not to say that I endorse every corporate takeover that has happened in this country. But I think for us to move forward on a railroad track like this, I think this is the kind of legislation that should take at least a week or two in the Senate if we are going to debate it fully and fairly.

The reason I say that is that all the Senate has to do to start talking about stopping foreign investment in this country or stopping people from being able to buy stocks freely in the marketplace, and you cause great disruption in the stock market of the United States which has an implication on every pension fund in the country, on every one of our constituents who one way or another are directly related to the capital that is held in the U.S. stock market.

So I think this bill is very ill advised, with all due respect to the distinguished chairman, whom I consider to be my friend, at this point in time—in the time of an economic recovery that has been struggling along at a very, I think, surprising rate for most of us. It continues month after month after month of economic growth in this country; of more employment. Yet all the time, there is the feeling out there in the marketplace all the time, and in the countryside, people are a little unsure of what is happening. And all we have to do is start discussing legislation that is a clear-cut interference with the ability of the American people to buy and sell stocks freely in the stock exchanges without interference from the Federal Government, any more than is already present, and we are talking about a dislocation of the market.

What the impact would be, we do not know. But I would hope that Senators, between now and 10 o'clock tomorrow morning, would take very careful due thought of what is being done here and I would say that the best thing this Senate could do tomorrow morning would be to vote down the motion to proceed to even bring this bill up. That is the way this Senator will vote. I intend to vote against moving forward with the motion to proceed and, Mr. President, I would like to make an inquiry in my reservation to the majority leader.

Did I understand the majority leader correctly that there will be a record vote on the motion to proceed in the morning?

Mr. BYRD. Yes, there would be a record vote on that.

Mr. SYMMS. So there will be an opportunity for Senators to come in and register their opposition to even move forward with this legislation?

Mr. BYRD. In the event the Senate adopts the motion to proceed, there would be opportunities for Senators to offer their amendments.

Mr. SYMMS. There will be no restraints on amendments nor time agreements in this unanimous consent agreement?

Mr. BYRD. Not in this request. This request is only that the vote occur at 10 tomorrow morning on going to the bill.

Senators' rights are reserved, insofar as debate and amendments are concerned. There may be a cloture motion offered at some point on it, or there may not be.

Mr. SYMMS. In deference to the majority leader, minority leader, distinguished chairman, and ranking member of the committee, I withdraw my reservation.

Mr. WIRTH. Reserving the right to object, Mr. Leader.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Mr. President, reserving the right to object, I just wanted to make a brief comment or two on what we are moving toward. I think the basic vehicle that was reported out of the Banking Committee is a good, modest piece of legislation, pretty carefully thought through and it is a pretty modest piece as it stands.

Unhappily, when we get this on the floor, we are going to end up with all kinds of what I think are very divisive and bad public policy amendments that are going to be added on here. We are going to have a lot of discussion probably on one-share one-vote and that is the kind of issue that sounds good if you say it fast enough but there are all kinds of shades of gray on that. We have to be very careful about that.

We are going to have all kinds of debate on whether mergers are a good thing or a bad thing and people are going to get up and make a lot of statements and we are going to try to make that decision on the floor when I think the evidence on that is very much out. There is no clarity on that front at all.

We are going to have a whole variety of other issues related to high-yield bonds and related financing mechanisms come to the floor. And we are going to be asked to make decisions on that.

Those are not decisions, I think, that this body is prepared to make, that the evidence is there to do so and so on. If we could just have the legislation that came out that the committee in its wisdom decided was what we wanted to do, that would be fine. But we are now going to try to mount a whole lot of other stuff in what I think is a very ill-conceived way of doing this.

I just want to point out to fellow Senators what course we are embarked upon if we decide tomorrow morning to go ahead at 10 o'clock to take this on. I think this is not a good forum for deciding some extraordinarily important issues, or making statements on

them for the Senate. The chances of this bill going anywhere when the House has said they do not want to do anything are also extraordinarily slim.

So I just question whether or not it is the most advisable thing for us to proceed on this particular piece of legislation.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, reserving the right to object, and I will not object, I am all for what the majority leader is doing. I commend him for doing it.

This bill came out of our committee, the committee voted it out last September. It went on the calendar in December. It came out of the committee on a 14-to-6 vote, a bipartisan vote. It is a bill which, as the Senator from Colorado says, is a relatively modest approach.

There is no way that it interferes with the free market buying or selling of stock. What the bill does do, what we intended it to do—and I am sure what it does do—is to provide fuller disclosure, better opportunity on the part of the stockholders to know all the facts before they vote on a tender offer. And it started off, as a matter of fact, to get at insider trading, which as you know is a very serious problem for this country.

I think you can always make an objection to any measure, saying Senators are going to put on amendments that will not be very good; it is going to delay us for a long time and so forth. I would hope we can act on this bill and act promptly. I think it has very strong support in the country. It has strong support in the business community. I think it is the kind of measure which we should vote on.

Senators can vote against it, for it; they can speak at whatever length they want to. But I am very grateful to the majority leader for taking this bill up. As I say, the committee acted on it with considerable decisiveness.

Mr. WIRTH. Will the distinguished Senator yield? Is it the case we will only have the bill that was brought out by the committee or is it going to be open to all of these other amendments that will be coming up?

Mr. PROXMIRE. As the Senator knows, there is no way we can prevent amendments or should prevent amendments.

Mr. WIRTH. That is the whole point. I think what I was trying to suggest is that the modest vehicle that came out of the committee was well thought through and well crafted. We are going to get out here, reaching from this modest vehicle to some enormous, large issues that are out there, related to the functioning of our economy in 1988, the way in which we are operating, the way in which we are configuring it.

I would suggest that we are not in any way, shape, or form prepared to do that. The committee did not get into that. It decided not to get into that and we are going to find ourselves wandering, I think, in all kinds of very dangerous areas that we do not want to get into.

If we were just doing the legislation that came out of the committee, that is one thing; but then to get into all of these other issues of good or bad takeovers, what kind of financing mechanisms we are going to have, how we are going to approach the issue of corporate governance: then we are going to get ourselves into swamps I do not think we want to get into.

Mr. PROXMIRE. I have great admiration for my good friend from Colorado. He had a superb record in the House in this area. He understands it as few Members of Congress do and probably much better than I do. But I cannot for the life of me, frankly, understand how we can take a bill that came so emphatically out of committee, as the Senator says, is a well-crafted bill, and if we cannot resist amendments: that is the way the cookie crumbles. It is up to the majority of the Senate.

If they want to adopt legislation here that the Senator from Colorado or I might oppose, maybe in the long-run, I will vote against the bill. But give us a shot at it. I think on the basis of having a representative committee on the Banking Committee, I think that is a pretty good indication of the kind of legislation the Senate as a whole is likely to adopt.

As the Senator pointed out, it is absolutely fundamental. There is no action that takes place in this country, economically, that has shaken this country so much as takeovers, and they are getting bigger all the time and they are amounting to billions and billions of dollars and they are loading corporations up with debt. I think we will have to act on it.

It is a tough one. It will mean embarrassment for some of us in making these votes we have to make, but I think it is time we did it and the longer we put if off, the worse it is going to be and the more adverse effect it is going to have on our economy.

Mr. WIRTH. If the chairman would yield again, I greatly appreciate the chairman yielding and the good work he did on this. I think we did precisely the right thing in putting together a more modest vehicle and that the committee in its wisdom decided not to go beyond that; not to get into the issue of financing mechanisms; not to get into the issue of corporate governance; not to get into the issue of whether takeovers were good things or bad things.

As the chairman will note, some have been good and some have been bad. We are going to end up here on the floor trying to decide that all takeovers are good or all takeovers are bad and a whole variety of issues like that.

I think this is an inopportune time for us to be getting into this. If we can figure out how to do this particular modest vehicle by itself without embarking upon all these other things, I think we will be much better served as an institution. I do not know what we benefit from going beyond this and trying to get into these other things. If that is the wisdom of the body to do it, fine.

We can vote tomorrow morning at 10 o'clock whether to go ahead. The chairman is aware of my views on this. The other issues, I think, are much fuzzier, much less complicated, much less divided than has been suggested.

I thank the Senator for yielding.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. SARBANES. Will the majority leader yield?

Mr. BYRD. Yes; I yield to the distinguished Senator.

Mr. SARBANES. Mr. President, I simply would like to say, as I understand the chairman's position, it is certainly my position what we want to pass is the bill that was reported out of the committee. The committee worked to put a carefully crafted bill to address some of these problems to be very careful about not going too far.

I gather some people are going to want to open that up and try to propose far-reaching propositions, which I think Members, hopefully, upon reflection, will appreciate that is not the appropriate way to do business.

Therefore, I expect we would address the concerns expressed by the Senator from Colorado by turning back those propositions.

The bill that will be considered was carefuly worked in the committee. It addresses, I think, a very real problem. It does it responsibly. It does not try to introduce sweeping measures, but it does try to come to grips with some aspects of this takeover phenomenon, the speculative efforts.

It provides additional protections for shareholders, and I think it is a responsible piece of legislation. I am hopeful the Senate will be able to act on it in short order and pass it over to the House for their consideration.

I thank the majority leader for yielding.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his patience.

Mr. PROXMIRE. Mr. President, I thank the distinguished majority leader, and my good friend from Wyoming.

Mr. President, I ask unanimous consent that a list I have of the takeover activity in a number of States be printed in the RECORD at this point.

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

ALABAMA

Goldsmith seige of Goodyear Tire in Ohio causes plant closings in Gadsden.

ALASKA

Raids on oil firms by Pickens et al, such as Unocal, force employment retraction in Alaska.

ARKANSAS

Emanuel R. Pearlman, 28, student of Asher, "the Arb" Edelman, no Harvard B. School, no business experience in trucking, bids for Arkansas Best Corp. in May, 1988

ARIZONA

Irwin Jacobs raids Greyhound Corp.

Federated-Campeau fight means layoffs for Foley's department store.

Edelman raid on Lucky Stores costs job losses throughout the state.

CALIFORNIA

London-based BAT, the world's largest tobacco firm, tenders in May 1988 for Los Angeles-based Farmers Insurance Group, the industry leader in promoting non-smoker policies.

Pickens raids Unocal, forcing this once healthy company to increase debt from $1.2 billion to $5.2 billion and shed thousands of workers.

In 1985, Hafts bid for the May Department stores, and in failure, they earned $1.4 million when they sold their May shares.

Hafts bid in 1986 for Safeway, walking away more than $140 million in profits, paid by debt the grocery store chain raises that forces them to lay off 35,000 workers.

Goldsmith bids for Crown Zellerbach in 1985. One thousand jobs lost. Charity eliminated.

Pacific Lumber raided by Charles Hurwitz in deal that is the object of SEC investigation of stock parking. This timber firm once cut redwood at a pace that it was grown; under Hurwitz, redwood is clearcut at a pace to pay back debt.

Kaiser steel greenmailed by Irwin Jacobs, who reaps $30 million.

Revlon raid on Gillette forces Paper Mate in Santa Monica to reduce staff by 15 percent.

Perelman takes Technicolor, sparking charges of fraud and breach of fiduciary duty now before a Delaware Chancery Court.

San Francisco Supervisor Carol Ruth Silver estimates her city has lost 30,000 jobs and 25 of the 50 largest companies no longer exist because of mergers or takeovers during the last 10 years.

COLORADO

Pickens raid on Nevada's Newmont Mining threatens jobs in this state.

CONNECTICUT

Kennecott is raided in 1981 by Curtiss-Wright Corp., paying $280 million in greenmail.

Richardson-Vicks raided in 1985, incurring additional debt of $300 million.

Canada's Belzberg's raid Scovill Inc. in 1985, selling four of the five major operating units to repay the junk floated to capture the firm.

General Cinema bids for Heublein, which flees to R.J. Reynolds.

Goldsmith threatens to plunder Continental Group, forcing sale to Kiewet-Murdock. The lights dim at Continental's headquarters in Stamford.

Singer Co. raided by Paul Bilzerian, who is under SEC investigation for securities violations, according to the Wall Street Journal.

DELAWARE

DuPont loses 20 percent of its equity to Seagram following battle of titans in the Conoco-Mobil-Seagram struggle.

FLORIDA

In 1985, Hafts raid Jack Eckerd Corp., selling shares back to the Florida drugstore chain for a $9 million profit, with Eckerd picking up the tab for Haft's $1 million in legal expenses.

Harcourt, Brace Jovanovich toyed with by British publisher Robert Maxwell. Maxwell fails, but profits $13.6 million.

Following Federated-Campeau war, Miami-based Burdines sends pink slips to 320 employees.

GEORGIA

Because of junk bonded Campeau raid of Federated, Atlanta-based Rich's Inc. sheds 250 employees. Also, Goldsmiths, which is being merged into Rich's, laid off 500 employees.

Belzberg raid on Scovill costs jobs here. Clarkesville hardest hit.

IDAHO

Anaconda and Newmont battles jeopardize mining jobs.

Aggressive Boise Cascade gobbles up companies, providing training for Bill Agee, who leaves for a hungry Bendix that takes on Martin-Marietta in the notorious Pac-Man fight.

ILLINOIS

Chicago-based Borg Warner raided, with debt ballooning to $4 billion.

Staley Corp. alleges extortion by Drexel, explaining that Drexel insisted it be used for leveraged buy-out or else face a raid.

Chicago based USG raided by former Pickens cronies called Desert Partners. Shareholders don't trust the financing, so Desert Partners is forced to hold up the duel for months. Merrill Lynch, a former USG advisor, helps finance the deal. Are they using confidential information? USG doesn't think it's a wild deduction.

Ichan raids Marshall Field.

INDIANA

Raid by Laidlaw on the Mayflower Group of Carmel costs 140 jobs.

KENTUCKY

Ashland Oil raided by Belzbergs in 1986 in deal the SEC alleges was infected by stock parking. Belzbergs extract $134 million in greenmail.

MAINE

Gillette battle against Drexel-backed Perelman costs 2,400 jobs throughout New England.

MARYLAND

Bethesda-based Martin Marrietta engaged in fracas with Bendix in the famed PacMan fight.

State-of-the-art tire production plant in Cumberland closed, with 1,000 workers terminated, after Goldsmith raid on Goodyear tire.

MASSACHUSETTS

Campeau successfully bids for Federated, a deal that Massachusetts officials claim will create anti-trust problems among once competing Boston retailers. Investment advisers and attorneys net $200 million in fees, a record.

Hafts make $17 million in failed bid for Stop & Shop of Boston.

Ronald Pearlman raids Boston's Gillette, profiting about $40 million.

Computervision raid by Prime means 700 workers layed off in Massachusetts, New Hampshire and Rhode Island.

MICHIGAN

Raid on USG by Pickens' former partners threaten jobs in this state.

MINNESOTA

Washington's Hafts bid for Dayton Hudson with greenmail profits from a raid on California's Safeway. The Hafts walk away with about $70 million.

Burroughs-Sperry spat costs jobs.

MISSOURI

Asher "the Arb" Edelman, flush with profits from sacking North Carolina's Burlington Industries, raids Kansas City-based Payless on May 19, 1988.

Kansas City Southern Industries raided by Howard Kaskel.

MONTANA

Anaconda flees Crane Co. and seeks rescue from Tenneco, but deal breaks down when Atlantic Richfield enters the fray. Expensive fight results in closure of Butte copper mine operations with 425 job losses, and closure of Montana smelter, and loss of another 1,500 jobs.

NEBRASKA

Omaha-based InterNorth Corp. stalked by raider and ends up in hands of White Night Houston Natural Gas, with headquarters shifted to Texas.

Goldsmith raid on Goodyear costs jobs in Lincoln plant.

NEW HAMPSHIRE

Raid by Prime on Computervision means terminations of 700 workers here and in Rhode Island and Massachusetts.

Revlon raid on Gillette means Boston-based firm will eliminate 2,400 jobs throughout New England.

Loral Group raids Sanders Associates, costing about 80 management jobs when Lockheed steps in as White Knight.

NEW JERSEY

Sosnoff raids Caesars World before running into margin rule problems with the Fed.

Hafts fail to take over Supermarkets General of Woodbridge, but win $35 million for their troubles.

Edelman raids Foster Wheeller Corp.

Florida plumber Paul Bilzerian raids Singer Co.

New Jersey study shows job loss because of hostile takeovers involving Owens-Corning, Purolator, CPC, and Sea-Land.

Wickes raid on Owens-Corning Fiberglass costs 1,000 jobs in Barrington, and additional terminations in Berlin.

NEW MEXICO

Federated-Campeau contest means layoffs at Foley's department stores.

NEW YORK

CBS raided by Ted Turner in underfinanced bid. Broadcaster layed off chunk of its production team and is still recovering through sale of records division.

Hafts aim at F.W. Woolworth.

Victor Posner, later questioned on tax evasion in trial, raids Fischbach Corp. in 1985.

American Standard raided by Black & Decker in deal that forces plumbing manufacturer to issue billions in junk bonds.

Food conglomerate Norton Simon is sold in 1983 to Esmark (formerly Swift & Co.), and the combination is then sold to Beatrice, which soon dissolves into a leveraged buyout engineered by Kohlberg, Kravis & Roberts. Drexel Burnham finances the deal with $4 billion in junk bonds. It's fee: $70 million.

Because of Campeau raid on Federated, Brooklyn-based Abraham & Strauss department stores sheds 794 jobs.

NEVADA

Pickens raids Newmont Mining (threatening employment throughout the mineral states where Newmont is active).

Edelman raid on Lucky Stores costs 14,000 job losses at GEMCO in California, many of whom were employed in Nevada.

NORTH CAROLINA

Asher Edelman raids Burlington Industries, walking away with $50 million plus and forcing the textile competitor to sell off its crown jewels to service its debt.

OHIO

State is ravaged by raids, including Goldsmith greenmail bid for Goodyear, which forced plant closures throughout region, including Cumberland, Md.

USG raid by former Pickens partners threatens jobs.

Owens-Corning raid forces major retrenchment. Nine hundred workers lose their job in Newark, and half of the plant staff in Granville is dismissed.

Federated-Campeaus squabble threatens Cincinnati $16 million in taxes, $134 million in salaries. Columbus-based Lazarus division dismisses 1,200 workers.

OKLAHOMA

Icahn and Pickens greenmail Phillips Petroleum, igniting firestorm among residents in Bartlesville, Oklahoma. Community set up all-night vigils to pray for Picken's failure. Fallout from the raid included 2,600 job losses in this town alone. There were 11 suicides in the aftermath, some of which were attributed to the takeover bids. Retail and real estate sales plummeted.

Edelman raids Tulsa-based Telex Corp. in deal that promises $14 million in fees for Shearson.

Campeau raid on Federated means layoffs at Foley's department stores.

Drexel backs raid by Coastal Corp. of American Natural Resources Co.

OREGON

Victor Posner raids Evans Products, moving the headquarters to Miami, leading a once productive company into decline, and then bankruptcy.

Leveraged buyout fever infects host of companies with operations in Oregon, including Fred Meyer, Inc.; Hyster, Inc.; FMC Corp.; Red Lion Inns; View-Master; Pay Less Drug Stores Northwest, Inc.; Fabmark, Inc.; Gray & Co.; Van Doyn Chocolate Shops, Inc.; Danner Shoe Mfg. Co.; and S.R. Smith.

National Semiconductor purchases Fairchild with 400 job losses, mostly in Oregon.

Pickens tease of Boeing worries 960 workers in Portland.

PENNSYLVANIA

Shearson Lehman joins with Briton to raid Pittsburgh-based Koppers, providing further evidence that many deals are promoted by investment advisers. Shearson looks to earn $50 million plus in profits, but courts consider violation of margin rules.

Takeover of Gulf oil costs Pittsburgh 1,800 jobs, $75 million in personal income.

In fierce battle, Miami-based Victor Posner takes over Sharon Steel. Among the abuses, the SEC alleges that he plundered its pension fund, and Posner signs a consent decree. "I'm not in this for the money. I want to create a good product," he tells Business Week, which labels his comment satire.

RHODE ISLAND

Gillette battle with Revlon's Ronal Perelman costs 2,400 jobs throughout New England.

Prime takeover of Computervision costs jobs here.

SOUTH CAROLINA

Edelman raid on Burlington costs jobs here.

TENNESSEE

Murray Ohio, challenged by Electrolux, whose attorneys—Sullivan & Cromwell—face conflict of interest charge. Murray says the firm had confidential information about it.

Raid on USG threatens jobs.

Sperry-Burroughs merger costs 1,200 jobs in Bristol.

Wickes bid for Owens-Corning means closure of Jackson plant.

TEXAS

USG raid by former Pickens partners threatens jobs.

Federated attack by Campeau means layoffs at Foley's department stores. Previous merger by Foley's with Sanger-Harris cost 200 jobs.

Haft raid on California-based Safeway forces grocery store to sell all Dallas stores, leaving 4,000 unemployed.

VERMONT

Goldsmith's greenmail from Goodyear means job sacrifices in this state. Shoe products plant closed in Windsor.

VIRGINIA

Raid launched in April by Gong Show producer. Burt Sugarman for Richmond-based Media General. Media General, owner of many Southern newspapers, accuses him of greenmailing.

Raid on USG by former Pickens partners threatens jobs.

Raid on Burlington Industries forces closure of Newbern plant in Pulaski County.

Icahn raid at Dan River Mills in Danville forces layoffs.

WASHINGTON

Pickens buys stake in Boeing and files with FTC notification that he may purchase for control. Boeing has many employees also in Kansas.

WEST VIRGINIA

Union Carbide, a major West Virginia employer, is forced to slash workforce by 26,000 after expensive takeover defense.

WISCONSIN

The Trane Co., based in La Crosse, taken over with two thousand jobs lost.

Alan Bond bids for Heileman Breweries. State responds with takeover bill, and Bond raises bid, promises to retain Wisconsin headquarters and honor labor contracts.

Pabst greenmailed by Irwin Jacobs, who nets $20 million.

Burroughs-Sperry fight costs 260 jobs in Eau Claire.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

CLARENCE PENDLETON

Mr. SIMPSON. Mr. President, I would like to note the passing of Clarence "Penny" Pendleton who provided very important assistance to me during my years of debate on the Immigration Reform and Control Act.

One of the key issues on that legislation was addressing the largely baseless charge that employment discrimination would result from employers' sanctions.

Penny offered me assistance in defusing that issue. He provided me with some very wise advice and counsel. He appeared at a joint House-Senate hearing on the antidiscrimination question and offered some very measured and precise testimony on this subject. He took on the tough ones. He approached the issue in a very commendable manner.

The charge of discrimination was one to be taken seriously; and we did. But the facts had to be separated from the emotions and the allegations to properly consider the issue, and Penny Pendleton helped me do that.

He was a delightful gentleman, he had earthly good humor, and also could shoot a pretty good stick of pool.

I enjoyed him very much. I send my sympathy to his family. He approached all these many other weighty civil rights issues in a similarly commendable manner. He will be greatly missed by me.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent to speak as if in morning business for about 1 minute.

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

NASA APPROPRIATIONS

Mrs. KASSEBAUM. Mr. President, the Subcommittee on HUD-Independent Agencies will be meeting to mark up and determine their appropriations level for the respective programs.

With respect to NASA, Mr. President, I urge the subcommittee to closely follow the distinguished chairman of that subcommittee, who is just now going by, Mr. PROXMIRE, and I hope they will closely follow the guidelines that have been laid down by the budget and the authorizing committee.

The sum of $11.1 billion has been authorized for NASA, which closely follows the budget figures.

The Senator from Utah, Mr. GARN, has been speaking eloquently and with great determination on this matter over the last several days in the Senate.

This is an extremely important program for us at this time. The figure of

$11.1 billion is $400 million below the President's request, and I think we have been efficient in determining what our needs are. If we are to remain competitive in our space efforts, we simply must provide necessary funding. We are at a crossroads now which I think is extremely important.

The Subcommittee on Science, Technology, and Space authorized $11.1 billion for NASA in fiscal year 1989—a figure which follows the budgetary outlines set by the Senate budget resolution. This level, while $400 million below the President's request, provided for three new starts—the advanced solid rocket motor facility, the advanced x ray astrophysics facility, and the Pathfinder Program. It also authorized $867 million for development of the space station. All these projects are integral components to an infrastructure which must be built if the United States is to continue its leadership role in the international space community.

Many have argued that a space station is unnecessary or that a smaller version is a better, more economical option. I believe, however, that these arguments are short-sighted. A smaller, unmanned spacecraft will not have the necessary capacity for manufacturing pharmaceuticals, nor can it take the place of the space laboratory we need to conduct scientific experiments—experiments which will ultimately aid us in understanding our planet Earth as well as the rest of the solar system.

It is obvious from previous achievements that a human presence in space cannot be replaced by even the most sophisticated computers or robotics. A human presence in space is essential if we are to utilize space to its fullest potential.

The NASA budget represents less than 1 percent of the Federal budget. Many say we should spend this money on Earth—that the program is a luxury the United States cannot afford. Mr. President, we cannot afford not to spend this money on the Space Program.

It is important to note that, for every $1 NASA spends, $4 are returned to the economy. For example, the aerospace industry last year generated its greatest ever level of export sales and boasts a trade surplus which substantially offsets the adverse impact of American losses in other categories. Overall sales of aerospace products have increased by more than 7 percent over the inflation rate, and backlogged orders have grown by 3.7 percent. Aerospace employment represents 6.6 percent of the total payroll of all U.S. manufacturing industries. And another most important factor, foreign countries and companies look to the U.S. aerospace community for leadership and new ideas.

I am convinced that the Space Program is a priority we can ill-afford to place on the back burner. I encourage my colleagues to consider where the United States would be if it had not embraced the Space Program in the past * * * to consider the outgrowths of the Space Program—weather and communication satellites; faster, safer, and technologically advanced aircraft; pacemakers; super computers; solar heat; remote sensing—the list goes on and on.

It is not an exaggeration, Mr. President, to say that the American way of life has been improved significantly by the Space Program and by its achievements. Sally Ride has stated that the Space Program is at a crossroads. I would agree with that statement. If we are not willing to make the program a priority now, we take the chance of mediocrity in the future. It is a chance I do not believe we should be willing to take.

I reiterate the importance of our full funding for the NASA Program at this time. NASA management has not been without fault, but they have gone a long way in trying to correct past mistakes in that program. If we are to be supportive of the initiative that I think is important for the United States, now is the time to lend support for the funding request of the President and of the authorizing and Budget Committee.

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

CAROLYN GIOLITO

Mr. BYRD. Mr. President, with genuine regret, I call attention to the departure from Capitol Hill of one of our ablest and competent staff members, Carolyn Hughes Giolito.

Mrs. Giolito is a veteran of nearly 33 years of service in Congress. Arriving in Washington in 1955, she has since worked for Congressman Huddleston of Alabama; Senator Kenneth Keating of New York; Congressmen Richard Ottinger of New York, Russell Tuten of Georgia, John Dellenback of Oregon, Richard C. White of Texas, Elliot Hagan of Georgia, and John B. Breckinridge of Kentucky.

In 1977, Mrs. Giolito became a member of my staff, where she has performed extraordinarily as projects director and has assisted countless thousands of West Virginians in a variety of ways.

Carolyn Giolito's background is exceptional. A graduate of Alabama College in Montevallo, AL, she also did work toward a law degree at George Washington University. Married to Caeser Giolito, a well-known Washington representative, she makes her home in Silver Spring, and is mother to a son and a daughter, Antoinette, who is one of the staff of the Senate Employees Federal Credit Union.

Leaving Capitol Hill, Mrs. Giolito plans to continue an active role on the Washington scene in partnership with her husband and a number of long-term friends and associates. I know that all who are acquainted with Mrs. Giolito will miss her presence among us in Congress, and that they likewise join me in wishing her every success in her future undertakings. Personally, I thank her on behalf of hundreds of West Virginia communities and, as I have already indicated, thousands of West Virginia citizens for the good services that she has rendered to the State of West Virginia and to its people. I thank her for her many years of diligence, hard work, dedication, loyalty, and I hope for her good memories of her experiences on my staff as she reflects on those experiences in the years ahead.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE NATIONAL SCIENCE FOUNDATION—MESSAGE FROM THE PRESIDENT—PM 143

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

I am pleased to send you the annual report of the National Science Foundation for Fiscal Year 1987. This report describes research supported by the Foundation in the mathematical, physical, biological, social, behavioral, and computer sciences; engineering; and education in those fields.

Achievements such as those described in this report are the basis for much of our Nation's strength—its economic growth, national security, and the overall well-being of our people.

The National Science Foundation has been and will remain a key part of the national effort to expand our re-

search achievements and productivity and to remain competitive in world markets through innovation and new discoveries.

I commend the Foundation's work to you.

RONALD REAGAN.

THE WHITE HOUSE, *June 15, 1988.*

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 11:09 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 249. Joint resolution designating June 14, 1988, as "Baltic Freedom Day."

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. STENNIS).

At 5:15 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the amendment of the House to the bill (S. 1508 to withdraw and reserve for the Department of the Air Force certain Federal lands within Lincoln County, NV, and for other purposes; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. UDALL, Mr. MILLER of California, Mr. VENTO, Mr. KOSTMAYER, Mr. DARDEN, Mr. YOUNG of Alaska, Mr. MARLENEE, and Mrs. VUCANOVICH as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 4799. An act to extend the withdrawal of certain public lands in Lincoln County, NV;

H.J. Res. 475. Joint resolution to designate October 1988 as "Polish American Heritage Month"; and

H.J. Res. 587. Joint resolution designating July 2 and 3, 1988, as "United States-Canada Days of Peace and Friendship."

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 260. Concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan; and

H. Con Res. 301. Concurrent resolution recognizing the heroic acts of civilian construction workers who participated in the defense of Wake Island during its invasion by Japan during December 8 through 23, 1941.

MEASURES REFERRED

The following joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 475. Joint resolution to designate October 1988 as "Polish American Heritage Month"; to the Committee on the Judiciary.

H.J. Res. 587. Joint resolution designating July 2 and 3, 1988, as "United States Canada Days of Peace and Friendship"; to the Committee on the Judiciary.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 260. Concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan; to the Committee on the Judiciary.

H. Con. Res. 301. Concurrent resolution recognizing the heroic acts of civilian construction workers who participated in the defense of Wake Island during its invasion by Japan during December 8 through 23, 1941; to the Committee on Armed Services.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, June 15, 1988, he has presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 249. Joint resolution designation June 14, 1988, as "Baltic Freedom Day."

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC-3393. A communication from the Acting Secretary Attorney General, Department of Justice, transmitting a draft of proposed legislation entitled the Terrorist Alien Removal Act; to the Committee on the Judiciary.

EC-3394. A communication from the Attorney General of the United States, transmitting, pursuant to law, notification assigning the Federal judicial districts to the Court of Appeals for the Sixth District; to the Committee on the Judiciary.

EC-3395. A communication from the Acting Assistant Attorney General, Department of Justice, transmitting, pursuant to law, a corrected copy of the Immigration and Naturalization Service's evaluation of the Four City Pilot Program; to the Committee on the Judiciary.

EC-3396. A communication from the Acting Executive Director of the Committee for Purchase From the Blind and Other Severely Handicapped, transmitting, pursuant to law, the annual report of the activities of the committee for the fiscal year ending September 30, 1987; to the Committee on Labor and Human Resources.

EC-3397. A communication from the Assistant Secretary for Civil Rights, Department of Education, transmitting, pursuant to law, an annual report summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems for the fiscal year 1987; to the Committee on Labor and Human Resources.

EC-3398. A communication from the Secretary of Education, transmitting, pursuant to law, a copy of the final regulations of the Library Career Training Program; to the Committee on Labor and Human Resources.

EC-3399. A communication from the Secretary of Education, transmitting a draft of proposed legislation to improve the operation of programs under the Carl D. Perkins Vocational Education Act by promoting accountability and reducing administrative burden; to the Committee on Labor and Human Resources.

EC-3400. A communication from the Secretary of Education, transmitting, pursuant to law, a copy of the final regulations of the National Resource Centers for Foreign Language and Area Studies and Foreign Language and International Studies Program; to the Committee on Labor and Human Resources.

EC-3401. A communication from the Secretary of Education, transmitting a draft of proposed legislation to revise and extend the authority to award endowment grants to Howard University; to the Committee on Labor and Human Resources.

EC-3402. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the annual report of the Commission and a number of legislative recommendations; to the Committee on Rules and Administration.

EC-3403. A communication from the Executive Secretary of Defense, transmitting, pursuant to law, a report on the Department's Procurement from Small and Other Business Firms for October 1987 through March 1988; to the Committee on Small Business.

EC-3404. A communication from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to provide authority for the payment of interest on insurance settlements, and to permit increased discount rates for insurance premiums paid in advance; to the Committee on Veterans' Affairs.

EC-3405. A communication from the general counsel, Department of the Treasury, transmitting a draft of proposed legislation to repeal the 4.25-percent limitation on the interest rate payable on U.S. Treasury bonds; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2320: A bill to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes (Rept. No. 100-385).

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. WILSON:

S. 2514. A bill to modify the navigation project for Morro Bay, CA, to direct the Secretary of the Army to extend and deepen the entrance channel for Morro Bay to a depth of 40 feet, and for other purposes; to the Committee on Environment and Public Works.

By Mr. JOHNSTON:

S. 2515. A bill to provide for the conveyance of certain mineral interests of the United States in property in Louisiana to the record owners of the surface of that property; to the Committee on Energy and Natural Resources.

By Mr. REID:

S. 2516. A bill to direct the Secretary of the Interior to transfer a certain parcel of land in Clark County, NV; to the Committee on Energy and Natural Resources.

By Mr. RIEGLE (for himself, Mr. DOLE, Mr. HARKIN, Mr. WEICKER, Mr. CRANSTON, and Mr. DECONCINI):

S. 2517. A bill to amend the Social Security Act to take into account monthly earnings in determining the amount of disability benefits payable under title II, to provide for continued entitlement to disability and Medicare benefits for individuals under disabled and working status, and for other purposes; to the Committee on Finance.

By Mr. WEICKER (for himself, Mr. DODD, and Mr. STAFFORD):

S. 2518. A bill to mend the Occupational Safety and Health Act of 1970 to develop a permit system for certain construction operations, and for other purposes; to the Committee on labor and Human Resources.

By Mr. PRESSLER:

S. 2519. A bill entitled the "Food Security Act Amendments of 1988"; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEVIN (for himself, Mrs. KASSEBAUM, Mr. SPECTER, Mr. KENNEDY, Mr. BRADLEY, Mr. SIMON, Mr. WEICKER, Mr. DODD, Mr. BURDICK, Mr. CHAFEE, Ms. MIKULSKI, Mr. CONRAD, Mr. CRANSTON, Mr. EVANS, Mr. GORE, Mr. HEINZ, Mr. LAUTENBERG, Mr. LEAHY, Mr. MITCHELL, Mr. RIEGLE, Mr. SIMPSON, Mr. WIRTH, Mr. ADAMS, Mr. DURENBERGER, Mr. DIXON, Mr. KERRY, Mr. DASCHLE, Mr. MOYNIHAN, Mr. JOHNSTON, Mr. SARBANES, Mr. ROCKEFELLER, Mr. BOSCHWITZ, and Mr. METZENBAUM):

S.J. Res. 339. A joint resolution to designate June 16, 1988, as "Soweto Remembrance Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WILSON:

S. 2514. A bill to modify the navigation project for Morro Bay, CA, to direct the Secretary of the Army to extend and deepen the entrance channel for Morro Bay Harbor to a depth of 40 feet, and for other purposes; to the Committee on Environment and Public Works.

IMPROVEMENTS TO MORRO BAY HARBOR

● Mr. WILSON. Mr. President, today I am introducing legislation which will authorize the Army Corps of Engineers to begin dredging the Morro Bay Harbor entrance in California. Authorization of this project is made contingent upon a favorable feasibility study which has been included in the pending fiscal year 1989 energy and water appropriations bill.

I am taking the unusual step of asking for preauthorization of a corps project because of the incredibly dangerous conditions that exist at the entrance to Morro Bay Harbor. Since 1970, the large surf created by the sandbars in the harbor entrance have claimed at least 15 lives and countless near tragedies. It is not uncommon during the winter months for 20-foot waves to break directly into the harbor entrance, making travel into and out of the harbor terrifying and hazardous.

One of the most publicized accidents in the last several years was the capsize of the whale watching boat *San Mateo* by a 20-foot wave in February 1983. This boat was taking 26 elementary school children and several adults on a whale watching expedition. Miraculously, everyone was rescued from the sea within 15 minutes due to the commendable bravery of the harbor patrolmen.

More recently, veteran fisherman Al French drowned when his 42-foot commercial fishing vessel was overturned by large surf last November. Mr. French was regarded as the most experienced fisherman in Morro Bay and most people agree with what supervisor Bill Coy has told me: "If it can happen to Al French, it can happen to anyone and certainly will."

What makes the Morro Bay Harbor entrance so dangerous is the speed in which these huge breakers are created. Because of the unique position of Morro Bay on the coast of California, the waves breaking at the entrance can be very small one moment, and 10 minutes later 20-foot waves can be pounding the entrance. This makes it very difficult for even the most experienced boat operators.

Morro Bay is the only port of refuge between Monterey and Santa Barbara and attracts boaters from all over the central coast area. Traffic in Morro Bay has increased significantly in the last decade and the number of boating accidents has also increased proportionately. Boaters traveling the coast of California have a difficult decision if they are caught in the Pacific as a storm comes up. They can stay out in the rough seas or take a chance and try to enter Morro Bay Harbor.

The corps has recently completed a preliminary study of the harbor entrance and have recommended dredging of the entrance as the most promising solution to this problem. Both the Senate and House Appropriations Committees have recommended funding in the fiscal year 1989 appropriations bills for the corps to do a complete study. My legislation will direct the Corps of Engineers to begin making the necessary modifications to the harbor entrance within 6 months of the completion of its study if the corps finds the dredging alternative feasible.

I realize that authorizing a project before the studies are complete is not common practice. However, the situation in Morro Bay requires that every effort be made to expedite these proposed modifications. Morro Bay Harbor was created by the Federal Government and it is our responsibility to ensure its safe operation.

I urge my colleagues to support this bill and ask unanimous consent that it be printed in the RECORD at this time.

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

S. 2514

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the navigation project for Morro Bay, California, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 21), is modified to direct the Secretary of the Army, acting through the Chief of Engineers—

(1) contingent upon a favorable recommendation by the Chief of Engineers, to extend and deepen the entrance channel for Morro Bay Harbor to a depth of 40 feet not later than six months after completion of a feasibility study by the Corps of Engineers regarding such project and thereafter maintain such channel at such depth; and

(2) to carry out and maintain such other improvements at such harbor as the Chief of Engineers determines to be necessary to allow safe navigation into and out of such harbor.●

By Mr. REID:

S. 2516. A bill to direct the Secretary of the Interior to transfer a certain parcel of land in Clark County, NV; to the Committee on Energy and Natural Resources.

TRANSFER OF CERTAIN FEDERAL LAND

Mr. REID. Mr. President, Boys Town, the name of the world-famous home for children located just outside of Omaha, NE has been the only stable home for more than 16,000 young people over the past 70 years. Boys Town, has over the years moved to a family-based care, known as the Boys Town Family Home Program, to address the increasingly complex problems of young people.

Today each boy or girl lives in a home with an age-mixed group of six to eight other youth of the same sex. Their parents are a highly trained husband and wife team who often have one or two children of their own. They are evaluated extensively on a regular basis to ensure they are providing the youths the best care possible. These couples, called family-teachers, live in the home with the youth and guide and instruct them on a 24-hour basis, seeing that their physical, spiritual, and emotional needs are met.

Boys Town believes that the national need for quality youth treatment programs is critical. As a result, in 1983 Boys Town launched a new program to develop Boys Town's own minicampuses around the country. Called Boy Town USA, its goal is to build many of these minicampuses around the country in order to help more children close to home, as well as to influence the quality of child care in as many areas of the Nation as possible. The first demonstration project of this new concept occurred in 1983 in Tallahasee, FL. Since then many other minicampuses have been established using Boys Town strict criteria designed to find locations where the need is the greatest. Las Vegas has been identified as meeting these criteria.

Today, I am introducing a bill which would transfer 20 acres of public land to Clark County to be given to Boys Town USA for the construction of a home for troubled youth in Las Vegas. I urge my colleagues to support this meritorious piece of legislation.

By Mr. RIEGLE (for himself, Mr. DOLE, Mr. HARKIN, Mr. WEICKER, Mr. CRANSTON, and Mr. DECONCINI):

S. 2517. A bill to amend the Social Security Act to take into account monthly earnings in determining the amount of disability benefits payable under title II, to provide for continued entitlement to disability and Medicare benefits for individuals under disabled and working status, and for other purposes; to the Committee on Finance.

SOCIAL SECURITY WORK INCENTIVES ACT

● Mr. RIEGLE. Mr. President, today I am introducing for myself, the distinguished minority leader [Mr. DOLE], the Senator from Iowa [Mr. HARKIN], the Senator from Connecticut [Mr. WEICKER], and the Senator from California [Mr. CRANSTON], a bill to provide incentives for beneficiaries of Social Security disability insurance [SSDI] to work despite their impairments. Some individuals on SSDI can work, but they need access to medical and social support services, and sufficient cash support to maintain themselves in an employed status.

The concept underlying current law is that people fit neatly into two categories, those who cannot work at all, and those who can fully support themselves. This is no longer valid, if it ever was. My bill would change SSDI policy to reflect this reality.

S. 2517 extends the section 1619 work incentives provisions of the Supplemental Security Income [SSI] Program to the SSDI Program. Experience with the section 1619 program, which has been a great success, has shown that for most disabled people, continued access to Medicaid health insurance coverage is the most important factor in successfully returning to work. They must have confidence that a work attempt will not disqualify them from benefits in the future, should that work attempt fail. S. 2517, parallels section 1619 to provide such an assurance to SSDI beneficiaries.

Another key to any work incentive program is gradual reduction of benefits in proportion to increases in income, reflecting the current ability of the disabled to work. Not only does this approach ease the impact of loss of benefits, but it allows the disabled individual to feel more self-sufficient.

S. 2517 creates a special category for entitled "disabled and working" [DAW] for SSDI beneficiaries who return to work. They would remain eligible for SSDI benefits, incuding Medicare, as long as they continue to have a disabling impairment. Yet their SSDI cash benefits would be reduced by $1 for each $2 earned above the first $85, and they would be required to pay premiums for their Medicare coverage on a sliding-fee scale basis if their income exceeds 150 percent of the poverty level.

Mr. President, the most important part of this work incentive program is the continuation of medical coverage. Current law allows for 9 months of trial work during which Medicare coverage continues, 15 months of an extended period of eligibility, and then 24 months of extended Medicare eligibility, for a total of 48 months of Medicare coverage for disabled SSDI beneficiaries who attempt to work.

Under S. 2517, the trial work and extended period of eligibility would be eliminated. However, my bill replaces these with 48 months of continued Medicare coverage, which is consistent with current law. In addition, a new option offered by my bill is for beneficiaries to buy into Medicare after the 4-year period based on their ability to pay, with Medicaid subsidizing low-income beneficiaries.

All individuals with incomes at or below 150 percent of the poverty level would have all Medicare cost sharing obligations paid for by Medicaid. This is similar in principal to the provision in the Medicare Catastrophic Coverage Act of 1988 which mandates Medicaid to pay the premium and deductible costs for low-income elderly and disabled individuals. Individuals with incomes between 150 percent and 450 percent of poverty would also be eligible for Medicaid payment of these Medicare costs. But for these individuals, a copayment based on a sliding scale related to their income would be charged.

Mr. President, S. 2517 is a bipartisan approach to reforming the SSDI Program to encourage beneficiaries to reach their full potential. Although CBO has not yet responded to my request for a cost estimate, the bill should generate savings to the disability trust funds due to reduced benefit payments. In addition, these newly employed Americans will pay Federal income and Social Security taxes, as well as contributing to the economy.

Only one-half of 1 percent of SSDI beneficiaries ever return to the work force. This is a tragedy. We must make a greater effort to return these people to productive lives, which would make them independent while reducing Federal outlays for assistance.

We have worked closely with a number of leading advocacy organizations for disabled Americans in developing this legislation, and already 22 national organizations have endorsed the Social Security Work Incentives Act of 1988. They include:

American Diabetes Association.
American Federation of Government Employees.
American Psychiatric Association.
Association for Children and Adults with Autism.
Association for Retarded Citizens—U.S.
Catholic Charities, USA.
Epilepsy Foundation of America.
International Association of Psychosocial Rehabilitation Services.
Mental Health Law Project.
National Association of Protection and Advocacy Systems.
National Association of State Mental Retardation Program Directors.
National Head Injury Foundation.
National Council of Community Mental Health Centers.
National Mental Health Association.
United Cerebral Palsy Association, Inc.
National Council on Independent Living.
National Association of Rehabilitation Professionals in the Private Sector.
National Association of Disability Examiners.
National Alliance for the Mentally Ill.
National Federation of Societies for Clinical Social Work.
Save our Security.

Mr. President, I hope we can see S. 2517 enacted this year. The Congress and the administration need to move strongly to reform the SSDI Program to meet the changing needs of beneficiaries. The recent report of the Disability Advisory Council suggests that the time is ripe for eliminating work disincentives in the SSDI Program.

I urge my colleagues to cosponsor this critical legislation.

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

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

S. 2517

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Work Incentives Act of 1988".

SEC. 2. MONTHLY EARNINGS TAKEN INTO ACCOUNT IN DETERMINING AMOUNT OF DISABILITY BENEFITS PAYABLE UNDER TITLE II.

(a) IN GENERAL.—Title II of the Social Security Act is amended by inserting after sec-

tion 224 (42 U.S.C. 424a) the following new section:

"REDUCTION OF BENEFITS BASED ON DISABILITY BY REASON OF MONTHLY EARNINGS

"SEC. 224A. (a) Except as provided in subsection (b)—

"(1) the amount of an individual's benefit for any month under subsection (d), (e), or (f) of section 202 based on disability shall be reduced (to not less than zero) by 50 percent of such individual's monthly earnings in excess of $85 ordinarily taken into account by the Secretary in determining substantial gainful activity, and

"(2) the amount of an individual's disability insurance benefit for any month under section 223 and the amounts of all other monthly benefits under this title for such month based on the same wages and self-employment income shall, in the aggregate, be reduced (to not less than zero) by 50 percent of such individual's monthly earnings in excess of $85 ordinarily taken into account by the Secretary in determining substantial gainful activity, except that such reduction shall be applied—

"(A) first to the disability insurance benefit for such month of such individual (in an amount not to exceed the amount of such benefit), and

"(B) then to all such other benefits for such month in proportion to the amounts of such other benefits (in amounts not to exceed the respective amounts of such benefits).

"(b) In the case of an individual who is entitled for any month both to a benefit referred to in subsection (a) and a benefit under section 1619(a), the amount of the reduction under this section for such month shall not exceed the excess of—

"(1) the amount of income for such month determined (after applicable exclusions) for purposes of section 1611(b), over

"(2) the amount of the benefit for such month under section 1619(a) (before reduction under section 1611(b)).

"(c) The amount by which a benefit for any month is reduced under this section shall be determined on the basis of earnings in the first or, if the Secretary so determines, second month preceding such month. The amount of the reduction shall be redetermined at such time or times as may be provided by the Secretary.

"(d) Reduction under this section shall be made after any reduction or deduction made under section 203, 222(b), or 224.".

(b) TREATMENT OF SIMULTANEOUS ENTITLEMENTS.—Subsection (k) of section 202 of such Act (42 U.S.C. 402(k)) is amended by adding at the end the following new paragraph:

"(5) The preceding provisions of this subsection shall be applied to benefits for each month before application of section 224A to any such benefits.".

(c) LIMITATION ON DECREASES IN BENEFITS OF DISABLED CHILDREN BY REASON OF PRIOR OVERPAYMENTS RESULTING FROM FAILURE TO APPLY REDUCTIONS BASED ON EARNINGS.—Section 204(a)(1)(A) of such Act (42 U.S.C. 404(a)(1)(A)) is amended by inserting after the first sentence the following new sentence: "In any case in which the overpaid person or any other person referred to in the preceding sentence is entitled to a benefit for any month under section 202(d) based on disability, if any decrease pursuant to this subparagraph in payments under this title for such month is a result of payment to the overpaid person of more than the correct amount by reason of failure to apply an appropriate reduction under section 224A, the benefit for such month of such person entitled under section 202(d) shall be determined without regard to deduction under this paragraph as a result of such payment, and the benefits under this title for such month of all other individuals who are entitled to such benefits on the basis of the wages and self-employment income of such overpaid person shall be determined as if such person entitled under section 202(d) were not entitled to a benefit for such month.".

(d) EXTENSION TO CURRENT RECIPIENTS OF DISABILITY INSURANCE BENEFITS OF CURRENT RULE PREVENTING REDUCTIONS IN PRIMARY INSURANCE AMOUNT FOR PRIOR RECIPIENTS.—Subparagraph (C) of section 215(a)(2) of such Act (42 U.S.C. 415(a)(2)(C)) is amended—

(1) by striking "was entitled" and inserting "has been entitled";

(2) by striking "after the close of" and inserting "during, or after the close of,";

(3) by inserting "because of recomputation of such individual's primary insurance amount during such period of disability," after "whether"; and

(4) by striking "former".

(e) ROUNDING CONFORMING AMENDMENT.—Subsection (g) of section 215 of such Act (42 U.S.C. 415(g)) is amended by striking "sections 203(a) and 224" and inserting "sections 203(a), 224, and 224A".

(f) CONFORMING AMENDMENT.—The heading for section 224 of such Act (42 U.S.C. 424a) is amended by adding at the end the following: "BY REASON OF PERIODIC BENEFITS".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to benefits for months after June 1989.

(2) SPECIAL RULE FOR EXISTING BENEFICIARIES.—Section 224A of the Social Security Act (as added by this section) shall not apply in the case of an individual who is entitled to benefits for June 1989 under section 223 of the Social Security Act or benefits under subsection (d), (e), or (f) of section 202 of such Act based on disability, if such individual's monthly earnings (for such month and each preceding month during the period of such entitlement) ordinarily taken into account by the Secretary of Health and Human Services in determining substantial gainful activity have not exceeded $250.

SEC. 3. CONTINUATION OF ENTITLEMENT TO BENEFITS BASED ON DISABILITY WHILE UNDER DISABLED AND WORKING STATUS.

(a) TERMINATION OF ENTITLEMENT DELAYED UNTIL TERMINATION OF DISABLED AND WORKING STATUS.—

(1) DISABILITY INSURANCE BENEFITS.—Section 223(a)(1) of the Social Security Act (42 U.S.C. 423(a)(1)) is amended in the second sentence by striking "except that" and all that follows through "activity." and inserting "except that, in the case of an individual who is under disabled and working status under subsection (e), such individual's disability shall not be considered to have ceased until such status terminates.".

(2) CHILD'S INSURANCE BENEFITS BASED ON DISABILITY.—Section 202(d)(1)(G)(i) of such Act (42 U.S.C. 402(d)(1)(G)(i)) is amended by striking "except that" and all that follows through "activity)" and inserting "except that, in the case of an individual who is under disabled and working status under section 223(e), such individual's disability shall not be considered to have ceased until such status terminates)".

(3) WIDOW'S INSURANCE BENEFITS BASED ON DISABILITY.—Section 202(e)(1) of such Act (42 U.S.C. 402(e)(1)) is amended in the last sentence by striking "except that" and all that follows through "activity." and inserting "except that, in the case of an individual who is under disabled and working status under section 223(e), such individual's disability shall not be considered to have ceased until such status terminates.".

(4) WIDOWER'S INSURANCE BENEFITS BASED ON DISABILITY.—Section 202(f)(1) of such Act (42 U.S.C. 402(f)(1)) is amended in the last sentence by striking "except that" and all that follows through "activity." and inserting "except that, in the case of an individual who is under disabled and working status under section 223(e), such individual's disability shall not be considered to have ceased until such status terminates.".

(b) DISABLED AND WORKING STATUS.—Section 223(e) of such Act (42 U.S.C. 423(e)) is amended to read as follows:

"Disabled and Working Status

"(e) Any individual who is entitled for a month to a disability insurance benefit under this section, or to a monthly insurance benefit based on disability under subsection (d), (e), or (f) of section 202, and whose earnings in a subsequent month are greater than or equal to the amount designated by the Secretary ordinarily to represent substantial gainful activity shall be under disabled and working status under this subsection for so long as—

"(1) such individual continues to have the disabling physical or mental impairment on the basis of which such individual was found to be under a disability, and

"(2) such individual meets all other nondisability-related requirements for entitlement to such benefits under this title.".

(c) CONFORMING AMENDMENTS ELIMINATING TRIAL WORK PERIOD PROVISIONS.—

(1) Subsection (c) of section 222 of such Act (42 U.S.C. 422(c)) is repealed.

(2) Paragraph (4) of section 223(d) of such Act (42 U.S.C. 423(d)(4) is amended in the third sentence by striking ", except for purposes of section 222(c),".

(d) 48-MONTH LIMITATION ON MEDICARE BENEFITS FOR INDIVIDUALS UNDER DISABLED AND WORKING STATUS.—

(1) IN GENERAL.—Section 226(b) of the Social Security Act (42 U.S.C. 426(b)) is amended—

(A) in the last sentence—

(i) by striking "benefits or" the first place it appears;

(ii) by striking "to such benefits or";

(iii) by striking "entitlement or" each place it appears; and

(iv) by striking "entitled to monthly insurance benefits under title II or as"; and

(B) by adding at the end the following: "Notwithstanding paragraph (2)(A), in the case of an individual who is entitled to hospital insurance benefits under this subsection for a month only because the individual is entitled to disability insurance benefits, or benefits under subsection (d), (e), or (f) of section 202 based on disability, as a result of being under disabled and working status under section 223(e), such entitlement shall cease as of the end of the 48th month of such entitlement and the Secretary shall provide such individuals notice (not later than the 45th month of such entitlement) of the period remaining in such entitlement and the opportunity under section 1818A to buy into the medicare program after the expiration of such entitlement.".

(2) TRANSITIONAL RULE.—In the case of an individual who was provided hospital insurance benefits under the third sentence of

section 226(b) of the Social Security Act before June 1989, months in which such benefits were provided under such sentence shall be counted against any 48-month limitation provided under the sentence added by paragraph (1)(B).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months after June 1989.

SEC. 4. PERMITTING MEDICARE BUY-IN FOR CONTINUED BENEFITS.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended—

(1) in the heading of section 1818, by inserting "ELDERLY" after "UNINSURED", and

(2) by inserting after section 1818 the following new section:

"HOSPITAL INSURANCE BENEFITS FOR UNINSURED DISABLED INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLEMENT

"SEC. 1818A. (a) Every individual who—

"(1) has not attained the age of 65,

"(2) would be entitled to benefits under this part under section 226(b), but for the 48-month limitation specified in the fourth sentence of such section, and

"(3) is not otherwise entitled to benefits under this part,

shall be eligible to enroll in the insurance program established by this part.

"(b) An individual may enroll under this section only in such manner and form as may be prescribed in regulations, and only during an enrollment period prescribed in or under this section.

"(c) The provisions of section 1837 (except subsections (f), (g), and (i) thereof), section 1838 (other than subsections (c) and (e) thereof), subsection (b) of section 1839, and section 1840 shall apply to individuals authorized to enroll under this section, except that—

"(1) the initial enrollment period shall begin on the first day of the third month before the month in which the individual first becomes eligible and shall end 7 months later; and

"(2) an individual's entitlement under this section shall terminate with the month before the first month in which the individual becomes eligible for hospital insurance benefits under section 226 and upon such termination such individual shall be deemed, solely for purposes of hospital insurance entitlement, to have filed in such first month the application required to establish such entitlement.

"(d) The provisions of subsections (d) through (f) of section 1818 shall apply to individuals enrolled under this section.".

(b) MEDICARE AS SECONDARY PAYOR TO EMPLOYER PLANS.—Section 1862(b)(4)(A)(i) of the Social Security Act (42 U.S.C. 1395y(b)(4)(A)(i)) is amended by inserting "or any other individual is eligible for or receives benefits under this title due to enrollment under section 1818A" after "226(b)".

SEC. 5. REQUIRING MEDICAID PAYMENT FOR MEDICARE COST-SHARING FOR POOR INDIVIDUALS UNDER DISABLED AND WORKING STATUS.

(a) IN GENERAL.—Section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) is amended—

(1) by inserting "(i)" after "(E)",

(2) by striking the semicolon at the end and inserting ", and", and

(3) by adding at the end the following new clause:

"(ii) for making medical assistance available for medicare cost-sharing (as defined in section 1905(p)(3)) for qualified disabled and working individuals described in section 1905(r);".

(b) ELIGIBILITY.—Section 1905 of such Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(r) The term 'qualified disabled and working individual' means an individual—

"(1) who is entitled to enroll for hospital insurance benefits under part A of title XVIII under section 1818A;

"(2) who, but for section 1902(a)(10)(E)(ii), is not eligible for medical assistance under the State plan;

"(3) whose income (as determined under section 1613 for purposes of the supplemental security income program) does not exceed 450 percent of the official poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved; and

"(4) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed the maximum amount of resources that an individual may have and obtain benefits under that program.".

(c) COPAYMENTS REQUIRED FOR CERTAIN INDIVIDUALS.—Section 1916 of such Act (42 U.S.C. 1396o) is amended—

(1) in subsection (a), by striking "The State plan" and inserting "Except as provided in subsection (d), the State plan";

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and

(3) by inserting after subsection (c) the following new subsection:

"(d) With respect to qualified disabled and working individuals described in section 1905(r) whose income (as determined under paragraph (3) of that section) exceeds 150 percent of the official poverty line referred to in that paragraph, the State plan of a State shall provide for the charging of a coinsurance amount according to a sliding scale under which the percentage of coinsurance increases from 0 percent to 100 percent, in reasonable increments, as the individual's income increases from 150 percent of such poverty line to 450 percent of such poverty line.".

(d) BENEFITS.—Section 1905(p)(3) of such Act (42 U.S.C. 1396d(p)(3)(A) is amended by striking "section 1818" and inserting "sections 1818 and 1818A".

(e) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1989, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 6. EXTENSION TO ALL RECIPIENTS OF CHILD'S INSURANCE BENEFITS BASED ON DISABILITY OF CURRENT RULE PERMITTING CONTINUED ENTITLEMENT TO MEDICAID BENEFITS OF INDIVIDUALS BECOMING ENTITLED TO SUCH CHILD'S INSURANCE BENEFITS.

(a) IN GENERAL.—Paragraph (1) of section 1634(c) of the Social Security Act (42 U.S.C. 1383c(c)(1)) is amended by striking "entitled, on or after the effective date of this subsection," and inserting "entitled".

(b) EFFECTIVE DATE.—Section 1634(c) of the Social Security Act (as amended by subsection (a) of this section) shall apply with respect to all individuals becoming entitled to benefits or increases referred to therein before, on, or after July 1, 1987, except that the provisions of this subsection and the amendment made by subsection (a) shall apply only with respect to medical assistance provided for care and services furnished in months after June 1989.●

By Mr. WEICKER (for himself, Mr. DODD, and Mr. STAFFORD):

S. 2518. A bill to amend the Occupational Safety and Health Act of 1970 to develop a permit system for certain construction operations, and for other purposes; to the Committee on Labor and Human Resources.

CONSTRUCTION SAFETY AND HEALTH IMPROVEMENT ACT

● Mr. WEICKER. Mr. President, I rise today on behalf of myself, Senator DODD, and Senator STAFFORD to introduce the Construction Safety and Health Improvement Act of 1988.

Eighteen years ago Congress enacted the Occupational Safety and Health Act to protect the Nation's workers from hazards in the workplace. That legislation was the beginning of Federal involvement in assuring safe and healthful working conditions for men and women in the construction, manufacturing, and maritime industries.

In April, the Committee on Labor and Human Resources held 3 days of oversight hearings on the effectiveness of the Occupational Safety and Health Administration in carrying out its responsibilities under the act. Among other things, those hearings revealed significant problems with OSHA's record in promulgating new health and safety standards, and strengthening existing standards.

Subsequently, on April 26, 1988, the committee held a hearing on the tragic building collapse of L'Ambiance Plaza in Bridgeport, CT, in which 28 construction workers were killed. In the aftermath of these hearings, I became convinced that two things were critical: First, more vigorous enforcement of existing law by OSHA, and second, stronger standards governing the construction industry and the Federal oversight role with respect to that industry.

With regard to the need for intensified enforcement by OSHA, I intend, in my capacity as the ranking member

of the Labor, Health and Human Services, and Education Appropriations Subcommittee, to pursue additional funding for OSHA enforcement activities in the fiscal year 1989 bill.

In response to the need for tougher standards, I have developed, with the support of the building and trades department of the AFL-CIO, the legislation being introduced today, which I believe will make the construction industry safer for workers.

There is evidence of inconsistency across the country for maintaining quality control on construction projects, including safety considerations, starting with design and continuing through the completion of construction. To begin to remedy this inconsistency, the legislation we introduce today would require the involvement of a State registered, professional engineer or architect in the ongoing oversight of construction projects. This will help to ensure workers' safety, help prevent accidents, and most importantly, save lives.

In addition, the bill will require OSHA to inspect a site within 24 hours of an accident when there are three or more serious injuries, one life-threatening injury, or a fatality. Currently, an employer must file a report to OSHA if either a fatality or five serious injuries occur; even then OSHA is not mandated to inspect the site. Further, in the event that a structural failure occurs that leads to a building collapse, a partial collapse, or a near collapse, OSHA will be required to inspect the site within 24 hours.

The Occupational Safety and Health Act will also be amended to require that when a fatality does occur on a worksite, OSHA will have the authority to shut down operations on that site in order to determine the cause of the accident. Clearly, all possible steps must be taken to ensure no further loss of life when such an accident occurs.

The bill will also increase the amount of a fine OSHA may levy against a company from $10,000 to $25,000. To many companies, a $10,000 fine constitutes a mere slap on the wrist, while stiffer penalities will send a message that serious violations will have serious financial consequences for the violators.

Finally, this bill will require any employer who discovers a serious occupational hazard at a workplace, to inform OSHA of the hazard in writing within 15 days. If such a person knowingly fails to inform OSHA of the hazard, he or she may be fined up to $250,000 or imprisoned for up to 10 years, or both.

Let me conclude by quoting John Lyons, the Director of the National Engineering Laboratory of the National Bureau of Standards, at the recent hearing on L'Ambiance Plaza. Mr. Lyons testified that the failed shearhead connection on the building was so poor that it should have been apparent to an inspector prior to the accidents and concluded by saying, "I was horrified and thought this was an accident waiting to happen." Well, the accident did happen because OSHA had never inspected the site, and required safeguards were not in place to prevent this tragedy.

Today we can take an important step toward ensuring that no more lives will be needlessly lost in construction accidents. I urge my colleagues to examine this bill, and to join us in our efforts to secure its passage.

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. 2518

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Construction Safety and Health Improvement Act of 1988".

SEC. 2. REFERENCES TO THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

SEC. 3. PROFESSIONAL ENGINEER-ARCHITECT.

Section 3 (29 U.S.C. 652) is amended by adding at the end thereof the following new paragraphs:

"(15) The terms 'Professional Engineer-Architect' and 'E-A' mean an individual who has attained, through engineering education and experience, a thorough knowledge of mathematical, physical, and engineering sciences and principles and methods of engineering analysis and design, and is registered, where such registration is permitted, as a professional engineer in the State where such work is to be performed.

"(16) The terms 'serious injury' means any injury that requires professional medical treatment.

"(17) The term 'hazard analysis' means a report detailing the potential safety hazards that could occur on a construction site throughout the construction process and containing instructions and provisions for the prevention or handling of potential safety hazards. The potential safety hazards addressed in the report shall include structural collapses, cave-ins, dire, flooding or other water hazards, explosions, and lightning.

SEC. 4. INCIDENT REPORTING, RECORDKEEPING, AND INVESTIGATION PROCEDURES.

Section 8 (29 U.S.C. 657) is amended by adding at the end thereof the following subsections:

"(h)(1) On the occurrence of any incident, the E-A responsible for the worksite shall immediately investigate such incident.

"(2)(A) The E-A shall report all reportable incidents on the construction worksite to the appropriate regional office of the Occupational Safety and Health Administration by electronic means (telephone or telegraph), immediately after the occurrence of such incidents.

"(B)(i) Except as provided in clause (ii), as used in this subsection, the term 'reportable incident' means an incident that—

"(I) causes serious injury or death;

"(II) could have caused serious injury or death, as determined by the E-A;

"(III) involves a structural failure that leads to the collapse of a building; or

"(IV) involves a near collapse of a building.

"(ii) Such term shall not include an incident referred to in clause (i) if an E-A determines that the incident was not the result of—

"(I) a violation of the project construction process plan and hazard analysis or the Project Safety and Health Program and Procedures; or

"(II) a violation of this Act or a standard promulgated pursuant to this Act.

"(3) The reports required under paragraph (2) shall specify—

"(A) the owner and location of the worksite;

"(B) the name, business address, and telephone number of the employer whose employee or employees were killed or injured or could have been killed or injured by the incident;

"(C) the name and business address of the project contractor or pertinent general contractor at that worksite;

"(D) the date and time of the incident;

"(E) the type of incident (fire, explosion, building collapse, etc.);

"(F) the number of fatalities or injuries, and the nature of such, resulting from the incident;

"(G) the number of persons hospitalized as a result of the incident;

"(H) the number of persons unaccounted for at the time the report is made;

"(I) the identity of the E-A responsible for investigating the incident and the E-A's employer;

"(J) weather conditions at the time of the incident; and

"(K) the trades or crafts to which the deceased or injured employees belonged, to the extent known at the time of the report.

"(4)(A) Except as otherwise provided in this paragraph, the employer, appropriate contractor, or the owner shall bar ingress to and egress from an incident site, or other interference with such site, on the occurrence of a reportable incident involving—

"(i) three or more serious injuries;

"(ii) a fatality;

"(iii) a life-threatening injury;

"(iv) a structural failure that leads to the collapse of a building; or

"(v) a near collapse of a building.

"(B) Subparagraph (A) shall apply until the Occupational Safety and Health Administration completes its investigation of the site.

"(C) Subparagraph (A) shall not prevent employees affected by an incident from receiving medical treatment or medical transportation.

"(D) No work shall be done at the incident site, except for necessary rescue and recovery work, until the Occupational Safety and Health Administration completes its investigation and certifies that it is safe to continue work at such site.

"(E) The employer, appropriate contractor, or the owner shall take appropriate measures (as defined in regulations promulgated by the Secretary) to prevent the destruction of any evidence that would assist

in the investigation into the cause or causes of the incident.

"(5)(A) The Occupational Safety and Health Administration shall conduct an investigation of an incident (including an inspection of the incident site) as soon as practicable on the reporting of an incident involving—

"(i) three or more serious injuries;

"(ii) a fatality;

"(iii) a life-threatening injury;

"(iv) a structural failure that leads to the collapse of a building; or

"(v) a near collapse of a building.

"(B) The employer, appropriate contractor, or the owner shall grant the Occupational Safety and Health Administration immediate access to the incident site.

"(C) The Occupational Safety and Health Administration shall take whatever action the Administration considers appropriate to ensure that a full investigation of the incident is made. Such an investigation must take place within 24 hours following receipt of the report unless rescue and recovery operations are in progress or unless the Occupational Safety and Health Administration determines that the conditions at the incident site would make an investigation dangerous.

"(D) During the investigation, the Occupational Safety and Health Administration shall determine whether the incident site is an imminent danger or to certify that work may resume at the site.

"(6) Following the investigation of the incident, the Occupational Safety and Health Administration shall prepare a description, in narrative terms, of the incident and submit it to the area office of the Occupational Safety and Health Administration as soon as practicable, but not later than 1 week following the commencement of the investigation. Such description shall include all of the items listed in paragraph (3) and the possible causes of the incident.

"(i)(1) Each employer engaged in construction work shall, on completion of such work at a construction project, file a report with the Occupational Safety and Health Administration.

"(2) A report filed under paragraph (1) shall identify the project, and for each employer, the duration of work, the number of employees, the number of man hours worked, the nature of the work, the number of work incidents, the nature of any work incidents, the cause of any work incidents, any injuries, any deaths, and any other information that the Occupational Safety and Health Administration determines to be relevant.

"(3) Information contained in the report filed under paragraph (1) shall be used to determine the national incident rate average for each type of construction work. Such information shall also be used to target for inspections high hazard types of construction projects, high hazard construction operations, and employers that have a higher than average incident rate.".

SEC. 5. CIVIL AND CRIMINAL PENALTIES.

Section 17 (29 U.S.C. 666) is amended—

(1) in subsection (a), by striking out "$10,000" and inserting in lieu thereof "$25,000";

(2) in subsection (b), by striking out "$1,000" and inserting in lieu thereof "$25,000";

(3) in subsection (c), by striking out "$1,000" and inserting in lieu thereof "$25,000";

(4) in subsection (d)—

(A) by striking out "(which period shall)" and all the follows through "penalties) may" and inserting in lieu thereof "shall"; and

(B) by striking out "$1,000" and inserting in lieu thereof "$25,000";

(5) in subsection (e), to read as follows:

"(e) Any employer who willfully or repeatedly violates any standard, rule, or order promulgated pursuant to section 6 of this Act, or of any regulation prescribed pursuant to this Act, or who fails to correct a violation for which a citation has been issued under section 9 of this Act within the period permitted for its correction, and that violation or failure caused death, serious injury or illness to any employee, or was a serious violation as defined in subsection (m), shall, upon conviction, be punished by a fine of not more than $250,000 or by imprisonment for not more than 20 years, or by both, except that if the conviction is for a violation or failure committed after a first conviction of such person, punishment shall be by a fine of not more than $500,000 or by imprisonment for not more than 10 years, or by both.";

(6) in subsection (f), by striking out "$1,000 or by imprisonment for not more than six months," and inserting in lieu thereof "$50,000 or by imprisonment for not more than 1 year,";

(7) in subsection (g), by striking out "$10,000 or by imprisonment for not more than six months," and inserting in lieu thereof "$100,000 or by imprisonment for not more than 1 year,";

(8) by inserting after subsection (g) the following new subsection:

"(h) Whoever knowingly distributes, sells, offers for sale, introduces, or delivers in commerce any equipment for use at a construction site, including, components and accessories of such equipment, that is represented as complying with the provisions of this Act, or with any specification or regulation of the Secretary applicable to such equipment, and that does not so comply shall, upon conviction, be subject to the same fine and imprisonment as may be imposed upon a person under subsection (e).";

(9) in subsection (i), by striking out "$1,000" and inserting in lieu thereof "$25,000";

(10) in subsection (l), by adding at the end thereof the following new sentence: "Interest at the rate provided for section 1961(a) of title 28, United States Code, shall be charged against a person on any final order of the Commission, or the court. Interest shall begin to accrue 30 days after the issuance of such order."; and

(11) by adding at the end thereof the following new subsections:

"(m) Whenever a corporate employer violates a safety or health standard or knowingly violates or fails or refuses to comply with any order issued under this Act or any order incorporated in a final decision issued under this Act, except a decision issued under section 11 of this Act, any director, officer, or agent of such corporation who knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties, criminal fines, and imprisonment that may be imposed on a person under the applicable provisions of this section. If a penalty or fine is imposed on a director, officer or agent under this subsection, such fine shall not be paid, directly or indirectly, out of the assets of any business entity on behalf of that individual.

"(n)(1) Any director, officer, or agent of any employer who discovers an occupational hazard at the workplace that could cause serious injury or illness to any employee, and who fails during the period ending 15 days after such discovery is made (or if there is imminent risk of bodily injury or death, immediately)—

"(A) to inform the Assistant Secretary in writing, unless such person has actual knowledge that the Assistant Secretary has been so informed; and

"(B) to warn affected employees in writing, unless such person has actual knowledge that such employees have been so warned;

shall be fined not more than $250,000 or imprisoned not more than 10 years, or both.

"(2) Any person who knowingly discriminates against any person in the terms or conditions of employment or in retention in employment or in hiring because of such person's having informed the Assistant Secretary or warned employees of a serious concealed occupational hazard at the workplace shall be fined not more than $250,000, or imprisoned for not more than 10 years or both.

"(3) If a fine is imposed on an individual under this section, such fine shall not be paid, directly or indirectly, out of the assets of any business entity on behalf of that individual.

"(o)(1) No proposed civil penalty that has been issued under section 10 shall be compromised, mitigated, or settled unless the affected employees or the representative of such employees have been given a full opportunity to participate in the process resulting in such compromise, mitigation or settlement. Such opportunity shall include the right to attend and participate in all conferences held by the Occupational Safety and Health Administration with the cited employers.

"(2) No proposed civil penalty that has been contested before the Commission under this Act shall be compromised, mitigated, or settled except with the approval of the Commission. No penalty assessment that has become a final order of the Commission shall be compromised, mitigated, or settled except with the approval of the court.

"(p) Where there are multiple instances of a violation of a standard, each instance shall constitute a separate violation for the purposes of assessing civil penalties and fines.

"(q) For purposes of this section, a serious violation shall be considered to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition that exists, or from one or more practices, means, methods, operations, or processes that have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.".

SEC. 6. STATE AND LOCAL LAWS.

Subsection (a) of section 18 (29 U.S.C. 667(a)) is amended to read as follows:

"(a)(1) No State or local law shall be superseded by any provision of this Act, or any order issued or safety or health standard promulgated pursuant to this Act, unless such law is in conflict with such provision, order or standard.

"(2)(A) The provisions of any State or local law that provides for more stringent safety and health standards than do the provisions of this Act or any order issued or safety or health standard promulgated pursuant to this Act, shall not be construed nor

held to be in conflict with the provisions of this Act.

"(B) The provisions of any State or local law or regulation that provides for safety and health standards for which no provision is contained in this Act or in any order issued or safety or health standard promulgated pursuant to this Act, shall not be held to be in conflict with this Act.

"(3) Nothing in this Act shall preclude State and local law enforcement agencies from engaging in criminal prosecutions in accordance with the laws of such State or locality.".

SEC. 7. PERMIT SYSTEM FOR CERTAIN CONSTRUCTION OPERATIONS.

The Act (29 U.S.C. 651 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 34. PERMIT SYSTEM FOR CERTAIN CONSTRUCTION OPERATIONS.

"(a) REQUIREMENT OF PERMIT.—The issuance of a permit by an E-A prior to the commencement of an operation shall be required for those employments or places of employment that involve any of the following operations (hereinafter referred to in this section as 'covered operations')—

"(1) the construction of trenches and excavations that are five feet or deeper and into which a person is required to descend;

"(2) the erection of scaffolding that is more than three stories high or such an equivalent height;

"(3) the demolition of any building, structure, or the dismantling of scaffolding, that is more than three stories high or such an equivalent height;

"(4) operations involving exposure to asbestos;

"(5) any other operation that the Occupational Safety and Health Administration determines involves an exposure of employees to death or serious bodily harm; and

"(6) any other operation on a specific project that the E-A determines, for that project, that an exposure to death or serious bodily harm is involved.

"(b) APPLICATION.—

"(1) IN GENERAL.—An employer in the construction industry shall apply and obtain a permit by submitting an application demonstrating that such employer is knowledgeable of, in compliance with, and intends to comply with, all statutes, regulations, standards, and agency directives applicable to construction work generally and to the covered operation or operations specifically, including all requirements set forth in this Act.

"(2) REQUIREMENT.—An application submitted under paragraph (1) shall include a copy of the—

"(A) Project Safety and Health Program and Procedures; and

"(B) Construction Process Plan and Hazard Analysis required by section 35.

"(3) NUMBER OF APPLICATIONS.—Only one application and one permit shall be required for two or more operations to be performed concurrently by the same employer.

"(c) ANNUAL PERMIT.—

"(1) IN GENERAL.—In lieu of an application and permit for each covered operation of an employer, an annual permit may be obtained by an employer, if the employer complies with the requirement in subsection (b)(1).

"(2) NOTICE AND CERTIFICATIONS.—Prior to the commencement of work on each new covered operation within the year covered by the annual permit, the employer shall—

"(A) notify the project E-A of the nature and location of such operation;

"(B) notify the project E-A of the intended date of the commencement of such operation; and

"(C) certify that the demonstration made under paragraph (1) to obtain such annual permit continues to apply to such new operation.

"(3) NOTIFICATION.—The notification required under paragraph (2) shall include the provision of copies of that portion of—

"(A) the Project Safety and Health Program and Procedures; and

"(B) the Construction Process Plan and Hazard Analysis required by section 35;

that are applicable to such new operation or that have been revised since the employer submitted the permit application.

"(d) SUBMISSION OF APPLICATION.—

"(1) To E-A.—Applications for permits shall be submitted to an E-A who shall certify the approval of the E-A by issuing the permit with name, registration number, and seal of the E-A affixed on the permit.

"(2) To OSHA.—In the absence of a permit certified by an E-A under paragraph (1), the employer shall obtain the permit by submitting the application to the Occupational Safety and Health Administration.

"(3) SCHEDULE OF FEES.—To cover the costs involved in investigating and issuing permits, a schedule of reasonable fees shall be established by the Occupational Safety and Health Administration. Such fees shall be paid by the employer to the E-A or the Occupational Safety and Health Administration, as the case may be, prior to issuance of the permit.

"(e) POSTING OF PERMIT.—Every employer issued a permit shall post a copy or copies thereof at or near each place of employment involving a covered operation. If such posting is impracticable at the site of an excavation, the permit shall be made available at the nearest practicable location of such employer.

"(f) FALSE STATEMENTS.—The provisions of section 1001 of title 18, United States Code, shall be applicable to information provided pursuant to this section.

"SEC. 35. CONSTRUCTION PROJECTS.

"(a) SUPERVISION BY ENGINEER-ARCHITECT.—

"(1) IN GENERAL.—All construction projects shall be under the supervision of a professional Engineer-Architect who is registered in the State where the project is located. The owner of the project is responsible for designating the E-A. If the project contract specifically assigns this responsibility to a project or construction manager or a prime or general contractor, the owner and such manager or contractor shall be considered, for purposes of this Act, to have joint responsibility.

"(2) RESPONSIBILITY OF E-A.—

"(A) IN GENERAL.—It shall be the E-A's responsibility to determine whether a project, because of its size or complexity, requires, in addition to the E-A, the designation of qualified representatives of the E-A so as to ensure that the work is performed in compliance with this Act and with all orders issued and standards promulgated pursuant to this Act.

"(B) ADDITIONAL REPRESENTATIVES.—If the E-A determines that additional representatives are necessary, it shall be the responsibility of the E-A to assure that an adequate number of qualified representatives are assigned to the project. All such representatives (hereinafter referred to in this section as 'designated representatives') shall meet, at a minimum, the requirements for being a 'competent person' as defined in section 1926.32(f) of title 29, Code of Federal Regulations. Where the E-A designates representatives, the E-A shall be held responsible for their actions and for compliance with the applicable provisions of this Act.

"(C) LIABILITY.—An E-A shall be liable to the same extent that the supervisor is liable for violations of the provisions of this Act.

"(3) POSTING AND WORK PERFORMANCE.—

"(A) POSTING.—At each construction project, the name and registration number of the E-A and the names of all designated representatives shall be posted near the Occupational Safety and Health Administration poster. In such instances, work on the project shall be performed only when the E-A's designated representative or representatives will be present on the site.

"(B) WORK PERFORMANCE.—Work on a construction project shall be performed only when the E-A is present on the site, unless the E-A determines, and certifies in writing, that a representative or representatives designated by the E-A will be present on the site and will be sufficient to assure that the work will be performed in compliance with this Act and with all orders issued and standards promulgated pursuant to this Act.

"(b) PROJECT SAFETY AND HEALTH PROGRAM AND PROCEDURES.—

"(1) DEVELOPMENT.—The owner shall be responsible for the development and implementation on the project of Project Safety and Health Program and Procedures (hereinafter referred to in this section as 'project procedures'). Where the project contract assigns the responsibility for developing such procedures to a project or construction manager or a prime or general contractor or some other person, both the owner and such manager or contractor or other person shall be considered, for purposes of this Act, to have joint responsibility for the development of such.

"(2) MONITORING.—The project procedures shall be job-site specific, with benchmarks established for monitoring compliance with the program, and specific duties and responsibilities for monitoring compliance with such procedures shall be assigned to the E-A or the representatives designated by the E-A.

"(3) LIABILITY.—If a labor-management committee participates in the monitoring of the project procedures, no claim of liability resulting from the death, injury, or illness of any employee, arising out of or in the course of employment, shall be assessed against a member of that committee or against an exclusive collective bargaining representative or an affiliated, constituent or parent body of such collective bargaining representative.

"(4) REVIEW OF PROJECT PROCEDURES.—The project procedures shall be reviewed by the E-A, who shall, after determining that such procedures—

"(A) will adequately addresses the safety and health-related conditions anticipated on the project; and

"(B) contain appropriate provisions for the education and training of employers, supervisors and employees in the recognition, avoidance, and prevention of unsafe and unhealthy conditions;

certify the approval of such procedures by imprinting the professional seal, signature and registration number of the E-A on a copy of the procedures.

"(c) DESIGN REQUIREMENTS.—If a design of equipment, structures, temporary structures, drawings, or processes, or alterations or modifications in the design of any such

equipment, structures, temporary structures, drawings, or processes is required, such design shall be performed by or under the supervision of an E-A and verified by the project E-A.

"(d) NOTIFICATION OF HAZARDS AND VIOLATIONS.—

"(1) IN GENERAL.—The E-A shall notify, in writing, the appropriate contractors and subcontractor performing work on the project of the existence of hazardous conditions or work practices, that violate any Federal, State or local safety and health laws or regulations, and of noncompliance with any project procedures.

"(2) WORK STOPPAGE.—The E-A shall notify the owner and require that work be stopped or affected employees be removed from areas where an imminent danger exists.

"(e) CERTIFICATION OF DESIGNATED REPRESENTATIVES.—All persons assigned duties as designated representatives shall be certified in the State where the work is being performed. For the purposes of this section, State programs to certify designated representatives shall be reviewed and approved by the Secretary. Where State programs for certification are not provided, such certification shall be by the Secretary.

"(f) CONSTRUCTION PROCESS PLAN AND HAZARD ANALYSIS FOR CERTAIN CONSTRUCTION OPERATIONS.—

"(1) IN GENERAL.—

"(A) PREPERATION.—Every owner shall have prepared a construction process plan and hazard analysis for every construction project prior to the commencement of work on that project.

"(B) RESPONSIBILITY.—If the project contract assigns the preparation of a plan under subparagraph (A) to a project or construction manager or a project or general contractor, the owner and such manager or contractor shall be considered, for purposes of this section, to have joint responsibility for preparing such plan.

"(C) APPROVAL.—The construction process plan and hazard analysis shall be reviewed and approved by the E-A prior to the commencement of work on the project.

"(2) COMPONENTS OF PLAN.—The construction process plan and hazard analysis developed under paragraph (1) shall contain at least the following components:

"(A) PROCESS FOR CONSTRUCTION.—The plan shall describe the step-by-step process for construction of the project, and shall contain specific references to critical points and conditions that require special attention, including—

"(i) maintaining structural stability;

"(ii) preventing cave-ins;

"(iii) placement and stripping of concrete forms and shoring; and

"(iv) foundation conditions and placement.

"(B) STABILITY OF THE PROJECT.—The plan shall identify the means that will be used to ensure the stability of the project during the construction process, including—

"(i) bracing;

"(ii) guying;

"(iii) shearwall connections; and

"(iv) shoring.

"(C) INSPECTIONS AND TESTS.—The plan shall contain a list of all inspections and tests required, including a schedule for such inspections and tests, and the criteria established for continuation of construction based on the inspection and test results. Inspections and tests for soil compaction, concrete strength, bracing placement, fire suppression and alarm systems and all other inspections and tests necessary for the safe construction of the project shall be included.

"(D) SUPERVISION.—The plan shall identify specifically the processes and activities requiring supervision by a designated representative on behalf of the project contractor or any other contractor or subcontractor on the project.

"(E) HAZARD ANALYSIS.—

"(i) PREPARATION.—The construction process plan shall be based on, and make appropriate references to, a hazard analysis to be prepared or approved by the E-A on behalf of the project contractor.

"(ii) IDENTIFICATIONS.—The hazard analysis shall identify the possibilities for major safety failures of the project that could occur throughout the construction process, and shall include the potential for—

"(I) structural collapse;

"(II) cave-ins;

"(III) fire;

"(IV) flooding or other water hazards;

"(V) explosions; and

"(VI) lightning.

"(F) PREVENTION.—The hazard analysis shall contain instructions and provisions for the prevention of hazards throughout the construction process, including the hazards described in paragraph (5).

"(G) LIST OF STANDARDS.—The hazard analysis shall include a listing of all standards promulgated by the Occupational Safety and Health Administration that are applicable to any part of the project.

"(3) COPY OF PLAN.—The prime or general contractor shall provide to every other contractor and subcontractor on the project, prior to commencement of work by that contractor or subcontractor, a copy of the construction process plan and hazard analysis.

"(4) AVAILABILITY OF PLAN.—Every contractor and subcontractor on the project shall maintain the plan and analysis throughout its presence on the project and make such available for review by its employees and employee representatives.

"(5) OBSERVANCE OF PLAN.—

"(A) IN GENERAL.—The construction process plan shall be observed by all contractors and subcontractors on the project unless the E-A certifies, in writing, an exception from one or more aspects of the plan.

"(B) EXCEPTION CERTIFICATION.—A certification made under subparagraph (A) shall—

"(i) make specific reference to the contractor involved, and the time, place and operation affected;

"(ii) provide reasons why the exception has been approved; and

"(iii) specify any substitute or alternative process or processes that shall be used by such contractor.

"(g) CERTIFICATION BY E-A TO OSHA.—Prior to the commencement of work on a construction project, the project E-A shall submit to the Occupational Safety and Health Administration the certification of the E-A that all of the requirements of sections 34 and 35, have been complied with for that project.

"(h) EXEMPTION.—The Secretary, with the approval of the Advisory Committee on Construction, Safety and Health, may exempt—

"(1) certain sizes or types of construction operations, as determined appropriate pursuant to regulations issued by the Secretary; and

"(2) other construction operations if such operations are being performed according to a specific plan that includes adequate safety and health procedures approved by an E-A; from the requirements of this section.".●

● Mr. DODD. Mr. President, I am pleased to join my colleague from Connecticut, Senator WEICKER, in introducing the "Construction Safety and Health Improvement Act of 1988."

Mr. President, this past April, the Labor and Human Resources held a series of oversight hearings on the Occupational Safety and Health Administration. I chaired one of those hearings which focused on OSHA and the construction industry in the context of the L'Ambiance Plaza Building collapse in Bridgeport, CT on April 23, 1987.

National tragedies, such as the L'Ambiance Plaza disaster which killed 28 workers and seriously injured 12 others, draw public attention to the situation facing construction workers. However, those in the industry are constantly reminded of the unsafe working conditions by the daily occurrence of accidents, injuries and deaths on construction sites.

Since 1959, there never has been fewer than 2,100 deaths per year in the construction industry with an average of 2,500 per year. On the average of every 2 hours, three construction workers are electrocuted, buried alive, crushed or fall to their death in the United States.

We all know that construction is a dangerous industry. However, there can be no dispute that the current record of occupational safety and health in the construction industry is horrendous. The number of accidents, injuries and deaths is appalling and should be of concern to every person in this Nation.

What is so disturbing about the present situation is that it exists notwithstanding Congress' recognition 18 years ago of the need for safety and health legislation in the construction industry.

While blame for the present sad state of affairs should not be placed wholly on OSHA, it is clear that there are numerous deficiencies in the Occupational Safety and Health Act and in OSHA's administration of the act.

The Federal Government must do all that it can to ensure that all construction workers, indeed all workers, are guaranteed the basic human right to a safe and healthful workplace. The current legislative and regulatory scheme is not working and therefore, we in Congress must develop new initiatives for improvement in worker safety and health.

The "Construction Safety and Health Improvement Act of 1988" is such an initiative. It will improve OSHA's ability to assure safe and healthful workplaces for working men and women in the construction industry, and I urge my colleagues to support it.●

By Mr. PRESSLER:

S. 2519. A bill entitled the "Food Security Act Amendments of 1988"; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD SECURITY ACT AMENDMENTS

Mr. PRESSLER. Mr. President, today I am introducing legislation dealing with an increasingly serious problem—the severe drought affecting a large part of our country. The drought covers many States and affects thousands of farm and rural communities.

In my home State of South Dakota, many areas are suffering from the most severe drought since the 1930's. Some areas have not received significant rainfall for nearly a year. Roads have been closed due to dust storms. Many farmers did not even plant their crops this spring. It is a very serious situation in South Dakota and in many other agricultural States.

Over 1,000 counties have already been declared eligible for some disaster assistance programs. As a result of the widespread drought, commodity prices have increased dramatically. This is good news for farmers in areas that have received rain but it is bad news for farmers in drought areas. Most farmers received a portion of their estimated deficiency payment when they signed up for the 1988 program. These advance deficiency payments were used to finance crop replanting. Now, due to the increase in market prices, the deficiency payments may be reduced and for several commodities there may not be any deficiency payment. If nothing is done, these drought stricken farmers will be required to pay back their advance deficiency payments. These farmers, many of whom will not receive a crop, would be in no financial position to repay their advance deficiency payments.

The legislation I am introducing today would exempt farmers in counties which receive disaster declarations from repaying the advance deficiency payments. This legislation will provide drought stricken farmers with some assistance.

Many farmers have contacted me expressing concern about the possibility of having to repay the advance deficiency payments. They are wondering where they will get the money. In most cases, the farmer would apply for a FmHA disaster loan to repay his advance deficiency payment.

If the drought conditions continue, additional actions will have to be taken. However, this would be a good first step. It would relieve farmers in drought areas and provide them with valuable assistance.

Mr. President, I urge my colleagues to join in supporting this emergency legislation.

By Mr. LEVIN (for himself, Mrs. KASSEBAUM, Mr. SPECTER, Mr. KENNEDY, Mr. BRADLEY, Mr. SIMON, Mr. WEICKER, Mr. DODD, Mr. BURDICK, Mr. CHAFEE, Ms. MIKULSKI, Mr. CONRAD, Mr. CRANSTON, Mr. EVANS, Mr. GORE, Mr. HEINZ, Mr. LAUTENBERG, Mr. LEAHY, Mr. MITCHELL, Mr. RIEGLE, Mr. SIMPSON, Mr. WIRTH, Mr. ADAMS, Mr. DURENBERGER, Mr. DIXON, Mr. KERRY, Mr. DASCHLE, Mr. MOYNIHAN, Mr. JOHNSTON, Mr. SARBANES, Mr. ROCKEFELLER, Mr. BOSCHWITZ, and Mr. METZENBAUM):

S.J. Res. 339. Joint resolution to designate June 16, 1988, as "Soweto Remembrance Day"; to the Committee on the Judiciary.

SOWETO REMEMBRANCE DAY

● Mr. LEVIN. Mr. President, June 16 marks the 12th anniversary of the tragic Soweto uprising. On that day, thousands of black high school students engaged in a peaceful demonstration against a Government decree that required Afrikaans, the language of apartheid, to be used in black schools. The demonstration turned ugly when South African police suddenly opened fire, fatally shooting in the back 13-year-old Hector Peterson. The police action touched off further demonstrations by the people of Soweto. But the Government's response was even more police brutality, resulting in the vicious murder of hundreds of people, many of them children. The Government of South Africa reported a death toll of 600. More reliable sources reported over 1,000 killed and thousands more wounded and arrested.

Mr. President, to remind us of this tragedy and in an effort to keep public focus on the deteriorating situation in South Africa, I am today introducing, with Senator KASSEBAUM and 30 of our colleagues, a joint resolution designating June 16, 1988, as "Soweto Remembrance Day." The resolution calls on the American people to participate in local activities designed to commemorate the victims of Soweto and to show solidarity with the courageous people of all races in South Africa and throughout the world who are fighting to end the evil of apartheid.

I ask unanimous consent that the text of the resolution be printed in the RECORD.

The resolution is as follows:

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

S.J. RES. 339

Whereas on June 16, 1976, the Soweto demonstrations and massacre took place in South Africa;

Whereas on that occasion, more than 1,000 children were brutally murdered, and an additional 5,000 wounded by South African police in one of the worst displays of state-sponsored terrorism of modern times;

Whereas these children were protesting the fact that they were not allowed to be educated in their native language in the land where their families have lived for generations;

Whereas the Republic of South Africa has become even more repressive, causing the deaths of more than 4,000 men, women, and children;

Whereas since the declaration of the 1985 State of Emergency, more than 40,000 black South Africans, including more than 8,000 children, have been detained indefinitely without charge or trial by the South African government, and

Whereas the apartheid system and its continued denial of basic human rights and freedoms to the black majority population of the Republic of South Africa offends the sensibilities of freedom loving people and is repugnant to the ideals which our Nation's founders embraced in our Declaration of Independence, Constitution, and Bill of Rights: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) June 16, 1988, is hereby designated as "Soweto Remembrance Day".

(b) The citizens of the United States are encouraged to participate in local activities designed to commemorate the victims of Soweto and to show solidarity with the courageous people of all races in South Africa and throughout the world who are fighting to end the evil of apartheid.●

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. MOYNIHAN, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 675

At the request of Mr. MITCHELL, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 675, a bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992.

S. 1692

At the request of Mr. MURKOWSKI, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 1692, a bill to amend title 38, United States Code, to provide for the payment of a veterans' disability benefit in the case of certain veterans who have non-Hodgkin's lymphoma.

S. 1817

At the request of Mr. KENNEDY, the names of the Senator from Montana [Mr. MELCHER] and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of S. 1817, a bill to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from U.S. savings bonds which are trans-

ferred to an educational institution as payment for tuition and fees.

S. 1851

At the request of Mr. METZENBAUM, the names of the Senator from Colorado [Mr. WIRTH], the Senator from Oregon [Mr. HATFIELD], the Senator from South Dakota [Mr. DASCHLE], the Senator from Florida [Mr. GRAHAM], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 1851, a bill to implement the International Convention on the Prevention and Punishment of Genocide.

At the request of Mr. PELL, his name was added as a cosponsor of S. 1851, supra.

S. 2115

At the request of Mr. DANFORTH, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 2115, a bill to amend the Internal Revenue Code of 1986 to eliminate tax credits from the passive activity rules, to modify the business credit limitation provisions, and for other purposes.

S. 2129

At the request of Mr. BAUCUS, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 2129, a bill to amend the Internal Code of 1986 to repeal the application of the uniform capitalization rules with respect to animals produced in a farming business.

S. 2330

At the request of Ms. MIKULSKI, the names of the Senator from Illinois [Mr. SIMON] and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 2330, a bill to promote the integration of women in the development process in developing countries.

S. 2404

At the request of Mr. HOLLINGS, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponor of S. 2404, a bill to amend title XX of the Social Security Act to provide for additional funds under such title and to reserve such funds for child day care services, to create a National Advisory Commission on Child Care, and for other purposes.

S. 2436

At the request of Mr. RIEGLE, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2436, a bill to reauthorize the Sleeping Bear Dunes National Lakeshore Advisory Commission.

S. 2450

At the request of Mr. CHILES, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 2450, a bill to provide Federal financial assistance to facilitate the establishment of volunteer programs in American schools.

S. 2480

At the request of Mr. MOYNIHAN, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 2480, a bill to amend the Internal Revenue Code of 1986 to clarify that section 457 does not apply to nonelective deferred compensation or basic employee benefits.

S. 2484

At the request of Mr. DANFORTH, the names of the Senator from Wyoming [Mr. SIMPSON] and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 2484, a bill to amend the Internal Revenue Code of 1986 to enhance the incentive for increasing research activities.

S. 2487

At the request of Mr. METZENBAUM, the names of the Senator from Colorado [Mr. WIRTH] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 2487, a bill to award a congressional gold medal to Mrs. Jesse Owens.

S. 2488

At the request of Mr. MATSUNAGA, his name was withdrawn as a cosponsor of S. 2488, a bill to grant employees parental and temporary medical leave under certain circumstances, and for other purposes.

S. 2490

At the request of Mr. SASSER, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 2490, a bill to amend chapter 171 of title 28, United States Code, to allow members of the Armed Forces to sue the United States for damages for certain injuries caused by improper medical care provided during peacetime.

S. 2495

At the request of Mr. BOND, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2495, a bill to amend the Agricultural Act of 1949 to permit producers to plant supplemental and alternative income-producing crops on acreage considered to be planted to a program crop.

S. 2500

At the request of Mr. GRASSLEY, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2500, a bill to amend title 28, United States Code, to provide for an exclusive remedy against the United States for suits based upon certain negligent or wrongful acts of omissions of U.S. employees committed within the scope of their employment, and for other purposes.

SENATE JOINT RESOLUTION 149

At the request of Mr. HELMS, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of Senate Joint Resolution 149, a joint resolution to designate the period commencing on June 21, 1989, and ending on June 28, 1989, as "Food Science and Technology Week."

SENATE JOINT RESOLUTION 169

At the request of Mr. MOYNIHAN, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Connecticut [Mr. WEICKER], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Delaware [Mr. ROTH], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 169, a joint resolution designating October 2, 1988, as a national day of recognition for Mohandas K. Gandhi.

SENATE JOINT RESOLUTION 208

At the request of Mr. REID, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of Senate Joint Resolution 208, a joint resolution designating June 12 to 19, 1988, as "Old Cars Week."

SENATE JOINT RESOLUTION 263

At the request of Mr. BRADLEY, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Connecticut [Mr. WEICKER], the Senator from Arizona [Mr. DECONCINI], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of Senate Joint Resolution 263, a joint resolution to designate the period commencing November 13, 1988, and ending November 19, 1988, as "Geography Awareness Week."

SENATE JOINT RESOLUTION 271

At the request of Mr. QUAYLE, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 271, a joint resolution to designate August 20, 1988, as "Drum and Bugle Corps Recognition Day."

SENATE JOINT RESOLUTION 291

At the request of Mr. COCHRAN, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Georgia [Mr. FOWLER], the Senator from Connecticut [Mr. DODD], the Senator from North Carolina [Mr. SANFORD], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Joint Resolution 291, a joint resolution to designate the Month of September 1988 as "National Sewing Month."

SENATE JOINT RESOLUTION 304

At the request of Mr. LAUTENBERG, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Senate Joint Resolution 304, a joint resolution designating July 2, 1988, as "National Literacy Day."

SENATE JOINT RESOLUTION 316

At the request of Mr. SASSER, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Joint Resolution 316, a joint resolution designating October 1, 1988, as "National Quality First Day."

SENATE JOINT RESOLUTION 320

At the request of Mr. HATCH, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Missouri [Mr. BOND], the Senator from Utah [Mr. GARN], the Senator from New Jersey [Mr. BRADLEY], the Senator from North Dakota [Mr. BURDICK], the Senator from Illinois [Mr. DIXON], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of Senate Joint Resolution 320, a joint resolution to commemorate the 50th anniversary of the passage of the Food, Drug and Cosmetic Act.

SENATE JOINT RESOLUTION 333

At the request of Mr. GORE, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Joint Resolution 333, a joint resolution to designate the week of October 9, 1988, through October 15, 1988, as "National Job Skills Week."

SENATE JOINT RESOLUTION 336

At the request of Mr. DANFORTH, the names of the Senator from Colorado [Mr. WIRTH] and the Senator from Mississippi [Mr. STENNIS] were added as cosponsors of Senate Joint Resolution 336, a joint resolution designating October 16, 1988, as "World Food Day."

SENATE RESOLUTION 389

At the request of Mr. LAUTENBERG, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Maine [Mr. COHEN], the Senator from Virginia [Mr. WARNER], the Senator from Wisconsin [Mr. KASTEN], the Senator from Massachusetts [Mr. KERRY], the Senator from Tennessee [Mr. SASSER], the Senator from Montana [Mr. MELCHER], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from South Dakota [Mr. PRESSLER], the Senator from Ohio [Mr. METZENBAUM], the Senator from North Carolina [Mr. SANFORD], the Senator from Arkansas [Mr. PRYOR], the Senator from Illinois [Mr. DIXON], the Senator from Georgia [Mr. NUNN], the Senator from Colorado [Mr. WIRTH], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of Senate Resolution 389, a resolution to express the sense of the Senate regarding future funding of the Construction Grants Program of the Clean Water Act.

SENATE RESOLUTION 408

At the request of Mr. MITCHELL, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of Senate Resolution 408, a resolution to condemn the use of chemical weapons by Iraq and urge the President to continue applying diplomatic pressure to prevent their further use, and urge the administration to step up efforts to achieve an international ban on chemical weapons.

SENATE RESOLUTION 426

At the request of Mr. BAUCUS, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of Senate Resolution 426, a resolution expressing the sense of the Senate that the seven major industrial nations of the world must take immediate action to protect the Earth's stratospheric ozone layer.

SENATE RESOLUTION 442

At the request of Mr. TRIBLE, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of Senate Resolution 442, a resolution expressing the sense of the Senate that the President should convene an International Conference on Combating Illegal Drug Production, Trafficking, and Use in the Western Hemisphere.

AMENDMENTS SUBMITTED

MILITARY CONSTRUCTION APPROPRIATION ACT, FISCAL YEAR 1989

SASSER AMENDMENT NO. 2363

Mr. SASSER proposed an amendment to the bill (H.R. 4586) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

PAY RAISES

Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

DIXON AMENDMENT NO. 2364

Mr. DIXON proposed an amendment to the bill H.R. 4586, supra; as follows:

On page 3, line 21, strike "$1,227,587,000" and insert "$1,227,599,800, $12,800,000 of which shall be available solely for the purpose of the construction of the Unified Transportation Headquarters Building at Scott Air Force Base."

BOREN (AND NICKLES) AMENDMENT NO. 2365

Mr. BOREN (and Mr. NICKLES) proposed an amendment to the bill H.R. 4586, supra; as follows:

On page 3, line 1, strike "$1,527,238,000" and insert in lieu thereof "$1,565,318,000".

BUMPERS (AND OTHERS) AMENDMENT NO. 2366

Mr. BUMPERS (for himself, Mr. PRYOR, Mr. SARBANES, and Ms. MIKULSKI) proposed an amendment to amendment No. 2365 proposed by Mr. BOREN (and Mr. NICKLES) to the bill H.R. 4586, supra; as follows:

In the pending amendment, strike out "$1,565,318,000" and insert "$1,565,318,000: *Provided, however,* That of such funds the $38,080,000 appropriated for the TACAMO mission shall not be available for obligation or expenditure before October 15, 1988."

SASSER (AND OTHERS) AMENDMENT NO. 2367

Mr. SASSER (for himself, Mr. BRADLEY, Mr. NICKLES, and Mr. GRAHAM) proposed an amendment to the bill H.R. 4586, supra; as follows:

On page 16, strike out line 23 and all that follows through page 17, line 7, and insert in lieu thereof the following:

It is the sense of the Senate that during the Toronto Economic Summit, the President of the United States should consult with the leaders of allied countries on the impact on Western Security of tied and untied loans, trade credits, direct investments, joint ventures, lines of credit, and guarantees or other subsidies to the Soviet Union, Warsaw Pact countries, Cuba, Vietnam, Libya, or Nicaragua.

MURKOWSKI AMENDMENT NO. 2368

Mr. MURKOWSKI proposed an amendment to the bill H.R. 4586, supra; as follows:

At the end of the bill, add the following:

SEC. ——. (a)(1) None of the funds appropriated by this Act may be obligated or expended to enter into any contract for the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any supplier of products of a foreign country, during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of this section.

(2) The President or the head of a Federal agency administering the funds for the construction, alteration, or repair may waive the restrictions of paragraph (1) of this subsection with respect to an individual contract if the President or the head of such agency determines that such action is necessary for the public interest. The authority of the President or the head of a Federal agency under this paragraph may not be delegated. The President or the head of a Federal agency waiving such restrictions shall, within 10 days, publish a notice thereof in the Federal Register describing in detail the contract involved and the reason for granting the waiver.

(b)(1) Not later than 30 days after the date of enactment of this Act, the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign

country or by an entity controlled directly or indirectly by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information or evidence concerning discrimination in construction projects against United States products and services that are available.

(c)(1) The United States Trade Representative shall maintain a list of each foreign country which—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) Any foreign country that is initially listed or that is added to the list maintained under paragraph (1) shall remain on the list until—

(A) such country removes the barriers in construction projects to United States products and services;

(B) such country submits to the United States Trade Representative evidence demonstrating that such barriers have been removed; and

(C) the United States Trade Representative conducts an investigation to verify independently that such barriers have been removed and submits, at least 30 days before granting any such waiver, a report to each House of the Congress identifying the barriers and describing the actions taken to remove them.

(3) The United States Trade Representative shall publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made after publication of the original list.

(d) For purposes of this section—

(1) The term "foreign country" includes any foreign instrumentality. Each territory or possession of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

(2) Any contractor or subcontractor that is a citizen or national of a foreign country, or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a contractor or subcontractor of such foreign country.

(3) Subject to paragraph (4), any product that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

(4) The restrictions of subsection (a)(1) shall not prohibit the use, in the construction, alteration, or repair of a public building or public work, of vehicles or construction equipment of a foreign country.

(5) The terms "contractor" and "subcontractor" includes any person performing any architectural, engineering, or other services directly related to the preparation for or performance of the construction, alteration, or repair.

(e) Paragraph (a)(1) of this section shall not apply to contracts entered into prior to the date of enactment of this Act.

(f) The provisions of this section are in addition to, and do not limit or supersede, any other restrictions contained in any other Federal law.

MINTING OF COINS IN COMMEMORATION OF THE BICENTENNIAL OF THE UNITED STATES CONGRESS

PROXMIRE AMENDMENT NO. 2369

Mr. PROXMIRE proposed an amendment to the bill (H.R. 3251) to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the United States Congress; as follows:

On page 8, after line 12, insert the following new section:

SEC. . AMENDMENTS TO THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION RECAPITALIZATION ACT OF 1987.

Section 306 of the Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987 (12 U.S.C. 1730 note) is amended—

(a) by striking "1-YEAR" in the caption of subsection (h) and inserting in lieu thereof "2-YEAR"; and

(b) by striking "1-year" in subsection (h)(1) and inserting in lieu thereof "2-year".

GRAHAM AMENDMENT NO. 2370

Mr. GRAHAM proposed an amendment to amendment No. 2369 proposed by Mr. PROXMIRE to the bill H.R. 3251, supra; as follows:

At the end of the amendment add the following:

RISK-BASED SPECIAL ASSESSMENTS ALLOWED

Section 404(c) of the National Housing Act (12 U.S.C. 1727(c)) is amended by adding at the end thereof the following new paragraph:

"(3) ASSESSMENTS BASED ON RISK CRITERIA ALLOWED.—

"(A) ESTABLISHMENT OF RISK CRITERIA.—The Corporation may establish criteria for measuring and determining the degree to which any insured institution poses a risk to the reserves of the Corporation.

"(B) AMOUNT OF ASSESSMENT MAY BE BASED ON THE RISK.—The amount of any additional premium which the Corporation may assess against any insured institution under paragraph (1) in any year may be determined by the Corporation on the basis of the Corporation's evaluation, in accordance with the criteria established under subparagraph (A), of the degree to which such insured institution poses a risk to the reserves of the Corporation in such year.

DISCLOSURES TO SHAREHOLDERS AND TENDER OFFERS

ARMSTRONG (AND OTHERS) AMENDMENT NOS. 2371 THROUGH 2374

(Ordered to lie on the table.)

Mr. ARMSTRONG (for himself, Mr. METZENBAUM, Mr. SHELBY, and Mr. GRAMM) submitted four amendments intended to be proposed by them to the bill (S. 1323) to amend the Securities Exchange Act of 1934 to provide to shareholders more effective and fuller disclosure and greater fairness with respect to accumulations on stock and the conduct of tender offers; as follows:

AMENDMENT No. 2371

Beginning on page 35, line 17, strike all through page 36, line 24, and insert the following:

Section 13(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)) is amended by adding at the end thereof the following:

"(4) It shall be unlawful for an issuer of any class of equity security described in section 14(d)(1) of this title to acquire, directly or indirectly, any of its securities from any person who is the beneficial owner of more than 3 percent of the class of the securities to be acquired, unless such acquisition has been approved by the vote of a majority of the outstanding voting securities of the issuer (excluding the shares to be acquired), or acquisition is pursuant to a tender offer, or request or invitation for tenders, to all holders of securities of such class. The Commission shall, by rule, regulation, or by order, on application, conditionally or unconditionally, exempt any person, security, or transaction from any or all of the provisions of this paragraph as it determines to be necessary or appropriate and consistent with the public interest, the protection of investors, and the purposes of this paragraph.".

AMENDMENT No. 2372

At the appropriate place in the bill, insert the following new section:

SEC. . GOLDEN PARACHUTES: POISON PILLS.

(a) Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781) is amended by adding at the end thereof the following new subsections:

"(m)(1) In the case of any class of equity security which is registered pursuant to this section, or any equity security of an insurance company which would be required to be so registered except for the exemption contained in subsection (g)(2)(G), or any equity security issued by a closed-end investment company registered under the Investment Act of 1940, it shall be unlawful for the issuer of such securities to enter into or amend, directly or indirectly, agreements to increase the current or future compensation of any officer or director in an amount which would constitute an 'excess parachute payment', as defined in section 280G(b)(1) of the Internal Revenue Code of 1986, contingent upon a change of control of the issuer by stock or asset acquisition, unless such agreements have been approved by the affirmative vote of a majority of the aggregate outstanding voting securities of the issuer. If any such agreement was entered into prior to enactment of this subsection, such agreement shall remain in effect after the close of the 2-year period beginning on the date of enactment of this subsection only if such agreement is approved by the shareholders pursuant to this subsection prior to the close of such period.

"(2) The Commission may, by rule, regulation, or by order, upon application, conditionally or unconditionally,—

"(A) exempt any person, security, or transaction from any or all of the provisions of this subsection as it determines to be necessary or appropriate and consistent with the public interest or the protection of investors, and

"(B) provide exemptions, subject to such terms and conditions as may be prescribed therein, from any or all of the provisions of paragraph (1).

"(n)(1) It shall be unlawful for an issuer of any class of any equity security described in subsection (m)(1) to issue, grant, declare, or establish any rights, including voting rights, of securities holders of the issuer with respect to any security or asset of the issuer or any other person, where the exercisability of such right is conditioned on the acquisition of securities of the issuer by a person other than the issuer, unless the establishment of such rights has been approved by a majority of the aggregate outstanding voting securities of the issuer, If such rights were established prior to enactment of this subsection, such rights shall remain in effect after the close of the 2-year period beginning on the date of enactment of this subsection only if such rights are approved by the shareholders pursuant to this subsection prior to the close of such period.

"(2) The Commission may, by rule, regulation, or by order, upon application, conditionally or unconditionally, exempt any person, security, or transaction, or class thereof from any or all of the provisions of this paragraph to the extent it determines such exemption is necessary or appropriate in the public interest and for the protection of investors and consistent with the purposes and policy fairly intended by this paragraph.".

AMENDMENT No. 2373

On page 29, between lines 13 and 14, insert the following:

SEC. . CONFIDENTIAL PROXY VOTING.

Section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)) is amended—

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

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

"(2)(A) Unless the Commission prescribes rules and regulations providing for an alternative to confidential proxy voting as described in paragraph (3), the rules and regulations prescribed by the Commission under paragraph (1) shall require confidentiality in the granting and voting of proxies, consents, and authorizations, and shall provide for the announcement of results of a vote following tabulation by an independent third party certified in accordance with such rules and regulations. Nothing in this paragraph authorizes any person to withhold information from the Commission or from any other duly authorized agency of Federal or State government.

"(B) The Commission shall prescribe any rules and regulations required by subparagraph (A) within 1 year after the date of enactment of this paragraph.

"(3)(A) In lieu of the rules and regulations described in paragraph (2), the Commission may prescribe rules and regulations which provide for an alternative to confidential proxy voting, if such alternative will assure—

"(i) the integrity of the proxy voting process,

"(ii) fairness to shareholders,

"(iii) unimpeded exercise of shareholder voting franchise,

"(iv) insulation from improper influence to a degree that meets or exceeds the protection afforded by confidential proxy voting, and

"(v) announcement of results of a vote following tabulation by an independent third party certified in accordance with such rules and regulations.

"(B) In promulgating rules and regulations under this paragraph the Commission shall—

"(i) consult with the Secretary of the Department of Labor, and

"(i) hold public hearings, inviting the participation of all interested parties, including individual shareholders, securities, issuers, institutional investors, and securities firms.

"(C) The Commission shall prescribe any rules and regulations required by subparagraph (A) not later than 11 months after the date of enactment of this paragraph.".

On page 45, line 9, strike "STUDIES" and insert "STUDY".

Beginning on page 45, line 10, strike all through page 46, line 3.

On page 46, line 4, strike "(b)" and insert "(a)".

On page 46, line 21, strike "(c) REPORT ON STUDIES." and insert "(b) REPORT ON STUDY.".

On page 47, line 1, strike "studies" and insert "study".

AMENDMENT No. 2374

At the appropriate place in the bill, insert the following new section:

SEC. —. GOLDEN PARACHUTES; POISON PILLS.

(a) Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781) is amended by adding at the end thereof the following new subsections:

"(m)(1) In the case of any class of equity security which is registered pursuant to this section, or any equity security of an insurance company which would be required to be so registered except for the exemption contained in subsection (g)(2)(G), or any equity security issued by a closed-end investment company registered under the Investment Act of 1940, it shall be unlawful for the issuer of such securities to enter into or amend, directly or indirectly, agreements to increase the current or future compensation of any officer or director in an amount which would constitute an 'excess parachute payment', as defined in section 280G(b)(1) of the Internal Revenue Code of 1986, contingent upon a change of control of the issuer by stock or asset acquisition, unless such agreements have been approved by the affirmative vote of a majority of the aggregate outstanding voting securities of the issuer. If any such agreement was entered into prior to enactment of this subsection, such agreement shall remain in effect after the close of the 2-year period beginning on the date of enactment of this subsection only if such agreement is approved by the shareholders pursuant to this subsection prior to the close of such period.

"(2) The Commission may, by rule, regulation, or by order, upon application, conditionally or unconditionally,—

"(A) exempt any person, security, or transaction from any or all of the provisions of this subsection as it determines to be necessary or appropriate and consistent with the public interest or the protection of investors, and

"(B) provide exemptions, subject to such terms and conditions as may be prescribed therein, from any or all of the provisions of paragraph (1).

"(n)(1) It shall be unlawful for an issuer of any class of any equity security described in subsection (m)(1) to issue, grant, declare, or establish any rights, including voting rights, of securities holders of the issuer with respect to any security or asset of the issuer or any other person, where the exercisability of such right is conditioned on the acquisition of securities of the issuer by a person other than the issuer, unless the establishment of such rights has been approved by a majority of the aggregate outstanding voting securities of the issuer. If such rights were established prior to enactment of this subsection, such rights shall remain in effect after the close of the 2-year period beginning on the date of enactment of this subsection only if such rights are approved by the shareholders pursuant to this subsection prior to the close of such period.

"(2) The Commission may, by rule, regulation, or by order, upon application, conditionally or unconditionally, exempt any person, security, or transaction, or class thereof from any or all of the provisions of this paragraph to the extent it determines such exemption is necessary or appropriate in the public interest and for the protection of investors and consistent with the purposes and policy fairly intended by this paragraph.".

On page 29, between lines 13 and 14, insert the following:

SEC. —. CONFIDENTIAL PROXY VOTING.

Section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)) is amended—

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

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

"(2)(A) Unless the Commission prescribes rules and regulations providing for an alternative to confidential proxy voting as described in paragraph (3), the rules and regulations prescribed by the Commission under paragraph (1) shall require confidentiality in the granting and voting of proxies, consents, and authorizations, and shall provide for the announcement of results of a vote following tabulation by an independent third party certified in accordance with such rules and regulations. Nothing in this paragraph authorizes any person to withhold information from the Commission or from any other duly authorized agency of Federal or State government.

"(B) The Commission shall prescribe any rules and regulations required by subparagraph (A) within 1 year after the date of enactment of this paragraph.

"(3)(A) In lieu of the rules and regulations described in paragraph (2), the Commission may prescribe rules and regulations which provide for an alternative to confidential proxy voting, if such alternative will assure—

"(i) the integrity of the proxy voting process,

"(ii) fairness to shareholders,

"(iii) unimpeded exercise of shareholder voting franchise,

"(iv) insulation from improper influence to a degree that meets or exceeds the protection afforded by confidential proxy voting, and

"(v) announcement of results of a vote following tabulation by an independent third party certified in accordance with such rules and regulations.

"(B) In promulgating rules and regulations under this paragraph the Commission shall—

"(i) consult with the Secretary of the Department of Labor, and

"(ii) hold public hearings, inviting the participation of all interested parties, including individual shareholders, securities issuers, institutional investors, and securities firms.

"(C) The Commission shall prescribe any rules and regulations required by subparagraph (A) not later than 11 months after the date of enactment of this paragraph.".

Beginning on page 35, line 17, strike all through page 36, line 24, and insert the following:

Section 13(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)) is amended by adding at the end thereof the following:

"(4) It shall be unlawful for an issuer of any class of equity security described in section 14(d)(1) of this title to acquire, directly or indirectly, any of its securities from any person who is the beneficial owner of more than 3 percent of the class of the securities to be acquired, unless such acquisition has been approved by the vote of a majority of the outstanding voting securities of the issuer (excluding the shares to be acquired), or acquisition is pursuant to a tender offer, or request or invitation for tenders, to all holders of securities of such class. The Commission shall, by rule, regulation, or by order, on application, conditionally or unconditionally, exempt any person, security, or transaction from any or all of the provisions of this paragraph as it determines to be necessary or appropriate and consistent with the public interest, the protection of investors, and the purposes of this paragraph.".

On page 45, line 9, strike "STUDIES" and insert "STUDY".

Beginning on page 45, line 10, strike all through page 46, line 3.

On page 46, line 4, strike "(b)" and insert "(a)".

On page 46, line 21, strike "(c) REPORT ON STUDIES." and insert "(b) REPORT ON STUDY.".

On page 47, line 1, strike "studies" and insert "study".

ARMSTRONG AMENDMENT NO. 2375

(Ordered to lie on the table.)

Mr. ARMSTRONG submitted an amendment intended to be proposed by him to the bill S. 1323, supra; as follows:

On page 29, between lines 13 and 14, insert the following:

SEC. 15. PROTECTION OF THE NATIONAL MARKET SYSTEM FOR SECURITIES.

Section 11A of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1), is amended by adding at the end thereof the following new subsection:

"(f)(1) The Commission is authorized and directed, to issue rules prohibiting the listing, on any national securities exchange or through authorization for quotation or transaction reporting on any automatic interdealer quotation system of a national securities association, of any security registered under section 12 of this title if—

"(A) the right of any person to acquire or to dispose of beneficial ownership, or to exercise rights normally incidents of ownership, including the right to vote, with respect to any equity security registered pursuant to section 12 of this title is conditioned upon obtaining the prior approval of the issuer, its management, the issuer's board of directors or any person acting on behalf of the issuer's management or board of directors, as such board of directors was essentially constituted prior to the proposed acquisition, or on the holding of the security for any waiting period; or

"(B) the right of any beneficial owner of any equity security registered pursuant to section 12 of this title to effect a merger, reorganization, sale of assets, or any other business transaction regarding such issuer is conditioned upon the indirect or proposed acquisition of a certain amount of securities or on obtaining the prior approval of the issuer, its management, the issuer's board of directors on any person acting on behalf of the issuer's management or board of directors, as such board of directors was essentially constituted prior to the proposed acquisition, or its security holders.

"(2) The Commission shall delay the effectiveness of any rule adopted under this section until 2 years from the date of enactment.".

● Mr. ARMSTRONG. Mr. President the Senate may soon take up S. 1323, the Tender Offer Disclosure and Fairness Act of 1987, and I wanted to let my colleagues know that several Senators will be joining together to offer a number of amendments to this legislation.

Our interests in and amendments to this bill will be shareholder oriented—needed shareholder protection and shareholder rights provisions. Shareholders should not be made subject to the mercy of market professionals, whether they be on Wall Street or Main Street and it is our hope that shareholders will not have to wait long for these amendments to be adopted. A list of the approximate number of individual shareholders in your State follows.

Most mergers and acquisitions of corporations are accomplished with management through negotiations and proxy contests. To demonstrate this W.T. Grimm & Co. reports that during 1981-85 there were 16,154 mergers and acquisitions and only 493 involved tender offer attempts and only 158 of those were contested tender offers. That's only 1 percent of all mergers and acquisitions.

Tender offers are governed by Federal law—the Williams Act—and provide a means to go around management enabling a bidder to make an offer directly to the shareholders of the corporation. As crafted in 1968, the Williams Act is intended to be neutral toward bidder and subject and allow shareholders to exercise informed judgment whether to tender their shares or not. In a recent submission to a court the Securities and Exchange Commission said this about the Williams Act:

The disclosure and procedural requirements of the Williams Act promote the shareholders' ability to accept or reject an offer and reduce "the ability of incumbent management to frustrate an attractive and desirable offer" (Senate Hearings 1967 at 184,196), while simultaneously ensuring that investors are placed "on an equal footing with the takeover bidder" (Senate Report 550, 1967).

As S. 1323 comes to the floor, it strongly favors management and lacks necessary shareholder protections and restraints on management excesses in defending against takeovers. Therefore I intend to offer amendments to do the following:

First, prohibit the payment of greenmail, unless approved by shareholders.

Second, prohibit golden parachutes and poison pills unless approved by shareholders. Existing golden parachutes and poison pills would have to be approved by shareholders within 2 years.

Third, require the SEC to promulgate a rule to insure the confidentiality of proxy votes up through and including the tabulation of the votes. The SEC is given authority to take other steps to improve the integrity of the proxy voting process if it is found they would be more effective than a confidentiality standard.

Fourth, protect shareholders in every State and the national market system from "freeze-out" statutes—see list of State takeover statutes below—that permit the board of directors of corporations chartered in 15 States to thwart tender offers from bidders the management find unsuitable.

Mr. President, I ask unanimous consent that certain related materials be printed in the RECORD.

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

Total individual shareowners of public corporations

Delaware	142,000
Connecticut	946,000
Maine	188,000
Massachusetts	1,477,000
New Hampshire	203,000
Rhode Island	206,000
Vermont	92,000
New Jersey	1,905,000
New York	4,954,000
Pennsylvania	2,139,000
District of Columbia	211,000
Florida	2,343,000
Georgia	1,000,000
Maryland	936,000
North Carolina	963,000
South Carolina	406,000
Virginia	1,204,000
West Virginia	257,000
Illinois	2,565,000
Indiana	856,000
Michigan	1,786,000
Ohio	1,939,000
Wisconsin	851,000
Iowa	422,000
Kansas	400,000
Minnesota	794,000
Missouri	939,000
Nebraska	286,000
North Dakota	117,000
South Dakota	103,000
Alabama	483,000
Kentucky	462,000
Mississippi	251,000
Tennessee	655,000
Arkansas	311,000
Louisiana	633,000
Oklahoma	515,000
Texas	3,061,000
Arizona	575,000
Colorado	695,000
Idaho	158,000
Montana	112,000
Nevada	168,000
New Mexico	221,000
Utah	276,000
Wyoming	94,000

Alaska	166,000
California	6,006,000
Hawaii	256,000
Oregon	441,000
Washington	847,000

Source: Shareownership 1985. New York Stock Exchange.

STATE TAKEOVER STATUTES

FIRST GENERATION STATE TAKEOVER LAWS

Illinois

Struck down in *Edgar* v. *MITE Corp.* in 1982 by the Supreme Court which cited the Commerce and Supremacy clauses. It effectively invalidated 37 state laws. Illinois was trying to enforce its laws against MITE a Delaware corporation that had complied with the Williams Act that had made a cash tender for an Illinois company.

SECOND GENERATION STATE TAKEOVER LAWS

Control share acquisition law

Requires shareholder vote for large shareholder to either acquire shares or exercise voting rights:

Ohio, Minnesota, Indiana, Massachusetts, Wisconsin, Michigan, Oregon, Arizona, Missouri, North Carolina, Oklahoma, Idaho, Nebraska, Tennessee, Florida, Hawaii, Louisiana, Utah, Kansas, and Nevada.

Fair price law

Requires bidder to pay a fair price to all shareholders unless the board or the shareholders decide otherwise. Eliminates two-tier offers:

Connecticut, Kentucky, Michigan, Washington, North Carolina, Georgia, Louisiana, Mississippi, Wisconsin, Illinois, Maryland, Virginia, and Florida.

Control share cash-out law

Allows shareholders to sell their shares to a bidder once the bidder has crossed an ownership threshold. Discourages two-tier offers: Pennsylvania, 30% threshold; Maine, 25% threshold.

Freeze-out statutes

Prevents mergers between bidders and targets for several years unless the board approves it. After 3 or 5 years, the bidder must pay a fair price to all shareholders unless the shareholders decide otherwise. Encourages negotiated mergers:

Indiana, Missouri, Minnesota, Delaware, Idaho, Kentucky, New Jersey, Washington, Georgia, Pennsylvania, New York, Arizona, Wisconsin, Maine, and Tennessee.

Source: NCSL, April 1988.●

MINTING OF COINS IN COMMEMORATION OF THE BICENTENNIAL OF THE UNITED STATES CONGRESS

BYRD AMENDMENT NO. 2376

Mr. BYRD proposed an amendment to the bill H.R. 3251, supra; as follows:

SECTION. 1. On page 7, Strike Section 8 and insert the following new section in lieu thereof:

"SEC. 8. U.S. CAPITOL RESTORATION COMMISSION.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established a U.S. Capitol Restoration Commission ("Commission") which shall remain in existence until January 1, 1993, unless otherwise provided by law or resolution.

"(2) COMPOSITION.—

"(A) CO-CHAIRMEN.—The Commission shall be co-chaired by the President pro tempore of the United States Senate and Speaker of the United States House of Representatives or their designees.

"(B) COMPOSITION.—The Commission shall be composed of the following members:

"The Chairman of the Commission on the Bicentennial of the United States Senate, the Chairman of the Commission of the United States House of Representatives Bicentenary, the Chairman and Vice-Chairman of the Joint Committee on the Library, the Chairman of the Committee on Rules and Administration of the Senate, the Chairman of the Committee on Administration of the House of Representatives, the Majority Leader and Minority leader of the Senate, the Majority Leader and Minority Leader of the House of Representatives, and the Architect of the Capitol.

"(b) EXPANSION; OTHER ENTITIES.—The membership of the Commission may be expanded by Act of the Commission. The Commission, with the approval of the Co-Chairmen, may establish and maintain additional entities to further the purpose stated in this section.

"(c) EXPENDITURES.—Any expenditures by the Commission of funds available under this section or otherwise shall be authorized by act of the Co-Chairmen.

"(d) PURPOSE.—The purpose of the Commission shall be to receive funds under this section or from other sources and expend such funds for any improvements in or acquisitions for the United States Capitol Building and for any activities related thereto.

"(e) ESTABLISHMENT OF FUND.—

"(1) IN GENERAL.—There is established in the Treasury a fund for use in accordance with the provisions of this section.

"(2) DEPOSITS AND AVAILABILITY.—An amount equal to the amount of all surcharges that are received by the Secretary from the sale of coins minted under this Act shall be deposited in the fund, which shall be available to the Commission for the work of the Commission. Such funds shall be held in trust by the Secretary of the Treasury.

"(f) ACCEPTANCE OF GIFTS.—The Commission is authorized to—

"(1) accept gifts and bequests of money and other property of whatever character for the purpose of aiding, benefiting, or facilitating the work of the Commission;

"(2) hold, administer, use, invest, reinvest and sell gifts and bequests of property received under this section for the purpose stated in subsection (d); and

"(3) deposit gifts of money received under this section in the fund established in subsection (e).

"(g) TAXES.—For the purpose of Federal income, estate, and gift tax laws, property accepted under this section shall be considered a contribution to or for the use of the United States.

"(h) DISBURSEMENTS.—Disbursements from the fund established under subsection (e) shall be made on vouchers signed by both Co-Chairmen of the Commission.

"(i) CONTRACTS.—Any contract to be made with the Department of the Treasury or the Director of the Mint involving the promotion, advertising, or marketing of any coins to be minted and sold under this Act shall be approved by the Commission to be valid."

SEC. 2. Strike Section 4 and insert the following new section in lieu thereof:

"SEC. 4. DESIGN OF COINS.

"(a) DESIGN SELECTION.—The Director of the Mint shall submit the proposed designs of the coins to be minted under this Act to the Commission of Fine Arts. The Commission of Fine Arts, in consultation with the U.S. Capitol Restoration Commission, shall obtain such refinements and alterations in the submitted designs as they deem fit, and then select at least two design pairs each consisting of one obverse and reverse design per coin for each of the five dollar, one dollar, and half dollar coins. After receiving all design selections from the Commission of Fine Arts, the Director of the Mint shall submit the proposed design pairs to the Secretary in the same manner as they were submitted to the Director. After receiving the proposed design pairs for each denomination, the Secretary shall select from among them the design of the coins to be minted under this Act, but in no case shall the obverse and reverse design selections be interchanged from among the submitted design pairs.

"(b) SUBMISSIONS.—All submissions produced under this Act shall become the sole property of the U.S. Capitol Restoration Commission."

SEC. 3. In Section 5(b) strike "except that not more than 1 facility" and insert "and all facilities" in lieu thereof.

ARMSTRONG AMENDMENT NO. 2377

Mr. ARMSTRONG proposed an amendment to the bill H.R. 3251, supra; as follows:

SECTION 201. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF COINS.

Subsection (d)(1) of section 5112 of title 31, United States Code, is amended by striking the fourth sentence.

SEC. 202. DESIGN CHANGES REQUIRED FOR CERTAIN COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(3) The design on the reverse side of the half dollar, quarter dollar, dime coin, 5-cent coin and one-cent coin shall be selected for redesigning. One or more coins may be selected for redesign at the same time, but the first redesigned coin shall have a design commemorating the 200th anniversary of the United States Constitution for a period of two years after issuance. After that 2-year period, the bicentennial coin shall have its design changed in accordance with the provisions of this subsection. Such selection, and the minting and issuance of the first selected coin shall be made not later than 1 year after the date of the enactment of this paragraph. All such redesigned coins shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 203. DESIGN ON OBVERSE SIDE OF COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) The design on the obverse side of the half dollar, quarter dollar, dime coin, 5-cent coin, and one-cent coin shall contain the likeness of those currently displayed and shall be considered for redesign. All such coin obverse redesigns shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 204. SELECTION OF DESIGNS.

The design changes for each coin authorized by the amendments made by this title shall take place at the discretion of the Secretary and shall be done at the rate of one or more coins per year, to be phased in over six years after the date of the enactment of

this Act. In selecting new designs, the Secretary shall consider, among other factors, thematic representations of the following constitutional concepts: freedom of speech and assembly; freedom of the press; right to due process of law; right to a trial by jury; right to equal protection under the law; right to vote; themes from the Bill of Rights; and separation of powers, including the independence of the judiciary. The designs shall be selected by the Secretary upon consultation with the United States Commission of Fine Arts.

SEC. 205. REDUCTION OF THE NATIONAL DEBT.

Subsection (a)(1) of section 5132 of title 31, United States Code, is amended by inserting after the third sentence the following: "Any profits received from the sale of uncirculated and proof sets of coins shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

DOLE (AND OTHERS) AMENDMENT NO. 2378

Mr. DOLE (for himself, Mrs. KASSEBAUM, Mr. MOYNIHAN, Mr. MURKOWSKI, and Mr. EXON) proposed an amendment to the bill H.R. 3251, supra; as follows:

At the appropriate place add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dwight David Eisenhower Commemorative Coin Act of 1987".

SEC. 2. DWIGHT DAVID EISENHOWER COMMEMORATIVE COINS.

(a) AUTHORIZATION.—Subject to subsection (b), the Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue one-dollar coins in commemoration of the one hundredth anniversary of the birth of Dwight David Eisenhower.

(b) LIMITATION ON THE NUMBER OF COINS.—The Secretary may not mint more than ten million of the coins referred to in subsection (a).

(c) SPECIFICATIONS AND DESIGN OF COINS.—Each coin referred to in subsection (a) shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches;

(3) contain 90 percent silver and 10 percent copper;

(4) designate the value of such coin;

(5) have an inscription of—

(A) the year "1990"; and

(B) the words "Liberty", "In God We Trust" "United States of America", and "E Pluribus Unum";

(6) have the likeness of Dwight David Eisenhower on the obverse side of such coin; and

(7) have an illustration of the home of Dwight David Eisenhower located in the Gettysburg National Historic Site on the reverse side of such coin.

(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, the coins referred to in subsection (a) shall be considered to be numismatic items.

(e) LEGAL TENDER.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins referred to in section 1(a) only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. MINTING AND ISSUANCE OF COINS.

(a) UNCIRCULATED AND PROOF QUALITIES.—The Secretary may mint and issue the coins referred to in section 1(a) in uncirculated and proof qualities.

(b) USE OF THE UNITED STATES MINT.—The Secretary may not use more than 1 facility of the United States Mint to strike the coins referred to in section 1(a).

(c) COMMENCEMENT OF AUTHORITY TO SELL COINS.—The Secretary may begin selling the coins referred to in section 1(a) on January 1, 1990.

(d) TERMINATION OF AUTHORITY TO MINT COINS.—The Secretary may not mint the coins referred to in section 1(a) after December 31, 1990.

SEC. 5. SALE OF COINS.

(a) IN GENERAL.—Subject to subsections (b) and (c), and notwithstanding any other provision of law, the Secretary shall sell the coins referred to in section 1(a) at a price equal to—

(1) the face value of such coins; and

(2) the cost of designing, minting, dies, use of machinery, and overhead expenses.

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins referred to in section 1(a) at a reasonable discount to reflect the lower costs of such sales.

(c) PREPARED ORDERS.—Before January 1, 1990, the Secretary shall accept prepaid orders for the coins referred to in section 1(a). The Secretary shall make sales with respect to such prepaid orders at a reasonable discount to reflect the benefit to the Federal Government of prepayment.

(d) SURCHARGES.—The Secretary shall include a surcharge of $9 per coin on all sales of the coins referred to in section 1(a).

SEC. 6. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 1(a) shall result in no net costs to the Federal Government.

(b) PAYMENT FOR THE COINS.—The Secretary may not sell a coin referred to in section 1(a) unless the Secretary has received—

(1) full payment for such coin;

(2) security satisfactory to the Secretary to indemnify the Federal Government for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

SEC. 7. PROCUREMENT OF GOODS AND SERVICES.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not apply with respect to any law relating to equal employment opportunity.

SEC. 8. REDUCTION OF FEDERAL DEBT.

The Secretary shall deposit in the general fund of the Treasury for the purpose of reducing the Federal debt an amount equal to the amount of all surcharges that are received by the Secretary from the sale of the coins referred to in section 1(a).

BAUCUS AMENDMENT NO. 2379

Mr. BAUCUS proposed an amendment to the bill H.R. 3251, supra; as follows:

On page 1, between lines 3 and 4, insert the following:

"TITLE I—BICENTENNIAL OF THE UNITED STATES CONGRESS COMMEMORATIVE COIN."

On page 8, after line 12, insert the following new title:

"TITLE II—STATEHOOD CENTENNIAL COMMEMORATIVE COIN

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Statehood Centennial Commemorative Coin Act of 1989'.

"SEC. 202. STATEHOOD CENTENNIAL COMMEMORATIVE COINS.

"(a) AUTHORIZATION.—Subject to subsection (b), the Secretary of the Treasury (hereinafter in this title referred to as the 'Secretary') shall mint and issue 5 dollar coins in commemoration of the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South Dakota, Washington and Wyoming.

"(b) LIMITATION ON THE NUMBER OF COINS.—The Secretary may not mint more than 350,000 of the coins referred to in subsection (a).

"(c) SPECIFICATIONS AND DESIGN OF COINS.—Each coin referred to in subsection (a) shall—

"(1) weigh 31.103 grams;

"(2) have a diameter of 1.650 inches;

"(3) contain 90 percent palladium and 10 percent alloy;

"(4) designate the value of such coin;

"(5) have an inscription of—

"(A) the year '1989'; and

"(B) the words 'Liberty', 'In God We Trust', 'United States of America', 'E Pluribus Unum', and 'Statehood 1889-1890'; and

"(6) contain an engraving of the regional logo on one side and a combination of a bust of Thomas Jefferson and Lewis and Clark overlooking the Missouri, on the other side;

"(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, the coins referred to in subsection (a) shall be considered to be numismatic items.

"(e) LEGAL TENDER.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

"SEC. 203. SOURCES OF BULLION.

"The Secretary shall obtain palladium for the coins referred to in section 202(a) by purchase of palladium mined from natural deposits in the United States within one year after the month in which the ore from which it is derived was mined and by purchase of palladium refined in the United States. The Secretary shall pay not more than the average world price for the palladium. In the absence of available supplies of such palladium at the average world price, the Secretary shall purchase supplies of palladium pursuant to the authority of the Secretary under existing law. The Secretary shall issue such regulations as may be necessary to carry out this paragraph.

"SEC. 204. MINTING AND ISSUANCE OF COINS.

"(a) UNCIRCULATED AND PROOF QUALITIES.—The Secretary may mint and issue the coins referred to in section 202(a) in uncirculated and proof qualities.

"(b) USE OF THE UNITED STATES MINT.—The Secretary may not use more than 1 fa-

cility of the United States Mint to strike the coins referred to in section 202(a).

"(c) COMMENCEMENT OF AUTHORITY TO SELL COINS.—The Secretary may begin selling the coins referred to in section 202(a) on January 1, 1989.

"SEC. 205. SALE OF THE COINS.

"(a) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount to reflect the lower costs of such sales.

"(b) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

"(c) SURCHARGE REQUIRED.—All sales shall include a surcharge of $20 per coin.

"SEC. 206. FINANCIAL ASSURANCES.

"(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 202(a) shall not result in any net cost to the Federal Government.

"(b) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses).

"SEC. 207. PROCUREMENT OF GOODS AND SERVICES.

"(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title.

"(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not apply with respect to any law relating to equal employment opportunity.

"SEC. 208. REDUCTION OF FEDERAL DEBT.

"The Secretary shall deposit in the general fund of the Treasury for the purpose of reducing the Federal debt an amount equal to the amount of all surcharges that are received by the Secretary from the sale of the coins referred to in section 202(a).".

FAMILY SECURITY ACT

QUAYLE (AND OTHERS) AMENDMENT NO. 2380

(Ordered to lie on the table.)

Mr. QUAYLE (for himself, Mr. SIMON, and Mr. KENNEDY) submitted an amendment intended to be proposed by them to the bill (S. 1511) to amend title IV of the Social Security Act to replace the AFDC Program with a comprehensive program of mandatory child support and work training which provides for transitional child care and medical assistance, benefit improvement, and mandatory extension of coverage to two-parent families, and which reflects a general emphasis on shared and reciprocal obligation, program innovation, and organizational renewal; as follows:

On page 180, strike lines 12-16, and insert in lieu thereof the following: "(6)(A) No job opportunities and basic skills program plan under this Title shall be submitted to the Secretary until the Governor has determined that such program is consistent with the criteria for coordinating activities included in the Governor's Coordination and Special Services Plan prepared under Section 121 of the Job Training Partnership Act. The State Job Training Coordinating Council shall be given an opportunity to comment prior to the Governor's determination."

HIGHER EDUCATION ACT AMENDMENTS

PELL (AND STAFFORD) AMENDMENT NO. 2381

Mr. BYRD (for Mr. PELL, for himself and Mr. STAFFORD) proposed an amendment to the bill (H.R. 4639) to amend the Higher Education Act of 1965 to prevent abuses in the Supplemental Loans for Students Program under Part B of title IV of the Higher Education Act of 1965, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. PELL GRANT APPLICATION REQUIRED FOR GSL AND SLS LOANS.

Section 484(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(b)(1)) is amended—

(1) by striking out "section 428A, 428B, or 428C" and inserting "section 428B or 428C";

(2) by striking out subparagraph (A) and inserting the following:

"(A)(i) have received a determination of eligibility or ineligibility for a Pell Grant under such subpart 1 for such period of enrollment; and (ii) if determined to be eligible, have filed an application for a Pell Grant for such enrollment period; or".

SEC. 2. GSL LOAN APPLICATION REQUIRED FOR SLS LOANS.

Section 484(b) of the Higher Education Act of 1965 is further amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2) In order to be eligible to receive any loan under section 428A for any period of enrollment, a student shall—

"(A) have received a determination of need for a loan under section 428(a)(2)(B) of this title; and

"(B) if determined to have need for a loan under section 428, have applied for such a loan.".

SEC. 3. DETERMINATION OF SLS LOAN AMOUNTS.

Section 428A(b)(3) of the Higher Education Act of 1965 (20 U.S.C. 1078-1(b)(3)) is amended by striking out "minus (B)" and inserting "minus (B) the total of (i) any loan for which the student is eligible under section 428 and (ii)".

SEC. 4. RESTRICTIONS ON SLS LOAN ELIGIBILITY.

Section 428A(a) of the Higher Education Act of 1965 (20 U.S.C. 1078-1(a)) is amended—

(1) in the last sentence, by striking "extenuating" and inserting "exceptional"; and

(2) by adding at the end the following: "If the financial aid administrator makes such a determination, appropriate documentation of such determination shall be maintained in the institution's records to support such determination.".

SEC. 5. SLS LOAN DISBURSEMENT.

(a) DISBURSEMENT REQUIREMENTS.—Section 428A(b) of the Higher Education Act of 1965 is further amended by inserting after paragraph (3) the following:

"(4) DISBURSEMENT.—Any loan under this section shall be disbursed in the manner required by subparagraphs (N) and (O) of section 428(b)(1).".

(b) CONFORMING AMENDMENTS.—(1) Section 427(b)(2) of such Act (20 U.S.C. 1077(b)(2)) is amended by striking out "section 428A, 428B, or 428C" and inserting "section 428B or 428C".

(2) Section 428(b)(1)(O) of such Act (20 U.S.C. 1078(b)(1)(O)) is amended by striking out "section 428A, 428B, or 428C" and inserting "section 428B or 428C".

(3) Section 428A(c) of such Act (20 U.S.C. 1078-1(c)) is amended—

(A) in paragraph (1), by inserting after "disbursed by the lender," the following: "or, if the loan is disbursed in multiple installments, not later than 60 days after the disbursement of the last such installment,";

(B) in paragraph (2), by inserting after "made under this section" the following: "which are disbursed in installments or,"; and

(C) in such paragraph (2) by inserting a comma after "428(b)(1)(M)(i)".

SEC. 6. TECHNICAL AMENDMENT CONCERNING TEACHER TRAINING PROGRAM ELIGIBILITY FOR GSL PROGRAM.

Section 484 of the Act is further amended—

(1) in subsection (a)(1), by striking out "subsection (b)(2)" and inserting in lieu thereof "subsections (b)(3) and (b)(4)"; and

(2) by adding at the end of subsection (b) the following new paragraph:

"(4) A student who—

"(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution, and

"(B) is enrolled or accepted for enrollment in a program at an eligible institution necessary for a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State,

shall be, notwithstanding paragraph (1) of subsection (a), eligible to apply for loans under part B of this title.".

SEC. 7. TREATMENT OF TERRITORIAL AND FOREIGN TAX PAYMENTS FOR PURPOSES OF NEED ANALYSIS.

(a) PELL GRANT NEED ANALYSIS.—Section 411F of the Higher Education Act of 1965 (20 U.S.C. 1070a-6) is amended by adding at the end thereof the following:

"(17)(A) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as United States income taxes.

"(B) References in this subpart to the Internal Revenue Code of 1986, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in subparagraph (A), be treated as references to the corresponding laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may prescribe by regulation.".

(b) GENERAL NEED ANALYSIS PROVISIONS.—Section 480 of the Higher Education Act of 1965 (20 U.S.C. 1087vv) is amended by adding at the end thereof the following:

"(i) TREATMENT OF INCOME TAXES PAID TO OTHER JURISDICTIONS.—(1) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as Federal income taxes.

"(2) References in this part to the Internal Revenue Code of 1986, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in paragraph (1), be treated as references to the corresponding laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may prescribe by regulation.".

(c) TECHNICAL AMENDMENT.—The Higher Education Act of 1965 is amended by striking out "Internal Revenue Code of 1954" each time it appears and inserting in lieu thereof "Internal Revenue Code of 1986".

SEC. 8. ROBERT T. STAFFORD STUDENT LOAN PROGRAM.

Section 421(c) of the Higher Education Act of 1965 (as amended by section 2601 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988) is amended by striking out "may" and inserting in lieu thereof "shall" and by adding at the end thereof the following new sentence: "Loans made under this part shall be known as 'Stafford Loans'.".

SEC. 9. MICRONESIA PROVISION.

Section 105(h) of the Compact of Free Association Act of 1985 (99 Stat. 1794) is amended by adding at the end thereof the following new paragraph:

"(5) FEDERAL EDUCATION GRANTS.—Pursuant to section 224 of the Compact or section 224 of the Compact with Palau (as contained in title II of Public Law 99-658), the Pell Grant Program, the Supplemental Educational Opportunity Grant Program, and the College Work-Study Program (as authorized by title IV of the Higher Education Act of 1965) shall be extended to students who are, or will be, citizens of the Federated States of Micronesia, or the Marshall Islands and who attend postsecondary institutions in the United States, its territories and commonwealths, the Trust Territory of the Pacific Islands, the Federated States of Micronesia, or the Marshall Islands, except that this paragraph shall not apply to any student receiving assistance pursuant to section 223 of the Compact or section 223 of the Compact with Palau (as contained in title II of Public Law 99-658).".

SEC. 10. AMENDMENTS TO TITLE III.

(a) HISTORICALLY BLACK COLLEGE ELIGIBILITY FOR PART A FUNDS.—Section 312 of the Higher Education Act of 1965 (20 U.S.C. 1058) is amended by adding at the end thereof the following new subsection:

"(f) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—For the purposes of this section, no historically black college or university which is eligible for and receives funds under part B of this title is eligible for or may receive funds under this part.".

(b) NEW PART B ACTIVITIES.—Section 323(a) of the Higher Education Act of 1965 (20 U.S.C. 1062) is amended—

(1) by inserting a comma and "and faculty development" after "exchanges" in paragraph (3); and

(2) by inserting after paragraph (6) the following new paragraphs:

"(7) Funds and administrative management, and acquisition of equipment for use in strengthening funds management.

"(8) Joint use of facilities, such as laboratories and libraries.".

(c) TITLE III ELIGIBILITY.—Section 322(2) of the Act is amended—

(1) by adding a comma after the word "accreditation"; and

(2) by inserting the following before the period at the end of the sentence a comma and the following: "except that any branch campus of a southern institution of higher education that prior to September 30, 1986, received a grant as an institution with special needs under section 321 of this title and was formally recognized by the National Center for Education Statistics as a Historically Black College or University but was determined not to be a part B institution on or after October 17, 1986, shall, from the date of enactment of this exception, be considered a part B institution".

SEC. 11. INTERNSHIP DEFERMENT.

(a) IN GENERAL.—Sections 427(a)(2)(C)(vii) and 428(b)(1)(M)(vii) of the Act are each amended by inserting "after January 1, 1986," after "service".

(b) APPLICABILITY.—The amendments made by subsection (a) and section 10(b) of the Higher Education Technical Amendments Act of 1987 shall apply with respect to loans made, insured or guaranteed under part B of the Higher Education Act of 1965, on, before, or after the date of enactment of the Higher Education Technical Amendments Act of 1987.

SEC. 12. DELAY OF REGULATORY EFFECTIVE DATE.

Section 600.3 (c) and (d) of title 34 of the Code of Federal Regulations, relating to new special conditions imposed on an institution's authority to measure academic programs in clock or credit hours, shall not take effect until July 1, 1989.".

SEC. 13. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as otherwise provided, the amendments made by this Act to title IV of the Higher Education Act of 1965 shall be effective for any loan for which the eligibility of the borrower is certified by the institution 30 days after the date of enactment of this Act.

(b) SPECIAL RULES.—(1) The amendments made by section 5 shall be effective with respect to loans made on or after October 1, 1988.

(2) The amendments made by sections 6, 7, 8, 9, 10, 11, and 12 shall take effect on the date of enactment of this Act.

FAMILY SECURITY AMENDMENT

SPECTER AMENDMENTS NOS. 2382 THROUGH 2384

(Ordered to lie on the table.)

Mr. SPECTER submitted three amendments intended to be proposed by him to the bill (S. 1511) to amend title IV of the Social Security Act to replace the AFDC Program with a comprehensive program of mandatory child support and work training which provides for transitional child care and medical assistance, benefit improvement, and mandatory extension of coverage to two-parent families, and which reflects a general emphasis on shared and reciprocal obligation, program innovation, and organizational renewal; as follows:

AMENDMENT No. 2382

On page 277, line 5, strike "with" and all that follows through "reduced" on line 6 and insert "under any program included in the demonstration are not reduced with respect to any individual or family".

AMENDMENT No. 2383

On page 204, between lines 2 and 3, insert the following new subsection:

(d) SPECIAL JOB TRAINING PROVISIONS FOR LONG-TERM WELFARE RECIPIENTS.—Section 417 of such Act, as added by the amendment made by section 201(b) of this Act and amended by subsection (a) of this section, is further amended by adding at the end thereof the following new subsection:

"(m)(1) Notwithstanding any other provision of this section, this subsection shall apply to any individual who is required or allowed to participate in the program under this section and who has received aid or supplements (as the case may be) under this title for a period of 24 consecutive months.

"(2) Each State shall establish as part of the program a feeder system utilizing community-based organizations (as referred to in section 4(5) of the Job Training Partnership Act), including Opportunities Industrialization Centers, the National Urban League, the National Council of La Raza, 70,001, National Puerto Rican Forum, SerJobs for Progress, the United Way of America, and other community-based organizations of demonstrated effectiveness to conduct outreach and provide preemployment services to individuals described in paragraph (1) in order to provide such individuals greater access to and benefit more fully from employment opportunities and placement available under the program and to prepare such individuals for gainful employment.

"(3) The outreach and feeder system established by paragraph (2) of this subsection shall include—

"(A) skills assessment for participants and assistance to participants with respect to the selection and referral for education and training;

"(B) registration with the Bureau of Employment Security;

"(C) preemployment training;

"(D) employment training including vocational, adult, and community college and other postsecondary programs; and

"(E) on-the-job training and other employment preparation activities available under this section.

"(4) Preemployment services provided under paragraph (3) may include—

"(A) educational preparation and basic skills development to increase literacy and computational skills;

"(B) programs designed to strengthen the attitude and motivation of youth to achieve and succeed in the work environment;

"(C) guidance and counseling to assist participants with occupational choices and with the selection of employment preparation programs;

"(D) counseling and information, referral, and follow-up to assist participants experiencing personal or family problems, which may cause severe stress, and lead to poor performance or dropping out of the program; and

"(E) parenting and home and family living skills, including nutrition and health education, targeted to teenage parents.".

AMENDMENT NO. 2384

On page 177, strike line 1 and all that follows through line 18 and insert the following:

"(B)(i) Any participant in the program who lacks a high school diploma shall, before being required to participate in any other services or activities under the program, be required (as is consistent with the participant's employment goals) to participate in a program which addresses the education needs identified in the participant's initial assessment, including the basic education and skills training services described in clause (ii), high school or equivalent education (designed specifically for participants who do not have a high school diploma), remedial education to achieve a basic literacy level, and instruction in English as a second language for individuals with limited English proficiency. Any other services or activities to which such a participant is assigned may not be permitted to interfere with his or her participation in the program described in the preceding sentence.

"(ii) The basic education and skills training services described in this clause are—

"(I) skills assessment for participants and assistance to participants with respect to the selection and referral for education and training;

"(II) registration with the Bureau of Employment Security;

"(III) preemployment training;

"(IV) employment training including vocational, adult, and community college and other postsecondary programs;

"(V) on-the-job training and other appropriate employment preparation activities;

"(VI) educational preparation and basic skills development to increase literacy and computational skills;

"(VII) programs designed to strengthen the attitude and motivation of youth to achieve and succeed in the work environment;

"(VIII) guidance and counseling to assist participants with occupational choices and with the selection of employment preparation programs;

"(IX) counseling and information, referral, and follow-up to assist participants experiencing personal or family problems, which may cause severe stress, and lead to poor performance or dropping out of the program; and

"(X) parenting and home and family living skills, including nutrition and health education, targeted to teenage parents.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL SPENDING, BUDGET AND ACCOUNTING

Mr. CHILES. Mr. President, the Governmental Affairs Subcommittee on Federal Spending, Budget and Accounting will hold hearings on the accountability and disposition of cash and property seized as a result of criminal acts.

The hearings are scheduled for June 23, 1988, at 9:30 a.m. in room 343 of the Senate Dirksen Building. Officials of the General Accounting Office, the U.S. Customs Service, and the Justice Department will be testifying at the hearings. Any person desiring to offer testimony or seek information should contact Bob Harris of the subcommittee staff at (202) 224-9000.

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. METZENBAUM. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Subcommittee on Energy Regulation and Conservation on Energy and Natural Resources.

The hearing will take place Friday, July 1, 1988, at 10 a.m., at the Technology Center of LTV Steel Corp., 6801 Brecksville Road, Independence, OH.

The purpose of the hearing is to receive testimony on S. 2470, legislation to promote technology competitiveness and energy conservation in the American steel industry.

Those wishing to present oral testimony or who wish to submit written testimony for the hearing record should contact Mr. Mac Bernstein, Office of Senator HOWARD M. METZENBAUM, U.S. Senate, Washington, DC 20510.

For further information, please contact Mr. Bernstein at (202) 224-2315.

SUBCOMMITTEE ON POWER

Mr. BRADLEY. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Water and Power.

The hearing will take place Tuesday, June 28, 1988, beginning at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following measures:

S. 2322, to authorize certain elements of the Yakima River Basin water enhancement project, and for other purposes; and

S. 1613, to authorize the Secretary of the Interior to construct, operate, and maintain the Umatilla Basin project, Oregon, and for other purposes.

For further information, please contact Russell Brown, senior professional staff for the subcommittee, at (202) 224-2366.

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 Wednesday, June 15, to hold a closed hearing on United States-Saudi relations.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, June 15, 1988, to mark up S. 1729, the Rural Economy Act of 1987.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, June 15, 1988, in open session to receive testimony on the role of the Department of Defense in drug interdiction.

The PRESIDING OFFICER. Without objection, it is 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 Wednesday, June 15, 1988, to hold a hearing on intelligence matters.

ADDITIONAL STATEMENTS

THE PRIZE-WINNING ESSAY, ROLAND, OKLAHOMA

● Mr. BOREN. Mr. President, Oklahoma Rural Electric Cooperatives are the lifeblood of rural Oklahoma. Through these cooperatives the quality of life and quality of education have greatly improved in this century. In honor of the 25th Annual Youth Tour sponsored by the Rural Electric Cooperatives of Oklahoma, I would like to present for the record today, the prize-winning essay of Ms. Kyndall Dyer of Roland, OK.

HOW COOKSON HILLS ELECTRIC COOPERATIVES, INC. PROMOTES GOOD LIVING IN MY COMMUNITY!

"Lights! Camera! Action!"

"You are my sunshine my only sunshine. You make me happy when skies are grey. You'll never know dear how much I love you. Please don't take my REC away."

"Cut! Hold it! What is REC?" asked the director.

"REC is the Rural Electric Coop," I replied.

"What's that?"

"Let's start at the beginning. On May 11, 1935, President Franklin D. Roosevelt created the Rural Electrification Administration, or REA which loans money to private power companies who are willing to use the funds to provide electric services to rural areas. The REA was formed because Roosevelt was upset when he realized that only ten percent of the farms and rural areas had electric services. Many power companies did not want to service electricity to these areas because of the rough terrain, small population, and outrageous expense."

"Why was he so upset because they did not have electricity?"

"Well imagine this, reading by candlelight, no TV or radio, and no power tools to help you build that barn. Women had to use wood stoves and wash tubs to do their daily chores. President Roosevelt wanted these people to be a part of the technological advancements of that time and this is why he started the REA."

"Did the REA help solve this problem?" asked the director curiously.

"Yes, now 98% of the farms and rural areas have electricity and the REA is growing day by day. Branches of the REA are working in many communities. One of these branches is the REC, or the Rural Electric Coop which I mentioned in my song. Did you know that the REC has provided additional jobs, larger payrolls, and better living conditions in small towns? All these things have made small towns more attractive for people to live in and better recreation areas for tourists. In fact, my REC, The Cookson Hills Electric Coop, supplies my community with electricity."

"Okay, but how has the REC helped your community," asked the director.

"Well it has helped in my education," I replied.

"How" questioned the director.

"It has brought many technological advancements to our school and home. Today most schools are run on electricity. Many of their devices such as the computers, typewriters, and adding machines all need electricity to function. Even the bell between classes functions on electricity. Not only has electricity helped our students with their education, but it has made cold and snowy days enjoyable by keeping us warm in the winters. It's hard to have class when it is nineteen degrees outside and the wind chill factor is ten below zero. All these things are because of the REC. Besides the advancements of schools, there are advancements in the home, such as better living standards. These improved living standards have helped women with their daily chores by providing them with electric coffee makers, electric can openers, dishwashers, microwaves, refrigerators, washers, dryers, and many more conveniences. In this age in which we live these technological advancements allow women to have a career, be a homemaker, and still have time for their families. All these things have made life easier and better for all of us. Also the REC has increased entertainment and luxuries in my home. For example, it has provided us with TV's, VCR's, radios, electric alarm clocks, electric games and appliances. These things have made life more enjoyable for children and adults. Many of these things such as the TV and radio are not only used for entertainment but they also help us keep track of what is occurring in the world today. Just a flick of the switch and one can know the weather, the upcoming events, such as the presidential election and much more. The REC has provided electricity to places that normally would not have electricity which has helped these people grow intellectually and become more familiar with the things that are occurring in our world today."

"Yeah, but if the REC does all this, then it must cost a fortune for electricity?"

"On the contrary. The REC tries to reduce costs by helping us through rebates and special ways to save money. For instance, my REC, the Cookson Hills Electric Coop, has helped my community by contributing free water heaters, free home energy audits, and efficiency rebates which can save up to 400 dollars. The free energy audit shows us how to save energy in our homes and at the same time help reduce energy bills, by using insulation, and energy saving equipment that we can receive through the energy rebate program. As one can see, the REC has helped to improve my community by providing better education, increased employment, and better life styles for everyone, which has made the present for many people easier and the future brighter for all of us."

"Wow, I never realized how important electricity is to our world and how much the REC has helped. Thanks!"

"Don't mention it," I replied.

"Okay, quiet on the set," shouted the director. "Lights! Camera! REC Commercial, take one. Action!"

"You are my sunshine. My only sunshine."●

REMARKS OF RABBI BARUCH KORFF

● Mr. PELL. Mr. President, on May 31, 1988, I had the privilege of listening to Rabbi Baruch Korff at the 42d Annual Amudim Award at Brown University.

Rabbi Korff's personal recollections and his actions at the time of the Holocaust left a vivid impression on all of us who heard him.

His remarks, although controversial, were stimulating and interesting and I believe should be made available to my colleagues.

Accordingly, I ask that Rabbi Korff's speech be inserted in the CONGRESSIONAL RECORD following my remarks.

The remarks follow:

TEXT OF ADDRESS BY RABBI BARUCH KORFF AT THE 42D ANNUAL AMUDIM AWARD

For nearly half a century I identified with the dead, the millions who perished in the Holocaust. In my own mind their martyrdom remains an ongoing indictment of the living, never to be fully adjudicated. For a very long time I agonized over my separation from these dead. I experienced similar feelings as a child, when my mother, with three children at her side and an infant in her arms, was killed in a pogrom. I wanted to be like her: silent, motionless, dead. I was filled with guilt at being alive.

This survivor is heterogenic, a walking metamorphosis of the unheeded, unsuccored and abandoned. The confluence of Holocaust memorials will not mitigate the crime of indifference. Neither executioner nor witness can atone for genocide. As for G-D, he long ago forswore forgiveness for the sins committed against his people, beginning with Rameses of Egypt. Only the victims have that power. And they? They fertilize the daisies and buttercups in the eternally cursed soil of Auschwitz, Treblinka, Dachau and Mathaussen where once stood the cyanide showers and crematoria.

In Washington we were a handful, a desperate few seeking to stem the tide of annihilation. Would G-D deliver the many in the hands of the few? This was not to be. For every life we saved ten thousand went up in smoke. We had to contend with road blocks erected by a Judenrat mentality of the invalid establishment.

In Nazi-occupied Europe the Ghetto Council would let thousands starve so that they themselves would have more to eat; they would let thousands die so that they themselves might be spared—until a later transport to the gas chambers. They gained a day, a week, a month, and in the end their fate too was sealed.

On this side of the Atlantic the same mentality prevailed, albeit under a different reign of terror. There were times when many thousands of additional lives could have been saved, and there were ways in which to save them if the Jewish establishment in this country had not been made of cabbages and kings.

Out of fear for their own safety, they did not act to save lives. They dared not for fear of provoking a backlash of anti-Semitism against themselves, against their leadership, against the privileged status of the assimilated middle-class Jews if the floodgates of immigration were opened to the masses. Yes to an Einstein or a Rothschild, but no to the poor, the hungry, the wretched masses struggle—not even to be free—only to stay alive.

And then there were those who were indifferent!

My generation and the one preceding were the weakest links in the genealogical chain of my people since Sodom and Gomorrah. They closed their eyes, their minds, their hearts—but to be fair not their purses. Restitution for their guilt? A kind of victims fund in the shape of a Holocaust memorial?

They put the strict letter of political legislation and bureaucratic regulation above the talmudic and moral imperative of saving lives—"Thy kith and kin." They aligned with those who favored domestic political expediency above the lives of Jews; they put the reelection of FDR above the lives of Jews; collaborated with the then notoriously anti-Semetic state department in total disregard for the lives of the Jews. "Don't rock the boat", I was repeatedly admonished. We now know what happened to one such boat. It was turned away from Cuba, denied entry to our shores with the Coast Guard poised to prevent, the disembarkation of "human refuse."

Contrary to popular perception, history does not repeat itself: men repeat history! You have only to look across two oceans at the State of Israel to see the beginnings of this truism. This valiant little counry is now in the grip of the same Judenrat mentality, both from within and from without.

"Territory for peace" is a product of the diaspora psyche: live on your knees that you may live. Israel dismantled its settlements and surrendered the Sinai to Egypt. Did it lead to peace? No. It only emboldened Israel's enemies. Cairo's renewed axis with the PLO, the umbrella terrorist Cabal, unveiled a macabre complot to divest Israel of Gaza, Jerusalem, Judea and Samaria reaching out to Golan, Haifa, and the whole of Galilee. Is there another nation in this entire globe whose "right to exist" is openly debated and questioned? Shades of the third reich! Israel's right to exist was mandated three thousand years ago, long before there was an America, a Russia, an England, a France, or a PLO. To wipe the vanquished from the face of the Earth, the roman conquerors changed Israel's name to Palestine, which was subsequently partitioned in this century into Transjordan, leaving one quarter of the mandated territory for modern-day Israel. Now, even as we speak, Gorbachev and Reagan contemplate a further diminution of diminutive Israel.

I tremble at the thought of another ghetto, paradoxically in the Jewish homeland, until this "haven" too, like the Warsaw ghetto, is turned into ashes. And all for peace. Piecemeal vivisection of Israel in the name of peace.

What comes to mind is Britain's Chamberlain "peace in our time". The price: six million jews—incinerated! It didn't take long for the world to discover that when you trade in Jewish blood you cannot escape ret-

ribution—and Armageddon exploded with a vengeance, claiming an estimated fifty million dead and more than twenty-five million wounded. I fear the worst is yet to come.

Let not my abiding passion for my people lead you to think that my love is parochial. No, it spans the universe. All men are equal, whether they are of the covenant of Abraham, Jesus, Mohammed, Buddhah, or no covenant at all, and I feel diminished when your rights, whoever you may be, are abridged. When you bleed, I hemorrhage; when you hunger, I am gaunt; when you toil in bondage, I sweat in servitude. Refugees make strange bedfellows, and mine are the Arabs in Gaza, Judea, and Samaria. It's dehumanizing for Jordan, representing three fourths of Palestine, to disinherit the Earth from under its sons. Together with twenty-two other Arab nations, Jordan is able to perpetuate a gigantic fraud of perennial refugees, exploiting human misery for political annexation of Israel.

Historically, Israel (i.e. the Jewish people) was never defeated from without unless the seeds of defeat were first sowed within. Don't let this happen in your generation as it happened in mine.

Following weeks and weeks of pressure I acceded to these proceedings taking place tonight. I did so because the proceeds are to be applied solely to scholarships. Another incentive was the opportunity to deliver a message borne of trial and error to an August assembly of dear and cherished friends. But I did not agree to the Amudim award. My anguish would not be assuaged with this or any other award.

The sponsors of this evening's event are indeed highly motivated as spiritual heirs to the Vaad Hahatzala, without whose network of operatives, guidance and encouragement the rescue missions could not have been launched. It is written that he who is instrumental in saving the life of a single human being is likened to one who saved the whole world. I firmly believe that G-D lets me live as long as I act as his conduit. The knowledge of having saved a single life has no equal in its reward. I would settle for nothing less. The sanctity of life must be the preserve of all the living.●

THE PRESIDENT'S STATEMENT CONCERNING THE BIDEN CONDITION

● Mr. PELL. Mr. President, on Friday, June 10, President Reagan conveyed a formal message to the Senate concerning the Senate's action in approving the INF Treaty. Much of that statement was devoted to commentary on the so-called Biden condition, which the Foreign Relations Committee attached to the INF Treaty resolution of ratification and which the Senate upheld by a vote of 72 to 27 after minor modification. Because the President's formal statement criticizes the Biden condition—and in ways which I judge to be inaccurate—I believe it important to clarify where matters now stand.

Let me comment first on the status of the President's postratification message. What weight or significance does it have? Can the President's statement alter the effect of the Biden condition? I quote from the relevant section of the Foreign Relations Committee report on the INF Treaty:

* * * the [Biden] Condition is binding under domestic law, and obtains its binding effect because the President, in the absence of the resolution of ratification, lacks authority to participate in the Treaty's ratification. He obtains such authority through the resolution of ratification and is governed by any stipulations by which the Senate conditions its consent.

In sum, the President may not act upon the Senate's consent without honoring this Condition. Nothing that he or his Administration does, by statement or action, whether before or after the act of ratification, can alter the binding effect of any condition which the Senate places upon its consent to treaty ratification. If the President brings the INF Treaty into force, the [Biden] Condition takes effect.

Mr. President, I think this portion of the committee report demonstrates quite clearly that the Biden condition is binding on the administration, notwithstanding anything in the President's statement. Nonetheless, the President's message to the Senate warrants comment, because it demonstrates a continuing unwillingness of the part of this administration to recognize or acknowledge what was truly at issue.

What was at issue, Mr. President, was the Sofaer doctrine, a constitutional assertion promulgated by this administration in the course of its efforts to fabricate a rationale for the so-called reinterpretation of the ABM Treaty of 1972. According to the Sofaer doctrine, executive branch representations to the Senate concerning the meaning of a treaty have binding weight only if such statements meet three criteria: they must, in the judment of the Executive, have been "generally understood, clearly intended, and relied upon" by the Senate.

These criteria may sound innocent enough, and indeed no one would disagree that if the criteria are met the Executive is bound. But the Sofaer Doctrine asserts much more: that the Executive is bound only if the criteria are met. The implication of this doctrine is profound. For if accepted, it would place upon the Senate a burden of proof to demonstrate its fulfillment of these critieria—a burden that, in practical terms, could only be carried by formal and elaborate Senate conditions on each and every treaty's resolution of ratification.

Clearly, such a practice, if regularized, would have devastating consequences for the treaty process. Yet, in the absence of such explicit assertions of Senate purpose, the Executive could in most cases argue that the Senate had not fulfilled all three of the criteria concerning a particular treaty provision. This would mean that the practical effect of the Sofaer Doctrine, if accepted explicitly or by Senate acquiescence, would be to accord the Executive virtually free reign, in interpreting a treaty, to ignore its own representations to the Senate.

According to the President's June 10 statement, the Biden condition "seeks to alter the law of treaty interpretation." But in fact nothing could be further from the truth. The Biden condition represents a Senate effort to uphold the law, by affirming the clear constitutional principle that a treaty must be interpreted and implemented by the Executive in accord with the original understanding of the treaty shared by the Executive and the Senate when the Senate gives its consent to ratification.

In addition, and very importantly, the condition denotes where evidence of that shared understanding is to be found. According to the Biden condition:

Such common understanding is based on:

First, the text of the treaty and the provisions of this resolution of ratification; and

Second, the authoritative representations which were provided by the President and his representatives to the Senate and its committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the treaty.

The President's statement strongly implies that this formulation would drastically alter the traditional approach to treaty interpretation because it "subordinates fundamental and essential treaty interpretative sources such as the treaty parties' intent, the treaty negotiating record and the parties' subsequent practices." But let us examine each of these three elements against the accusation that they have been unduly subordinated by the Biden condition.

First, "the treaty parties' intent." Is the administration suggesting that it is constitutionally acceptable for the Executive to enter into a treaty in which the intent of the treaty or a provision thereof may be absent from the text of the treaty or the Executive explanation of the treaty, and then later to assert that this theretofore hidden intent may suddenly supersede the text and the Executive's original explanation to the Senate thereof? If that is the administration's implied assertion, then it is not the Biden condition which subordinates the treaty parties' intent; it is the Constitution.

Next, the treaty negotiating record, which is a precise-sounding phrase for what in reality is no more than the aggregate of any and all internal U.S. Government memoranda which may pertain to the positions adopted by the United States during a negotiation and the events which occur in the negotiation—all as recorded by various U.S. negotiators. Is the administration suggesting that it is constitutionally

acceptable for the Executive to enter into a treaty and then to assert at some subsequent point that some paragraph from one of these internal U.S. Government memoranda must take precedence over the text of the treaty and the Executive's explanation to the Senate thereof? If that is the administration's implied assertion, then it is not the Biden condition which subordinates the treaty negotiating record; again, it is the Constitution.

Finally, the parties' subsequent practices. Of course, under international law subsequent practice is a well recognized, albeit secondary, criterion of treaty interpretation. But is the administration suggesting that it is constitutionality acceptable for the Executive to engage in subsequent practice which is at odds with the text of the treaty or with the explanation of that text as presented to the Senate? If that is the administration's implied assertion, then it is not the Biden condition which subordinates the parties' subsequent practices; once again, it is the Constitution.

Mr. President, no one disputes that all three of these elements—intent of the parties, negotiating history, and subsequent practice—may have interpretive significance in the implementation of a treaty. When a question arises which cannot be answered by reference to the treaty text or to the Executive's original description and analysis of the treaty as presented to the Senate, such criteria may be useful in clarifying a fine point of treaty interpretation. But under the Constitution those elements cannot be used to subordinate the text, or the original shared understanding of the text held by the Executive and the Senate when a treaty is ratified. To accept that would be to overturn the essential logic of treatymaking, and to negate the Senate's constitutional role under the Treaty clause.

This brings us, Mr. President, to the administration's principal claim against the Biden condition, a charge encapsulated in the following sentence in the President's letter:

> As a practical matter, the Senate condition only can work against the interests of the United States by creating situations in which a treaty has one meaning under international law and another under domestic law.

This specter, Mr. President, of two treaties—one highly restrictive on the United States and the other less restrictive on the other party—is essentially a false alarm raised by the administration on the basis of argumentation that is neither consistent nor persuasive.

As to consistency, the President's letter itself states that "the administration does not take the position that the executive branch can disregard authoritative Executive statements to the Senate." Indeed, the letter appears to acknowledge that binding weight must be accorded to Executive statements if such statements were "authoritatively communicated to the Senate by the Executive" and if such statements "were part of the basis on which the Senate granted its advice and consent to ratification." Thus, by its own acknowledgement, the administration accepts the principle that some statements by the Executive have binding significance. Accordingly, the administration cannot logically contend that it is the Biden condition which creates the possibility that U.S. obligations under domestic and international law could, under extraordinary circumstances, conflict. Rather, it is the Constitution. The possibility of a conflict between domestic and international obligations inheres even in the administration's model.

What is at issue—and what is solely at issue—is precisely which statements by an administration shall be accorded binding weight. By its assertion of the so-called Sofaer Doctrine, the Reagan administration endeavored to establish criteria which are so difficult to meet that the Executive would, in practice, be bound by few if any of its statements. The Biden condition in contrast affirms in effect that all of the Executive's authoritative explanations are relevant to the Executive's obligations in interpreting and implementing a treaty. Each such authoritative executive branch statement may not in and of itself be binding. But taken collectively, an administration's representations constitute a substantial body of evidence as to what the Executive and the Senate jointly understood a treaty to mean at the time of ratification. And that shared understanding cannot be ignored; it is binding in setting the limits of a President's latitude in treaty interpretation.

I would stress that any potential doubt about the Senate's view on this question was eliminated during consideration of the Biden condition, when administration supporters offered amendments explicitly intended to incorporate into the Biden condition the very elements of the Sofaer Doctrine which the Biden Condition was designed to repudiate. I am pleased to note that these amendments were defeated by virtually the same overwhelming Senate majority which upheld the Biden condition.

As to the two-treaties specter raised by the President's letter, I think it appropriate to quote once again from the Foreign Relations Committee report on the INF Treaty:

> * * * the White House * * * seeks to raise the specter of the United States being bound by constitutional processes to one interpretation of a treaty while the Soviet Union is free to apply a less restrictive interpretation.

This specter—originally raised by Mr. Sofaer while trying to justify the broad ABM Treaty interpretation—is highly theoretical. It is a truism that the Executive has different obligations under domestic and international law, and therefore it is possible to hypothesize situations in which those obligations could conflict. However, in practice this has not proven to be a serious problem and there is no basis for the administration's assertion that the condition "would substantially increase this risk" * * *.

An apparent premise of the Sofaer Doctrine is that practical difficulties would ensue if the Executive were bound by what it tells the Senate, because it would not be an abnormal circumstance for a difference to exist between what was agreed to with the other party and the explanations provided to the Senate. There should be no such difference. It is the Executive's responsibility to ensure sufficient clarity in a treaty and in its explanations thereof to the Senate so that no conflict exists between the shared understanding of the parties on the one hand and the shared understanding of the Executive and the Senate on the other. If, in extremis, such conflict should arise and prove not resolvable by discussion or negotiation with the other party, the United States of course has the option of withdrawing from the treaty.

In sum, this largely theoretical problem should be addressed if and when it arises—not be a preemptive alteration of constitutional principles. The Senate should not accept a doctrine that assumes and protects carelessness or deviousness on the part of the Executive.

In closing, Mr. President, let me say that I agree with certain of the conclusions in President Reagan's message to the Senate. The President states as follows:

> I cannot accept the proposition that a condition in a resolution to ratification can alter the allocation of rights and duties under the Constitution; nor could I, consistent with my oath of office, accept any diminution claimed to be effected by such a condition in the constitutional powers and responsibilities of the Presidency.

Unfortunately, while this particular statement by the President is unarguably true, it contains a false implication: that the Biden condition was aimed at altering the Constitution. In fact, quite the opposite is the case. The sole and fundamental purpose of the Biden condition was to uphold the Constitution by repudiating assertions made by this administration that would, if accepted explicitly or by acquiescence, have undercut the Constitution's allocation of a joint Executive-Senate role in the exercise of the treaty power.

Let me then reiterate: The aim of the Biden condition was not to alter

constitutional principles or create them, but to defend and reaffirm principles inherent in the Constitution but threatened by the Executive aggrandizement implicit in this administration's promulgation of the Sofaer Doctrine. Fortunately, by means of the Biden condition, that defense and reaffirmation have now been accomplished. The Sofaer Doctrine has been formally and overwhelmingly rejected. And nothing in the President's post-ratification letter has changed or could change that fact.

Mr. President, I ask that there appear in the RECORD at this point the text of the President's June 10 letter. I also call attention to the relevant section of the Foreign Relations Committee report which warrants special attention as a definitive refutation of the points made in the President's letter.

The letter follows:

To the Senate of the United States:

I was gratified the United States Senate gave its advice and consent to the ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate- and Shorter-Range Missiles (INF Treaty). It was my honor to exchange instruments of ratification on June 1 in Moscow, and the Treaty has now entered into force.

During the past 4 months, the Senate has performed its constitutional duties with respect to the advice and consent to this Treaty in an exceptionally serious and diligent manner. On the Administration's part, we spared no effort to respond to the Senate's needs, and to do our best to ensure that the Senate had all the information it needed to carry out its constitutional responsibilities. Administration witnesses appeared in more than 70 formal hearings and many more informal briefings; we provided detailed written answers to over 1,300 questions for the record from the Committees and individual Senators; and we provided access to the negotiating record of the Treaty, comprising 31 bound volumes.

In short, I believe the Executive branch and the Senate took their responsibilities very seriously and made every effort to work together to fulfill them in the common interest of advancing the national security of the United States and our Allies and friends. The Treaty will bear witness to the sincerity and diligence of those in the Executive branch and the Senate who have taken part in this effort.

As noted in my statement issued on May 27, the date of final Senate action, one provision of the Resolution to Ratification adopted by the Senate causes me serious concern.

The Senate condition relating to the Treaty Clauses of the Constitution apparently seeks to alter the law of treaty interpretation. The accompanying report of the Committee on Foreign Relations accords primacy, second only to the Treaty text, to all Executive branch statements to the Senate above all other sources which international forums or even U.S. courts would consider in interpreting treaties. It subordinates fundamental and essential treaty interpretative sources such as the treaty parties' intent, the treaty negotiating record and the parties' subsequent practices.

Treaties are agreements between sovereign states and must be interpreted in accordance with accepted principles of international law and United States Supreme Court jurisprudence. As a practical matter, the Senate condition only can work against the interests of the United States by creating situations in which a treaty has one meaning under international law and another under domestic law. Unilateral restrictions on the United States should be avoided, especially in a treaty affecting vital national security interests. With respect to U.S. law, the President must respect the mutual understandings reached with the Senate during the advice and consent process. But Executive statements should be given binding weight only when they were authoritatively communicated to the Senate by the Executive and were part of the basis on which the Senate granted its advice and consent to ratification. This is in accordance with the legal standards applied by our courts in determining legislative intent. I comment the thoughtful statements made during the Senate debate by Senators Specter, Roth, Wilson, and others which amplify these concerns.

This Administration does not take the position that the Executive branch can disregard authoritative Executive statements to the Senate, and we have no intention of changing the interpretation of the INF Treaty which was presented to the Senate. On the contrary, this Administration has made it clear that it will consider all such authoritative statements as having been made in good faith. Nonetheless the principles of treaty interpretation recognized and repeatedly invoked by the courts may not be limited or changed by the Senate alone, and those principles will govern any future disputes over interpretation of this Treaty. As Senator Lugar pointed out during the debate, the Supreme Court may well have the final judgment, which would be binding on the President and Senate alike. Accordingly, I am compelled to state that I cannot accept the proposition that a condition in a resolution to ratification can alter the allocation of rights and duties under the Constitution; nor could I, consistent with my oath of office, accept any diminution claimed to be effected by such a condition in the constitutional powers and responsibilities of the Presidency.

I do not believe that any difference of views about the Senate condition will have any practical effect on the implementation of the Treaty. I believe the Executive branch and the Senate have a very good common understanding of the terms of the Treaty, and I believe that we will handle any question of interpretation that may arise in a spirit of mutual accommodation and respect. In this spirit I welcome the entry into force of the Treaty and express my hope that it will lead to even more important advances in arms reduction and the preservation of world peace and security.

RONALD REAGAN.

WHITE HOUSE, *June 10, 1988.*●

SERGIO GAMBUCCI

● Mr. CONRAD. Mr. President, I rise to pay tribute to a legend in North Dakota. At the end of this school year, Sergio Gambucci retired as a physical education teacher at Grand Forks Central High School. Under his coaching, Grand Forks hockey teams won 10 consecutive State championship titles. As a teacher and role model, he inspired thousands of students with a message of integrity and hard work.

I ask that an article from the Grand Forks Herald describing his years at Grand Forks Central High School be printed in the RECORD.

The article follows:

[From the Grand Forks (ND) Herald, Apr. 24, 1988]

SAYING GOODBYE TO A CLASS ACT—SERGE GAMBUCCI RETIRES, LEAVING HIS MARK AS A TEACHER, FRIEND, AND COACH

(By Virg Foss)

In the Grand Forks telephone book, he's listed simply as S. Gambucci.

There's nothing simple about Sergio (Serge) Gambucci, however, who became a legend when coaching hockey and tennis at Grand Forks Central.

The 65-year-old Gambucci, a native of Eveleth, Minn., will retire as a physical education teacher at Central at the end of the school year.

He hasn't coached hockey since 1970, but the record he's leaving behind may never be matched. Nor, probably, will the respect.

For the record, Gambucci's Central teams won 258 games and lost only 38 in his 15 years as hockey coach. Starting in 1961, when the first North Dakota State High School Hockey Tournament was held, Central reeled off 10 state titles. Central never lost a state hockey title with Gambucci as coach.

All three of Gambucci's sons—Jim, Bill and John—played on state championship hockey teams at Central. And in tennis? Every one of Gambucci's seven children was a state champion.

"He was what we hear of a modern-day Bobby Knight," said Terry Paukert, who played hockey and tennis for Gambucci. "For Serge, it was not how much you won by, but how you performed to your capabilities."

Tom Wynne, now a tennis teaching pro in Grand Forks, remembers the first match he played for Gambucci. Wynne, then a sophomore, lost his first varsity match to a player from Grand Forks Red River.

"Serge was one of those people who was bigger than life at the time," Wynne said. "And he didn't particularly like losing to Red River in anything. The next day, he called me into his office, and I thought he'd tell me something like 'you played a good match.'"

But it's not what Gambucci had in mind. "What he said was, 'how could you ever lose to that guy?,'" Wynne said. "It showed me right then what he expected out of a person."

And what he expected was simple. "He didn't preach any goofy doctrine other than hard work," Wynne said.

Gambucci was a tough disciplinarian. "He stressed discipline, but he was so caring, you always knew where you stood with Serge," said Tony Palmiscno, another hockey player under Gambucci. "There's no doubt in my mind that he's the best coach I've been associated with."

East Grand Fork Senior High hockey Coach Mike Lundby never played for Gambucci. Instead, he played for Grand Forks St. James.

"We used to practice either before or after Central," Lundby recalls. "His practices were so well organized that I would get there early or stay late to just watch his practices.

His teams never beat themselves, and that's a sign of good coaching."

Though Lundby was not a Gambucci product on the ice, Gambucci's influence directed his life. "He was very instrumental in my getting my first coaching job in hockey at Crookston," said Lundby, who grew up near Riverside Park and the Gambucci family. "Serge had coached in Crookston before (at Crookston Cathedral) and he had a lot of contacts there. Coming right out of college, I doubt if I would have gotten that job had it not been for Serge Gambucci."

Gambucci was a stickler for details, from positional play to headmanning the puck to uniform appearance.

"It was always said that we dressed better for practice than other teams did for games," Paukert said. "You never came to practice with the elbow pads outside your jersey or your suspenders on the outside."

Said Jim Gambucci, the oldest of his sons, "Dad always said he made his first cut in the locker room. He demanded a certain standard from us and he insisted that the uniforms look nice. He's a meticulous dresser himself."

Said Serge Gambucci: "One of my sayings in practice was, 'good . . . good, perfect. Now let's do it again,'"

He also believed that his teams played like they looked, "I felt we were representing not only the school, but the city," Gambucci said. "The fans might not have known all the kids by name, but when they saw my teams, I wanted them to say, 'geez, that's a pretty good looking Grand Forks Central team.'"

When Gambucci resigned as hockey coach in 1970, he was just 47 years old. "I just felt it was time to get out," Gambucci said. "Sometimes I feel like I got out of coaching too soon and at other times I don't. But you can't go back once you make that decision."

Gambucci's number of champions produced are unrivaled. But the number of players who went on to college meant more to him.

"From the 1962 team, 16 of the 17 players went on to graduate from college and the 17th later did. I told the players that hockey is just a stepping stone, a small part of life, that they had better be prepared for something else than hockey."

From Gambucci's 23-0 team in 1967, 13 players went on to play college hockey.

Few of his children profess to having any problems playing for their dad.

But Bill Gambucci said playing tennis for his father wasn't always easy.

"We had a lot more conflicts in tennis than anything else," Bill Gambucci said. "He wanted to coach tennis the way he coached hockey, where when you came off a line change, he'd tell you what you did wrong. In tennis, all that did was break my concentration, so I'd tell him to shut up."

Bill Gambucci won two state tennis titles, "What I learned from dad in hockey was how to compete," Bill Gambucci said. "That carried over with me to tennis."

Jim Gambucci said it was a "real neat experience" to play for his father. "When I did get compliments from him, it was like it was extra special," he said. "It was a thrill for anyone to play for Central in those days. And I never saw any indication that he treated us (the Gambucci kids) any different from anyone else."

Serge Gambucci saw no problems in coaching his children. "I always felt it was much easier coaching them than watching them," he said. "When you coached them, you were coaching a team. But when you watch your son or daughter play, you're watching them and not the team."

You have to appreciate Serge Gambucci's sense of humor to understand his next comment. "I treated everybody alike," he says. "I treated them all like dogs."

Gambucci once told Frenchy Lacrosse that he was the only referee ever to give him a bench penalty. "He was easy to officiate for because he was always fair," Lacrosse said. "He was a gentleman on and off the ice and the kids that played for him acted very much like him."

Speaking of penalties, they were what Gambucci teams seldom took. "If you took a penalty late in a game, even if you were up by 10 goals, he'd be upset with you," Tony Palmiseno said.

Why was Gambucci so wildly successful? "I think I had outstanding hockey players, for one thing," he said. "They enjoyed the sport and I think they enjoyed playing for me."

Though 10 state titles in 10 years may never be topped, it's not the feat Gambucci appreciates most. North Dakota high school hockey wasn't that advanced in the 1960's, so Gambucci continually booked games against Minnesota powers such as Roseau, Warroad, International Falls, Remidji, Hibbing and Eveleth.

"Beating the top Minnesota schools in our area led me to believe we had outstanding hockey teams," Gambucci said. "Winning the 10 titles is probably a highlight, but a highlight was being very competitive whoever we played."

Gambucci twice came close to becoming a coach in the Western Collegiate Hockey Association.

In 1967, when Wisconsin was looking to elevate its hockey program to major status, Gambucci, International Falls Coach Larry Ross and Colorado College Coach Bob Johnson were the finalists. Johnson got the job.

A year later, Gambucci was considered for the coaching job at UND that finally went to Rube Bjorkman, then the hockey coach at New Hampshire.

Neither job was offered to Gambucci. Johnson was a huge success at Wisconsin before going to the NHL. Bjorkman's teams at UND struggled to find success.

He definitely went out on top. Gambucci's last hockey team in 1970 finished with a 22-1 record and met Fargo North in the championship game. Central had beaten North just 3-2 during the regular season.

But in Gambucci's last game, Dennis Johnson scored six goals—still a state tournament record—and Central won 11-0.

"That was quite a deal," Gambucci said. "I don't know what happened."●

JOHN O. HILL

●Mr. McCONNELL. Mr. President, every now and then, a community is blessed with a truly dedicated individual who is committed to improving the lives of the people around him. John Omer Hill was this type of leader.

Following a long illness, Mr. Hill recently passed away. His devotion to western Kentucky was illustrated when he established the first tobacco market in Hopkinsville and served as a board member of the U.S. Department of Agriculture. He also served 2 years as a member of the National Agriculture Advisory Board.

In the private sector, John Hill contributed to the betterment of his community by cofounding the Bank of Cadiz and organizing the Green Hill Memorial Gardens.

Mr. President, I would like to insert into the RECORD an article that appeared in the Kentucky New Era detailing the life of this outstanding individual who will be sorely missed.

The article follows:

[From the Kentucky New Era, May 26, 1988]

FARMER, GOP ACTIVIST JOHN O. HILL DIES AT 84

A retired local businessman and farmer who was active for many years in Republican Party leadership is dead.

John Omer Hill, 84, died at 1:15 p.m. Wednesday at Jennie Stuart Medical Center following a long illness.

Services will be at 11 a.m. Friday at Grace Episcopal Church with the Revs. Garnett R. Smith and James S. McKenzie officiating and burial in Green Hill Memorial Gardens. Visitation will be from 5 until 8 p.m. today at the Hughart and Beard Funeral Home. Hopkinsville.

A native of Christian County he was born Nov. 25, 1903, the son of the late James Warfield and Sarah Elizabeth Crowe Hill.

Hill helped establish the first tobacco market in Hopkinsville and served as a board member of the U.S. Department of Agriculture from 1957 until 1960. From 1968 until 1970 he was a member of the National Agriculture Advisory Board, Washington, DC.

He was among the businessmen who organized and owned Green Hill Memorial Gardens and was a founder and director of the Bank of Cadiz.

As a leader of the Republican Party, Hill attended the Republican National Convention as a delegate in San Francisco when President Dwight Eisenhower was nominated.

He was a member of First Baptist Church.

Survivors include his wife, Louise Batie Hill; a daughter, Wanda Woodward, Huntersville, N.C.; two brothers, Jewell W. Hill and W. Homer Hill, both of Hopkinsville; and three grandchildren.

Memorials may be in the form of donations to the Memorial Fund at Grace Episcopal Church.●

COMMENDING HOUSE VOTE ON DRUG AND ALCOHOL TESTING

●Mr. HOLLINGS. Mr. President the House of Representatives voted earlier today in favor of a motion to concur in the Senate-approved drug and alcohol testing provisions contained within H.R. 3051, the Air Passenger Protection Act, a measure pending in conference. Today's House vote was 377-27 in favor of the motion and the issue of drug and alcohol testing for transportation workers.

I am quite pleased by today's developments. A requirement for drug and alcohol testing—including random testing—is critical if we are to ensure that transportation is made safer. For this reason, I sponsored legislation calling for testing in the rail, aviation, trucking, and bus industries. This legislation was approved in the Senate

Commerce Committee by a vote of 19-1 and was adopted last October as an amendment to the Air Passenger Protection Act.

Support for drug and alcohol testing for safety-sensitive transportation employees is strong and bipartisan in the Senate. The full Senate vote on the testing amendment adopted last year was 83-7 against a motion to table the amendment.

The House has been slower than the Senate in acting on the drug and alcohol testing issue.● Negotiations on the testing amendment in conference have proceeded at a snail's pace, to the extent they have proceeded at all. That is why I am pleased by today's House vote. It is my hope that this vote signals a willingness by the Members of this full House to work toward the enactment of a testing program that protects the safety of the traveling public while establishing proper safeguards to ensure accuracy and protect employee privacy.

I wish to commend the Members of the House for today's strong vote and reaffirm my willingness and that of the Senate conference to seek an expeditious resolution of this critical safety issue.●

ALAN D. McARTHUR

● Mr. HUMPHREY. Mr. President, Alan D. McArthur has had a long and distinguished career in the Senate. Mac, as he is known to his friends, came to the Senate as a legislative assistant in 1953. Later, he served as administrative assistant for Senators Reynolds, Hruska, and Curtis. He was also minority counsel to the Senate Internal Security Subcommittee for 10 years. My personal association with Mac began in 1979 and for the past 9 years he has been a special assistant in my office. The fact is that Alan McArthur has done just about all there is to do in the U.S. Senate.

Mac's interests outside the Senate include a passion for antique timepieces. For 25 years he has been a member of the National Association of Watch and Clock Collectors. His interest in timepieces has led to an extensive collection of antique railroad watches and marine chronometers. Many of the watches in his collection are more than 150 years old.

Recently Mac combined his Senate experience with his interest in clocks in a piece on the "Ohio" clock which stands outside the Senate Chamber. The article in the National Association of Watch and Clock Collectors bulletin is a fascinating study of the history of this magnificent piece.

Ordered in 1815 at a cost of $392.50, the clock was first housed in the old brick Capitol. In 1859 it was placed in its present location outside the Senate Chamber. Its most dramatic moment came during a bomb attack on the Senate in 1983. Fortunately, the clock was only slightly damaged. For 173 years the "Ohio" clock has kept faithful time for generations of Senators. I believe it should also serve as a reminder that we should occasionally take a moment to stop and contemplate the heritage which surround us.

Mr. President, I ask that Alan McArthur's article be placed in the RECORD.

The article follows:

THOMAS VOIGT'S "OHIO" CLOCK

(By Alan D. McArthur (DC))

A few weeks ago I was looking through the Master Retrieval Index to the Bulletin, and I noticed the name of Thomas Voight, an early American clockmaker. Thomas Jefferson is mentioned as having owned a Voight clock, and the name of the clock brought back memories which I had not recalled for a long time.

It started thirty-five years ago when I first came to work for the Senate. In those days, Senate employees were paid in cash, twice each month, and the pay line inched its way along the corridor outside the Senate Chamber where the Thomas Voigt clock stands (note the name is spelled Voigt, not Voight). Hundreds of times I have stood in awe of its tall mahogany case surrounded by a carved wing-spread eagle. Years later the Senate Disbursing Office was moved to a different location, and the clock was no longer in my semi-monthly path to the pay office. After seeing Mr. Voight's name in the Index, and by now a long-time member of NAWCC, I decided to find out how the Senate acquired this clock and just how long it has been around.

My first visit was to the Office of the Senate Curator. The staff very obligingly furnished me whatever was available, so now we can start from the beginning. The clock was ordered from Thomas Voigt in 1815 at a cost of $392.50, plus $8.50 for shipping and handling. On September 19, 1816, a letter was received from Mr. Voigt indicating that the "Senate Clock" had departed from the Port of Philadelphia on board the Schooner Twins under Captain Lafferty. On October 12, 1816, there was an announcement in the newspaper Georgetown Messenger that the Schooner Twins of Philadelphia had arrived at the Port of Georgetown. The clock's first home was a primitive and temporary one. The British had fired on the Capitol during the War of 1812, and from 1814 until 1819 the House and Senate occupied a temporary structure known as the "Brick Capitol." Presumably, the clock was placed in this building, but, in any event, when the Congress moved back into the Capitol in 1819, the clock came along. It remained in the old Senate Chamber for several years, and when the present Senate Chamber was opened in 1859, Isaac Bassett, then Assistant Doorkeeper of the Senate, reported that the clock was placed outside the Chamber where it remains today.

At some point, the Voigt clock became known as the "Ohio Clock" although no one seems to know why. The carved shield on the face of the lower case contains 17 stars and, according to tradition, represents the state of Ohio which was the 17th state admitted to the Union. This association must be considered apocryphal inasmuch as Ohio was admitted in 1803 and by the time the clock was ordered and completed, the 18th and 19th states had been admitted. However, Ohio has not lost just yet. One of the items furnished me by the Senate Curator was a photocopy of a picture from the March 13, 1897 issue of Harpers Weekly. This photo—actually a drawing—is of a group of people standing outside the Senate Chamber. The photo contained no caption, but the gentleman in the foreground standing directly in front of the clock looked familiar. So, off I went to the Library of Congress to examine this issue on microfilm. Sure enough, the distinguished gentleman was none other than Mark Hanna, the newly elected Senator from Ohio. Now Mr. Hanna was a very astute politician even before he came to the Senate. It would only be natural for him to seize upon every opportunity to identify everything noteworthy with his home state of Ohio. Whether this photo with Mr. Hanna is accidental or coincidental really doesn't matter. Ohio is a great state and the clock has survived its questionable identification with stoic indifference.

The clock did not encounter any real trauma until 1983 when a bomb exploded outside the Senate Chamber. The explosion shattered the glass and dislodged some of the carved details on the case, but these were quickly repaired. The clock was stopped only briefly while police opened the case to determine if explosives might have been stashed inside by the person or persons still unidentified.

In spite of this rude intrusion, Mr. Voigt's clock continues to live, always maintaining its majestic dignity. It does so, even though surrounded by computers, automatic teller machines, telecopiers, and other electronic devices designed to make our lives more complicated and frustrating.

I decided to find out what I could about the Voigt clock owned by Thomas Jefferson. I called the Curator at Monticello, Charlottesville, Virginia, and was advised that Mr. Jefferson's clock was housed in the Pennsylvania State Historical Society in Philadelphia. The Collections Manager at the Society, who sent me some photos, stated that the clock has been housed there since the 1890's. Thomas Jefferson's daughter gave the clock to the physician who, in turn, gave the clock to the State of Pennsylvania.

Now as to the name. On the face of the Senate clock is Thos. Voigt, but on the Pennsylvania clock it is Thos. Voight. Which is correct? It is fairly certain that there has been no restoration of the clock outside the Senate Chamber. But a close look at the face of the Philadelphia clock leads one to suspect that an artist may have added the name with a different spelling. However, this is speculation. Perhaps some member has the answer.●

THEFT OF OUR NATION'S ARCHEOLOGICAL RESOURCES

● Mr. DOMENICI. Mr. President, imagine the hue and cry that would rise across our Nation if someone, in the dead of night, dug up Plymouth Rock and carted it off for his own private collection.

The public would be outraged, and justifiably so.

Plymouth Rock holds an important place in our national historic and cultural heritage. It belongs to each of us.

Well, Mr. President, similar events are occurring daily across our land,

and the hue and cry has yet been heard. I am talking about the theft of our Nation's archeological resources. It is time that we sound the alarm before our cultural resources are lost forever.

On public lands across our Nation, pot hunters and other archeological looters are digging through ancient Indian pueblos, historic Spanish shipwrecks, and the graves of Civil War soldiers and native Americans, then stealing artifacts for a collection or sale.

For example, an Arizona man was recently caught after he tried to sell a 1,350-year-old mummy of a Hohokam Indian infant to an undercover Federal agent for $35,000. This man had found the mummy—wrapped in a deer skin with several baby animal pelts, a small basket, and an unfinished woven mat—in a cave on national forest land. The man said that, since he found the mummy and artifacts on Federal land, he thought they were his to keep.

What makes this case unusual is the fact that he was caught, convicted, and sentenced to jail for his crime. Most thefts of archeological resources on public lands are not detected in time to apprehend the culprits. And in the rare instance of an arrest, the thieves are rarely punished.

Lest anyone question the extent of the threat presented by archeological looters, they should read two excellent articles on the subject. One is called Violating History which was published in the National Parks magazine. The other is a Chicago Tribune article entitled, "The Great Artifact Grab."

These two articles expose the problem and offer some solutions. I do not necessarily agree that these articles offer the best solutions, but these articles are valuable in stimulating debate on how we, the Federal Government, can be more effective in this area.

Mr. President, I ask that the two articles be printed in the RECORD immediately following my remarks.

Mr. President, at a recent Public Lands Subcommittee hearing, I asked Jerry Rogers, the Associate Director for Cultural Resources of the National Park Service, to discuss the problem of the looting of archeological resources on public lands. He had this to say:

> I think that the looting of the Nation's historic and prehistoric heritage from public and private lands is not only a despicable thing, but something that is growing to crisis proportions in the United States. * * * And we want to do something about it.

Mr. President, this plea comes from one of the Government's most knowledgeable persons in this field. He is charged with protecting these resources, and he admitted that he just isn't able to do it. That failure is certainly not that Mr. Rogers is not a very capable public servant—he is. That failure is a direct result of the fact that he lacks the tools needed to carry out this important job.

After holding oversight hearings in 1985 on the problem of looting of archeological artifacts on public land, I joined two of my colleagues in requesting that the General Accounting Office [GAO] review the problem.

The GAO report was issued recently. It found that approximately 44,000 of the 136,000 archeological sites in the Four Corners States of New Mexico, Arizona, Colorado, and Utah have been looted. In a 5½-year period ending in 1986, the Bureau of Land Management [BLM], the Forest Service, and the National Park Service documented 1,222 looting incidents in the four States.

Yet GAO concluded that these three agencies lack accurate documentation on the extent of looting. Agency records do not reflect the full extent of looting, either the current level of looting or its cumulative effects. There are no agencywide directives specifying under what circumstances a looting incident report should be prepared. In many instances, no report is prepared.

GAO determined that some of the factors in the continued looting of archeological resources were the low probability of prosecution, the public attitude that looting was not really a crime, and the lack of education about the significance of archeological sites.

In addition, GAO noted that BLM, the Forest Service, and the Park Service lack sufficient staff, funds, and knowledge of the resources they are supposed to protect to carry out effectively their cultural management responsibilities.

GAO concluded that the three agencies' efforts have not been extensive enough to cause commercial looters to fear being caught, and thus cease looting.

Archeological resources located on Federal land have been protected since 1906, when Congress enacted the Antiquities Act. The Antiquities Act provides that qualified institutions may be issued permits for the excavation of archeological sites. It also provides criminal penalties for unauthorized excavations.

In 1979, I wrote the Archeological Resources Protection Act [ARPA]. ARPA toughened the laws protecting archeological resources on Federal lands by imposing severe criminal penalties for unauthorized excavation, damage, destruction, or removal of archeological resources. It provides fines up to $100,000 and 5 years in jail for criminal violations. It also allows Federal land managers to impose civil penalties for violations and grant rewards for information on violations.

Earlier this Congress, I introduced two bills, S. 1314 and S. 1985. These bills would amend ARPA to improve the protection and management of archeological resources on Federal lands.

S. 1314 would change the provision in ARPA that requires prosecutions to show that the looting resulted in 5,000 dollars' worth of damages in order to categorize the offense as a felony. It would lower the felony threshold from $5,000 to $500. It would also amend ARPA to make the attempted looting of archeological artifacts on Federal land a crime.

S. 1985 would strengthen the provisions of ARPA by directing BLM, the Park Service, the Forest Service, and other Federal agencies to develop plans to survey the lands under their control to determine the nature and extent of archeological resources on those lands.

This bill would also require the agencies to prepare a schedule for surveying those areas that are likely to contain the most important archeological resources.

Finally, it directs the agencies to develop processes for reporting suspected incidents of looting of archeological resources on their lands.

The provisions in these two bills were supported by the GAO in its report on the looting of archeological resources.

Mr. President, we need to strengthen our laws. There is no doubt about that. But it isn't sufficient to simply strengthen existing statutes. We need to provide adequate resources and direction to the land management and law enforcement agencies to ensure that the laws are enforced.

The President's budget for fiscal year 1989 proposes cuts in funding for cultural resources management. At the Forest Service, the cut would be $2 million, or 13 percent. BLM cultural resource management programs would be decreased by 5 percent. Three Park Service programs for cultural resources management would be eliminated.

Although funds for cultural resource management in the Park Service budget would be increased an estimated 6 percent as a result of increased recreation user fees, the allocation of these funds to cultural resource management would be left to the discretion of individual park managers.

These funding reductions are unjustified. Archeological looting is reaching crisis proportions. We need to provide our land management agencies with adequate resources to confront this crisis. I am urging that the Congress provide to BLM, the Forest Service, and the Park Service sufficient funds to protect out Nation's archeological resources.

Mr. President, it is clear that the Federal Government's efforts to protect archeological resources on the lands under its control have been woefully inadequate. We stand by while

our Nation's archeological heritage is stolen and sold as quaint curios. Just as we would not stand idly by and allow the theft of Plymouth Rock, we can no longer allow this to continue.

The failure to protect our Nation's archeological resources constitutes a breach of faith by the Federal Government. As the trustee of these lands for the American people, the Federal Government has an obligation to assure that these resources are not destroyed or stolen by those who have no respect for the past.

We must act to preserve our archeological resources. I hope that the Congress will soon act on S. 1314 and S. 1985, two bills that would help achieve that worthy goal, and will provide the funds necessary to carry through with the enforcement of our laws protecting archeological resources.

The articles referred to follow:

VIOLATING HISTORY—THIEVES SNEAK INTO RUINS AND BATTLEFIELDS TO STEAL AWAY KEYS TO OUR PAST

(By Jim Robbins)

Cape Krusenstern National Monument lies on the Chukchi Sea, in the remote northwest corner of Alaska. Approximately 1,600 years ago, the Iputak—an Eskimo people who, among other things, carved exquisite artwork from ivory—inhabited this land.

The National Park Service has been conducting archeological research at these ancient sites, hoping to shed light on a people whose culture flourished in this harsh country. Recently, however, a looter has been digging among the remains, searching for ivory masks the native artisans created between 1,400 and 1,600 years ago. Such masks, says Ted Birkedal, an NPS archeologist in Anchorage, are valued as collectors' pieces in Scandinavia, worth as much as $15,000.

Park rangers believe the looter was scared off the Krusenstern site before he could steal any artifacts. The site, however, was damaged. The digger destroyed many of the clues archeologists would have used to piece together the answer to who the Iputak were and how they lived.

"We just don't have the staff to stop it," Birkedal said of the looting. "The National Park Service [in Alaska] controls an area the size of England and Scotland. We have an officer for every four million acres. It's potentially a major problem."

The theft of historic and prehistoric artifacts from federal grounds is, by all accounts, a serious problem that is growing. In Virginia, Pennsylvania, and Maryland, Civil War battlefields have been looted. In the West, the Custer Battlefield National Monument in Montana and the Knife River Indian Village Historic Site in North Dakota have been hit by artifact hunters who use metal detectors to uncover shell fragments, uniform buttons, and other historic treasures.

But, the most obvious losses, the most flagrant thefts of America's past, are the looting of ancient Native American ruins in the West. Organized and unorganized gangs of pothunters are cashing in on a lucrative market. Native American historic and prehistoric objects have been actively sought by an international group of collectors since the early 1970s. The value of these artifacts has risen so steeply that looters are scrambling to steal what's left, according to one archeologist. They are, he says, "like sharks in a feeding frenzy."

In the East, many looters are hobbyists, trying to augment their collections—but their effect is just as destructive as those who are only in it for the money. Sometimes, in the Southwest, wholesale looting is done with bulldozers. Looters will dig in the dark under floorless tents, so their lights cannot be seen. Some use uranium-miners' masks to keep dust out of their lungs as they dig and carry gas-powered rock saws to remove pictographs from cliff walls. One archeologist from Blanding, Utah, has heard of pothunters who sniff lines of cocaine from the blades of their bulldozer just before they begin a raid.

The remains of Anasazi, Hopi, Mimbres, and other prehistoric cultures are found throughout the West. The Anasazi, a Navajo term for Ancient Ones, created a highly developed civilization in the deserts of southwestern America from the time of Christ to 1275 or 1300 A.D. That region, called Four Corners, includes sections of Colorado, Arizona, Utah, and New Mexico.

The Anasazi cultivated corn, cotton, and squash with elaborate irrigation systems. They are respected for the architectural ingenuity of their multifamily apartment houses, often three or four stories high and built in large caves or wedged in the crevices of the labyrinthine canyons of this area. According to some, these buildings were often oriented to align with celestial bodies and, therefore, could be used as solar calendars. Beautiful pottery, intricate basketry, and sandals have also been found among these ruins.

Despite the thousands of sites that have been found, there is much to be discovered about these prehistoric people. When archeologists are investigating a site, they use a technique called "artifact patterning." This method uses the special relationships of artifacts found at a site to explain how they were used.

Says Don Simonis, a Bureau of Land Management archeologist in Kingman, Arizona, "If we find a rock, it's just a rock. If we find three rocks together, however, we know it was used as a fire dog [a structure used for cooking].

"Once a site has been disturbed, the entire sense of its historical development is disrupted, and it becomes impossible to research the site by any standard archeological method. So, the theft of collectible items is only part of the disaster wreaked by pothunters."

According to Winston Hurst, an archeologist in Utah, "The soil matrix that contains vast amounts of information—how these people lived, the kinds of food they ate, the environment—becomes mixed and randomized. The stuff from 850 A.D. is mixed with the stuff from 850 B.C., and no one will ever be able to unscramble it."

The disturbance of sites and the theft of artifacts from federal property are, of course, illegal. And, the government has good legal tools with which to challenge looters, going back to the Ancient Antiquities Act, passed in 1906, and the organic acts of the National Park Service, BLM, and other concerned agencies. In addition, the Archeological Resources Protection Act (ARPA), was specifically written to cover the looting of artifacts from federal property and to provide for the proper management of archeological resources.

ARPA levies stiff fines on anyone who removes archeological resources from public land or participates in their sale, purchase, transport, or receipt. If the first offense is a misdemeanor, it can result in a $10,000 fine and a year in jail; if a felony, it can result in a $20,000 fine and a two-year sentence. A second conviction can earn a $100,000 penalty or five years in jail. The cost of restoring the site can also be billed to the perpetrator.

Yet, the wholesale theft of archeological artifacts continues, for the incentive is enormous, and the chances of getting caught, miniscule. For instance, an intact *olla* (an "oya" is a large, round vessel that is usually white or light gray in color and decorated with intricate geometric designs) can bring $30,000 by the time it reaches the final buyer, BLM officials say.

Pothunting became a major problem for archeology resource managers in 1971, when New York's Sotheby Parke Bernet Galleries first began to auction Anasazi and other pre-Columbian artifacts, exponentially increasing the demand for such items. An Anasazi basket recently brought $152,000 at an auction at Sotheby's in London. More commonly, baskets have fetched up to $10,000. An unbroken mug will bring $200, and a human skull is worth $50.

The result has been the unbridled and unparalleled destruction of ancient sites in the Southwest that, until recently, have remained intact and protected primarily by their remoteness and the low humidity of the desert. So far, Native American sites in national parks have suffered less damage than those on Forest Service and BLM lands, according to Birkedal, who until last December was stationed at the National Park Service's Southwest Regional Office in Santa Fe. "It's simple," he said. "We have more law enforcement per acre [in the Lower 48] than any other agency."

But Birkedal believes that as the number of unmolested sites dwindle further and archeological artifacts become more rare, the National Park System will also be hit harder.

On May 8 of last year, Forest Service and BLM law enforcement agents from Wyoming, Arizona, and Idaho broke the still spring morning when they searched 17 homes in Colorado and Utah and seized 325 prehistoric Anasazi artifacts that authorities said had been taken from federal land.

"This [seizure of items] is the most significant law-enforcement initiative under the Archeological Resources Protection Act," announced Brent Ward, the United States attorney for Utah and a principal architect of the campaign. The May raids and the arrests that were expected to follow were the culmination of a two-year, much-heralded "war on pothunting."

Earl Shumway, 29, a convicted pothunter, was the lynchpin of the federal government's case against other looters in the Four Corners area. In exchange for a mitigated sentence, Shumway agreed to provide information on who was trafficking in Anasazi pots and other artifacts taken from federal land.

The searches, especially in the town of Blanding, were like poking a stick into a hornet's nest. For generations people in this area have gone into the desert on Sundays with a picnic basket and a shovel to dig for artifacts.

Devar Shumway, 66 (a distant relative of Earl), grew up pothunting. He has said that his family survived tough times by selling pots to a museum in Salt Lake. "Daddy was in tall cotton to make $3 a pot during the Depression," Shumway said. During a lifetime of digging, Shumway estimates he has

collected more than 1,000 whole pots. It is a pastime he has passed on to his children.

The federal agents who served search warrants on people in Blanding and throughout the region were armed and wore bulletproof vests. They thoroughly searched the homes; one woman complained that they even went through her underwear drawer.

Among the homes searched was Calvin Black's. Black is a powerful, extremely conservative San Juan County commissioner who has long been an opponent of the creation and expansion of national parks and wilderness areas in southeastern Utah. The raids deeply angered Black. He said, when he next hears of a federal agent being shot at, "I am almost going to have to root for the other side."

The government claimed Black was keeping the objects for his son, Alan "Buddy" Black. Earl Shumway told agents he had seen Buddy Black dig the objects—which included sandals, loincloths, a cradle board, 13 bowls, and a large olla—on federal ground. Cal Black maintained the objects were taken lawfully from private ground and sued to get them back. They were later returned.

In June of 1986, the younger Black was indicted by a grand jury on two counts of violations of the federal antiquities law. But the jury did not believe the government's chief witness, Earl Shumway, and a verdict of not guilty was returned. The war on pothunting in Utah had fizzled—an embarrassing defeat for the feds.

In the past several years looting of ancient sites has received attention from Congress, the media, and archeological activists. Yet, the thefts continue. And, in most cases, federal agencies do not have the budget to combat the pothunters.

There is simply too much territory to watch. The southwestern desert alone contains tens of thousands of sites scattered over millions of remote acres.

There have also been cases where federal agencies have set poor examples as protectors of these sites. In fact, sometimes one part of an agency might be working to protect sites while other departments are destroying them. A prime example is BLM, which has been lauded for its commitment to site protection. One arm of the agency destroyed hundreds of sites in the Four Corners area, using Caterpillar tractors to clear land for cattle grazing, while other BLM departments have been trying to stop pothunting.

Some archeologists blame what they call "a major deficiency" in the law. ARPA requires that law-enforcement officials bear the burden of proof for prosecutions; in other words, the government must prove that the artifact was taken from federal property.

That, in fact, is the major reason that Brent Ward feels he lost his "war on pothunting." Remember, the only evidence Ward had was Earl Shumway's word that the offenders had taken the artifacts from public land. When the jury did not believe Shumway's testimony, the government was left without a case.

An exasperated Ward then wrote a letter to Roland Robison, director of BLM in Utah. Ward complained that if the law were not changed, he might be forced to forego prosecutions of antiquities thefts.

Black's acquittal, Ward wrote, "pointed out a weakness in ARPA that may prevent this office from undertaking any further prosecution under that statute against anyone except a person who was actually involved in illegal excavating activity." Other ARPA experts, however, think more exacting evidence would make the prosecution of pothunters more effective.

Some law enforcement officials believe that the only way to stem trade in artifacts is to crackdown on dealers—not diggers. "It's like trying to stop the trade in jaguar furs by arresting all the Amazonian Indians," said Utah State Archeologist Dave Madsen. "There's always more Indians."

"It's like guerrilla warfare," said BLM law enforcement specialist Pete Steele, who chases pothunters through the remote country of San Juan County in southeast Utah. "They'll hit a site here or there. They're well ahead of you all the time, because they know where they're going to be and you don't."

And, at this time, arresting diggers can be a hollow victory. Dealers and collectors in New York City can still trade illegally taken, priceless pre-Columbian items—from the United States as well as from Central and South America—quite openly. Traders can always claim that the objects came from private land.

Linnell Schalk, a BLM law enforcement officer who teaches courses on ARPA, believes that public awareness needs to be developed as much as legal strategies. Diggers must be pursued with all the vigor of the law, so they realize how committed agencies are to controlling theft and vandalism.

It must be noted, also, that there *have* been some successes under ARPA. Perhaps most important was a case at the Richmond National Battlefield Park in Virginia. In October 1984, park officials saw three men enter the battlefield with camouflaged metal detectors at 1:00 in the morning. Authorities cordoned off the park and waited, fearing the looters would scatter or someone would be hurt if agents tried to catch them in the act. The men were arrested as they emerged at 6 a.m. Officials found shell fragments, mini balls, and other Civil War artifacts in their possession, which were valued at approximately a total of $24.

The men were charged under ARPA and all three received prison sentences that ranged from several weeks to six months. They also forfeited $1,100 worth of equipment.

Chief Ranger Chuck Rafkind says the prosecution showed that the park is serious about stopping the thefts. "We used to get [the number of thefts] in a couple of days that we now get in a month," Rafkind said.

Where enforcement is more difficult, however, different remedies are being tried. Some sites are being monitored with remote cameras. In others, seismic indicators—that react to the movement of people at a site and radio the information back to headquarters—are being used. Ruins have been fenced; and stinging nettles and poison ivy have been planted to keep people out of them. Each of these techniques has helped, but they haven't stopped the looting.

The only real solution, in the opinion of many, is to change the law so that the burden of proof falls on the defendant rather than the government.

"We have to deal with the problem directly," said Dave Madsen. "If you can document that an item came from private land, fine; you can sell it. But, it should be incumbent on the seller to prove that it came from private land."

Such a change would be possible with the creation of an artifacts registry for items found on private land. Dr. Walter Wait, a NPS archeologist with the Southwest Region in Santa Fe, has recommended that archeologists be required to provide objects taken from private ground with a "provenience" that documents the object's origin. These papers would include a complete description of the item, a copy of the excavation report, a certificate of excavation by a licensed archeologist, and a certified appraisal.

"Upon entry into the registry," Dr. Wait wrote in a 1986 Office of Technology Assessment report, "the owner would obtain a nontransferable title and an artifact documentation card similar to a plastic driver's license, complete with photo." So far, there is no consensus among archeologists that this is a good idea. Kurt Shaafsma, a New Mexico archeologist who supports an artifacts registry, admits the proposal is a compromise.

"To archeologists all sites are equal," he said. "Whether it's private or public land has no bearing on what people did 1,000 years ago. But this is a way of meeting these [artifacts dealers] halfway." It would eventually become impossible to sell artifacts without a pedigree, Schaafsma believes.

Though the move to change the law to protect these precious and dwindling artifacts seems logical, it is not without opposition. Many art dealers and collectors have opposed legislation to restrict the trade in ancient artifacts. Until 1983, they were able to stop implementation of a UNESCO convention that had been ratified in 1970. Although, recently, dealers and collectors have been giving lip service to the need for more protections, archeologists predict a major battle should more restrictions be proposed.

Whatever is done, most agree, it should be done soon.

Richard Fike, BLM state archeologist for Utah says, "I would guess that 80 to 90 percent of the BLM sites in Utah have been destroyed. Yes, the tide is turning. But, is it turning in time to save what's left? I'm skeptical."

[From the Chicago Tribune Magazine, Aug. 10, 1986]

THE GREAT ARTIFACT GRAB

A FLOURISHING BLACK MARKET IN SOUTHWESTERN ANTIQUITIES THREATENS TO LEAVE THE ARCHEOLOGICAL RECORD IN RUINS

(By Jim Robbins)

From all appearances Blanding, Utah, pop. 3,118, is like any number of small American towns. A theater, a small grocery and a hardware store comprise most of the main-street business district. The busiest spot in town is a Mini-Mart, where several pickups are stopped at the pumps.

On May 8 federal law-enforcement agents from Wyoming, Idaho and Arizona broke the still of a Blanding spring morning when they searched seven homes and seized dozens of prehistoric Indian artifacts that the authorities claim were taken illegally from public land. In June two men were indicated as a result of the searches; their cases have not yet come to trial.

This is the most significant law-enforcement initiative under the Archeological Resources Protection Act," says U.S. Atty. for Utah Brent Ward.

However, long-time Blanding pothunter Devar Shumway, 65, whose home was not searched, sees things differently. "These people come in with flak jackets and initimidate women and children and frighten them," he says. "It's the worst form of—what do they call it—Gadhafi terrorism."

The town of Blanding sits squarely on top of one of richest archeological regions in the United States. Throughout the countryside here, where farmers grow acres of pinto beans, are thousands of sandstone-rock homes and other structures built by the Anasazi, a prehistoric agrarian people who occupied the Four Corners region of the American Southwest roughly between the time of Jesus and 1300 A.D.

Their total territory was larger than the state of California, stretching from Nevada to just east of the Rio Grande and from central New Mexico and Arizona north in southern Colorado and Utah. But the culture was concentrated in the Four Corners, the area marked by the northwest corner of New Mexico, the northeast corner of Arizona, the southeast corner of Utah and the southwest corner of Colorado.

Predecessors of the modern-day Pueblo Indians, the Anasazi—a Navajo term that means "ancient enemy"—built an impressive civilization here, though they left no written language. They cultivated corn, cotton and squash using elaborate irrigation systems. They lived in multifamily structures, often built in large caves or wedged in crevices of the labyrinthine canyons that run through this country, many of which still stand. In some cases hundreds of people lived in these ancient villages. Some scientists believe that the Anasazi built solar calendars into their structures, towers that captured sunlight to mark solstices and other times of the year especially important to agriculturists. There also is evidence that they practiced cannibalism.

The Anasazi were the northernmost representatives of Meso-American Indian culture, which occupied much of Central America and Mexico. A feature of their culture was the kiva, a round ceremonial room dug into the earth. "It was a way to communicate with the underworld," says Kurt Schaafsma, New Mexico state archeologist. "That's where the spirits lived. It's a very distinctive attribute."

They also developed a distinct style of pottery that is "often elegant, beautiful," says Ronald Weber, collections manager in the anthropology department at the Field Museum of Natural History in Chicago, which has a large collection of Anasazi artifacts. he describes them as people "well-adapted to their environment. They weren't a super people, just a people." But because they lived an agrarian life in villages, their artifacts are more conspicuous—and thus have received greater archeological attention—than early nomadic hunting cultures in the area.

No one really knows what happened to the Anasazi. The best guess is that a 25-year drought beginning about 1275 coupled with the destruction of the land from intensive farming rendered their way of life untenable. The Anasazi abandoned most of the Four Corners at this time and concentrated in northeastern Arizona and central New Mexico. But they left behind extensive artifacts—handsome pottery, turquoise jewelry, intricately woven baskets, fragile cotton clothing, stone tools and even mummies, all covered with centuries of soil.

There's a sense of whimsy in their work: a hunchbacked flute player known as Kokopelli found on pottery from Utah into South America, a small face peering over the rim of a mug, an eagle-bone flute. Their legacy also includes haunting petroglyphs [carved images] and pictographs [painted images] on canyon walls throughout the Southwest.

In the last decade the relics abandoned by the Anasazi have become valuable collectors' items, prized by museums, art dealers and Indian-art aficionados both in this country and abroad. And that has driven people who now live in Arizona, New Mexico, Utah and Colorado—in Blanding and towns like it—into the desert to unearth and remove the artifacts to sell on a lucrative black market in antiquities.

In addition to theft, these ancient artifacts have fallen prey to vandals. Last March, for example, along the San Juan River in southeastern Utah, orange paint was sprayed across the face of the Kachina Panel, one of the most significant collections of petroglyphs in the Southwest, damaging hundreds of ancient figures.

Many of the tens of thousands of Anasazi sites in the West are on land owned by the people of the United States. Only a small percentage are in private hands, most on farmlands. A handful of the public sites are protected and displayed by the National Park Service at such national monuments as Canyon De Chelly in Arizona, Chaco Canyon in New Mexico and Mesa Verde in Colorado. But the majority are on millions of acres of unprotected, undeveloped, far-flung public land managed primarily by the federal Bureau of Land Management [BLM] or the National Forest Service, the area's two largest landlords. Although it is a violation of federal law to take or disturb these publicly owned artifacts, the law has proven extremely difficult to enforce.

As a result, the unbridled theft and vandalism of artifacts is rapidly destroying the vast Anasazi sites and other relics of prehistoric cultures dating as far back as 6000 B.C. that have remained untouched for centuries. "I would guess that 80 to 90 percent of the sites here have been destroyed," many beyond redemption, says Rich Fike, who oversees archeology in Utah for the BLM. Unless thefts and vandalism are stemmed soon, some archeologists predict, the remaining unspoiled sites will be gone in three to five years.

But the thefts and the recent crackdown on pothunters are only part of the story of the large-scale destruction of antiquities in the Southwest. There is growing criticism of the federal agencies in charge of protection of antiquities.

Among the major complaints:

Federal agencies have known of pothunting in Utah, Arizona, Colorado and New Mexico for at least a decade but have not aggressively pursued the problem until recently. The present crackdown began just after several U.S. senators held hearings last October in Albuquerque and requested a General Accounting Office investigation into what one senator called "a problem with enforcement and implementation" of archeological protection laws.

Federal law enforcement agencies have received wholly inadequate funding to pursue on effective law-enforcement campaign against the trade.

The BLM and the Forest Service themselves have damaged some prehistoric sites during resource development projects and also are financially strapped in preservation efforts.

Federal agencies have done little inventorying of sites. No one known what is being destroyed because no one knows what is out there. In New Mexico, for example, a state official estimates that perhaps only 10 percent of the sites have been inventoried.

As a consequence, many archeologists believe that effective preservation of artifacts may not come in time. "The tide is turning," says Fike, referring to the problem of pothunting. "Is it going to turn in time to save what's left? I'm skeptical."

Pothunting has been a time-honored tradition in Blanding, although it has been illegal since 1906. It started in the late 19th Century, when rancher Richard Wetherill came to Mesa Verde and began the wholesale excavation of sites, shipping the material to private dealers and museums, including the American Museum of Natural History in New York. Ironically, one of the largest collections of Anasazi artifacts is in Helsinki, Finland, a result of early artifact removal.

Though the 1906 Antiquities Act forbade taking artifacts from public land, the law was vague and largely ignored, even by authorities. In the 1920s and '30s, for example, curators from the University of Utah museum in Salt Lake City paid Blandingites $3 for every pot they dug up for the university collection. "My daddy was in tall cotton to make $3 a pot during the depression," says Blanding pothunter Devar Shumway.

Pothunting in the Four Corners has always been a mom-and-pop Sunday afternoon affair, a socially acceptable pastime. Indeed, the people who had property seized during the recent searches included two San Juan County commissioners and other prominent citizens. One commissioner, Calvin Black, was livid. He says the next time he hears about federal agents being shot at, "I'm almost going to have to root for the other side." Black filed suit, and his pots were returned on grounds that there was insufficient proof that they had come from public lands. Meanwhile, Black's son, Alan "Buddy" Black, was one of the two people indicted in June by a federal grand jury. He was charged with two violations of federal antiquities law.

An illustration of the volatile nature of the situation in Blanding occurred during my visit, which came several days after the searches. Although Devar Shumway had spoken openly with reporters on other occasions, he regarded me with suspicion as I conducted an interview in his home. He said his pots, which normally decorated his home, were hidden. Then his daughter, whose home had been searched by federal agents, arrived. She angrily implied that I was a federal agent and asked me to leave. Half an hour later Blanding's chief of police knocked on the door of my motel room, flashed his badge and ordered me to produce identification. "Everyone's a little jumpy," he said later.

In 1979 the Archeological Resources Protection Act was passed, stipulating that pothunting on federal land is a felony, punishable by up to a $250,000 fine and two years in jail. Federal officials claim locals should have been put on notice then. But the momentum was too great; the looting of artifacts for the mantel or basement showcase continued. Then in the late 1970s collectors discovered Anasazi artifacts—perhaps because of their growing scarcity—and the price of the relics soared, creating a more sinister breed of pothunter. People who grew up digging pots for fun realized they now could turn a pretty good living in economically strapped San Juan County by selling the relics.

If the right buyer is found, for example, a single *olla* [OL-ya], a large round pot, usually white or light gray decorated with intricate black geometric designs, can bring as much as $30,000 by the time it reaches the final buyer, according to BLM officials. One basket brought $152,000 at an auction at Sotheby Parke Bernet in London. More commonly, an intricately woven basket will

fetch up to $10,000. An unbroken mug can bring $200; even a human skull can bring $50 or so.

Pothunters never see that kind of money, however. The most a digger ever gets is about $1,000 for a top-of-the-line item. Middlemen reap most of the profits.

Slate-gray thunderheads are piling up on the horizon, and thunder rumbles softly in the distance. The red-rock formations on Cedar Mesa, in southeast Utah, cut dramatically through the rolling plains. Pete Steele, a BLM law-enforcement ranger, makes his way through heavy brush until he comes to the mouth of a cool dark cave. The floor, covered with piles of dirt and rubble, is pockmarked from digging. Pepsi-Cola cans are strewn among rocks, centuries-old ears of corn and broken pieces of pottery. "It looks like somebody dropped some mortar rounds in here, doesn't it"? Steele says, pushing his worn cowboy hat up on his balding head. "There's 25 caves in the canyon, and they all look the same."

Dry caves, which are rare, have provided a rich bounty for pothunters. Because the caves have been bone dry since they were occupied by the Anasazi, perishable items such as baskets, sandals, turkey-feather bankets and cotton skirts, which would have disintegrated in the open, have survived. The rarity of these items makes them valuable.

In a search-warrant affidavit a federal agent described material one looter said he observed being dug from a dry cave: "a 30-inch-tall woven bag, yellow and white in color, approximately 15 inches around. Inside this bag were 17 other bags: One was full of turquoise necklaces; one full of gaming pieces; one full of red arrowheads; one full of multicolored orange, blue and red cloth; also seven baskets shaped like bowls."

One of the saddest aspects of pothunting, says Steele, is that in addition to being thieves, pothunters also defile burial sites, for the finest Anasazi artifacts were buried as offerings with the dead. Law-enforcement officials often find the bones of bodies mummified naturally by the sand and the arid climate strewn about the diggings, robbed of their turquoise jewelry, their pots and, after several hunderd years of repose, their final dignity.

"Looters dig down and clean out the burial cists," Steele says. "The old basketmakers were buried with a new pair of sandals and wrapped up on a turkey-feather or rabbit-fur robe. You've got a higher concentration of good artifacts in burial areas." Pothunters are savvy to law enforcement, Steele adds. They work at night, covering their digs with floorless tents so their lights won't be seen. They wear filters like those worn by uranium miners to keep the dust out of their lungs.

Such hunting has somehow become steeped in romance and mystery, embodied in the movie character Indiana Jones, the swashbuckling artifact-grabbing archeologist in the movie "Raiders of the Lost Ark." And indeed, there still are those who defend pothunting, the right to carry shovels out into the desert. "There's so many of these ruins that archeologists couldn't excavate them in 1,000 years," Shumway says. He adds, rightly or wrongly, "Besides, there's not going to be anything dug up because only the pothunters are capable of finding it." Shumway says he has found more than 1,000 pots.

Giving up pothunting is difficult, Steele says. He should know—he pothunted on public land for years in southeastern Utah before reforming. "It's that thrill of discovery," he says. "It's so hard to give that up. So hard."

Steele says catching the pothunters in the act is virtually impossible. "It's like guerrilla warfare. They can hit and run. They don't have to hit in any particular pattern. They aren't well organized—they'll hit a site here or there. And they're well ahead of you all the time because they know where they're going to be, and you don't." There are an estimated 200,000 prehistoric sites in Utah alone.

The major hitch in enforcing federal archeological law is that it is perfectly legal to dig and traffic in artifacts taken from private land. To have a solid case agents must observe pothunters removing the artifacts from federal land. New techniques are beginning to make law enforcement somewhat easier, however. Agents are using remote hidden cameras to photograph hard-hit sites at regular intervals. Remote sensors buried in the ground that detect human movement and send the signal back to headquarters also have come into play.

Soil testing also seems to hold a good deal of promise for successful prosecutions. Soil is taken from an artifact and from the site where agents suspect the pot was removed. Through laboratory analysis the soil are "finger-printed." If the "prints" match, officials claim, they can tell with certainty where a pot came from. The method, however, has yet to be tested in court.

To date the best way to obtain a conviction, most officials agree, is to have someone testify that they've seen others steal federal antiquities. In the case of the recent search warrants, Early Shumway [a distant relation of Devar Shumway], a convicted Blanding pothunter, agreed to provide information against others in exchange for two years probation instead of a prison sentence. Federal agents also have launched an undercover "sting" operation in southeastern Utah; to date no arrests have been made.

Fred Blackburn works at the White Mesa Institute in Cortez. Colo., an auxiliary of the College of Eastern Utah. In the late '70s he was the BLM's chief ranger at the Grand Gulch primitive area, an archeologically rich canyon popular with visitors. He was responsible for patrolling the entire San Juan Resource Area, 2.2 million acres that includes San Juan County [and the town of Blanding] in southeastern Utah. He claims that while he was a ranger, he repeatedly pointed out the need for two things: increased law-enforcement funding to stem pothunting and a program to educate people about the value of what is being lost to vandals and looters. His memos from that time bear him out. "We were there to make it appear as if we were doing something," he says. "But the BLM constantly undercut our effectiveness by telling us there were places we couldn't go or things we couldn't do."

Yet it was only in 1984 that the two BLM rangers who came after Blackburn in the San Juan Resource Area received law-enforcement authority that allowed them to make arrests. Even U.S. Atty. for Utah Brent Ward says the problem came to his attention only in 1984 after he saw newspaper articles on it.

In spite of the recent attention paid to enforcement of federal antiquities laws, Blackburn says the BLM still is doing relatively little to enforce the law. "They simply have not budgeted enough money," he says.

Frank Snell, chief of the BLM's Division of Recreation, Cultural Resources and Wilderness in Washington, D.C., says Congress is partly to blame. "The BLM has only had law-enforcement authority for 10 years," he says. "We couldn't have done anything before then." Since that time, however, he says, "There has been a great reluctance to go overboard with law enforcement. It's easy to sit back now and say, 'Why don't we have more agents?' The fact is, there was great reluctance to do even what we were doing with regard to law enforcement." He says BLM officials do not feel that the agency should handle law enforcement. However, he agrees that other arms of the federal government should be given more money for that task.

U.S. Sen. Pete Domenici [R., N.M.], a member of the Public Lands and Reserved Water and Resource Conservation Subcommittee of the Senate Energy Committee, also believes there is a problem with enforcement. After hearings on the antiquities issue last October in Albuquerque, he said, "In my opinion, the hearing showed that there is not a problem with the law but with its enforcement and implementation." GAO investigators will say only that they are looking into a broad range of allegations concerning federally owned antiquities.

Winston Hurst, an archeologist in Blanding who works at the Edge of the Cedars Museum there, says the recent searches were merely window dressing and not a serious attempt to stem the problem. Moreover, he thinks heavy-handed police action may cause residents to damage sites out of anger. Indeed, there were threats to dynamite the sites shortly after the raids. Meanwhile, other arrests have been made in Arizona and New Mexico.

Though Blackburn and others are pleased with the recent crackdown, they agree that the effort will have little lasting effect on the overall black market. They say a long-term undercover investigation is needed to ferret out major antiquities dealers, who, because of the prices they pay, are the people who make looting a lucrative pastime for local pothunters.

Brent Ward and San Juan County Sheriff Rigby Wright, who also enforces laws against pothunting, acknowledge the need for a major undercover operation. The problem, however, is a familiar one. "Who's got half a million dollars lying around?" says Wright.

Ronald Weber of the Field Museum comments, "I think it's very difficult for the government. It would be like stopping the cocaine trade. It would be extremely expensive. The most important thing is to get to the museums [that are buying the illegal pieces] and discourage their purchases. You have to eliminate the market. As long as there's a market, it will be supplied."

Whatever the criticism, Rich Fike, BLM archeologist in Utah, insists that his office is committed to the protection of archeological resources. "We definitely have a commitment to the resource," says Fike. "Our problem is we have 23 million acres and 12 archeologists. We just don't have the money and resources to do it." Similarly, the federal Office of Surface Mining has only two archeologists to oversee cultural resources in coal mines in 22 Western states.

But some critics say that law enforcement is only one area in which federal land management agencies have neglected cultural resources. In some arms of the BLM and the Forest Service there seems to be an unwillingness or inability to recognize the impor-

tance of archeological resources when carrying out development projects, they say. Federal agencies, by their own admission, have undertaken development projects that have destroyed or led to the destruction of large numbers of sites in the process, although pothunting, by all accounts, takes the most serious toll on artifacts.

"There's a real 'They're only Indians' attitude that prevails toward cultural resources," Blackburn says.

Says Chris Kincaid, a former BLM archeologist who now works for the National Park Service at the Glen Canyon National Recreation Area in Utah: "[Cultural resources] are one of those esoteric resources that most managers have a difficult time dealing with."

Utah BLM director Roland Robison disagrees. "There are thousands of these sites," he says. "If we were to attempt to conserve and preserve and watch out for all of them, why there isn't enough money in the Treasury to do all that."

A common land-clearing technique in the cedar, sagebrush and juniper-studded plains of the Southwest is called "chaining." A chain with large links is fastened between two D-9 Caterpillar tractors. Dragged over the ground, the chain cuts down everything in its path—trees, shrubbery and, in the case of Alkalai Ridge, in San Juan County, Anasazi sites.

In 1985 a firm called Woods Canyon Archeological Consultants prepared a study for the BLM on cultural-resources damage on Alkalai Ridge in southeastern Utah. The area is important archeologically, as well as for energy and livestock development.

The consultants identified 99 sites in a 400-acre sample area, the majority of which were Anasazi. Forty-seven of those 99 sites, according to the report, had been disturbed to some degree. Fourteen of the sites were disturbed by energy development, including road building and seismic line construction. [Oil exploration uses sound waves from underground explosions to read subterranean formations, a technique similar to sonar.] The most disturbances were from chaining, the report says, 34 of 99 sites having been damaged to create areas for livestock grazing, which is marginal at best in this dry, sparse country. Twelve sites on the Alkalai Ridge study area went damaged by vandals.

Jerry Fetterman, one of the two archeologists who did the Alkalai Ridge study, says destruction of the sites from chaining is not unusual. "Alkalai Ridge was one of many mesas they chained," he says, "and they disturbed quite a bit of stuff."

BLM archeologist Rich Fike points out however, that the chaining on Alkalai Ridge was done in 1969, before a moratorium on and study of the practice. Chaining is still practiced in Utah, Fike says, but the technique "is not near the problem it used to be because they leave islands of trees [around the sites to protect them]," he say.

Utah BLM director Robison agrees that the BLM has come a long way since it chained land indiscriminately. "In the earlier days there wasn't the concern, sensitivity and awareness of cultural resources," he says.

But the protection of sites can be only as good as the archeological survey of each area before it is chained. Adele Smith works with the Southern Utah Wilderness Alliance in Springdale, Utah, a public-interest group that monitors and lobbies for the protection of wilderness and cultural values on public land. She believes surveys are all too often hasty and incomplete.

"Because [areas to be chained] are in dense pinyon forests, the sites are difficult to count," she says. "So surveys are difficult to do prior to chaining. And there's no way you can go in afterward and get an accurate count." She believes many surveys are cursory and that as a result many sites end up being destroyed.

Even if the sites are properly marked and preserved, there is still a problem. "In a county as sophisticated as San Juan," she says, leaving a site with an island of trees around "is an open door for vandalism." The solution is to leave "decoys," she says, islands of trees in areas with no sites to confuse the pothunters.

Although the value of an archeological site is diminished by disturbance, it is not totally lost—depending on what happens after the disturbance. If a site is closed up and protected from erosion and other destruction, it still can yield material for archeological interpretation.

On the Arizona Strip, a large area north of the Grand Canyon and south of St. George, Utah, vandalism and theft of prehistoric material has escalated recently—largely, some speculate, because of the crackdown on San Juan County. Pothunters have moved west.

Greg Woodall, of Hurricane, Utah, who has worked for the BLM in the past and as an archeological consultant, is now working as a volunteer to try to stem some of the vandalism in the area. Provided with a federal truck, meal money and a credit card, he has patrolled some of the hardest-hit sites. One of Woodall's biggest complaints is that after the sites have been looted—he estimates those to be in the hundreds—they simply are left to deteriorate further. Even after numerous memos to superiors. Woodall says, nothing has been done to mitigate the losses. "Disturbed sites have not been reclaimed—at all," he says. "Human remains have not been reinterred. And it's all subject to erosion." The situation is the same throughout the Four Corners, archeologists say.

Woodall says that there has been no baseline study of what Anasazi sites exist. And since the vandalism started in earnest—which he thinks is linked to an influx of people following a uranium boom on the strip—much of the stuff will disappear, and no one will ever know what was there."

"That's correct," says Jennifer Jack, resource area archeologist for the Arizona Strip, and Woodall's superior. "There's no money to do any of that. Period. It's frustrating for all archeologists." Responsible for 2.7 million acres, Jack has a budget of $50,000 this year, excluding her salary. She says it is the highest budget ever.

Preservation officials in Santa Fe claim to have similar—if not broader—problems in the national forests in Texas, Arizona and New Mexico, which comprise Region III of the U.S. Forest Service. In 1984 the New Mexico State Historic Preservation Office, which monitors and protects historic sites, including those on federal land, filed suit against Region III alleging that the Forest Service had violated federal law by failing to prevent the destruction of cultural resources during logging and replanting operations.

After filing suit, according to director Thomas Merlan, the state agency, during the discovery process, uncovered even further abuses by the Forest Service. "There were hundreds of procedural violations—failure to consult with us before projects were undertaken," Merlan says. "And there were dozens of actual cases of site damage and destruction." Many of the sites damaged, he says, were thousands of years old. He says the abuses took place throughout Region III.

As a result of the suit, the state and the federal government in 1985 reached a detailed out-of-court settlement that set down guidelines for the Forest Service to follow in the future. The document was sent to the Department of Justice for approval. In June, however, the Justice Department rejected the agreement, claiming that it "impinged upon exercise of agency [the Forest Service's] discretion" and also objecting to the provision that the court would serve as arbiter of any disputes arising from the agreement. In July the Justice Department indicated that a compromise was possible. Merlan hopes to get further word later this month.

Region III archeologist Judy Proper admits that there were problems in the national forests. "There was no doubt there were numerous procedural compliance violations and that some sites had been damaged," Proper says. "I don't know how many." She adds, however, "Since 1984 the region has taken a lot of steps to improve its program. We think we've made a lot of progress."

Another example of federal negligence, says Utah state archeologist Dave Madsen, is that the U.S. Housing and Urban Development [HUD] office in Utah does no surveys where homes it is funding are being constructed, a violation of federal law. "They refuse to do anything," Madsen says.

Dick Bell, manager of Utah's HUD office, acknowledges that his office does no archeological survey work. "We've never been required to talk to people about these kinds of things," he says.

Madsen says his office is aware of discussion in the state's archeological community to take action to stop this and other instances of abuse of antiquities laws and to enhance preservation.

The real damage from the theft of archeological artifacts and the destruction of ancient cities and villages is not the disappearance of the artifacts but the damage to the myriad clues archeologists put together to interpret history.

Take the case of Bighorn Cave, deep in the Black Mountains of the Mojave Desert, outside of Kingman, Ariz. Cut in the rock of a narrow canyon, the large cave, cool in spite of 100-degree temperatures outside, has long served as a home to the Mojave Indians, perhaps as long as 5,000 years ago.

The Mojave, who were contemporaries of the Anasazi, probably lived in the cave while hunting mule deer and bighorn sheep. Because the cave has been vandalized in recent years, the BLM, which owns the cave, along with archeologists from Northern Arizona University and the Museum of Northern Arizona, both in Flagstaff, decided to excavate the cave before more material was lost.

It is a dry cave, and artifacts discovered in the cave after only a small amount of excavation have begun to shed light on the Mojave culture, says Don Simonis, BLM archeologist in Kingman. Researchers found a roasting pit in the cave, where the hunters cooked and ate their game, along with thousands of bone fragments. They also uncovered a delicate bird-bone necklace, a bone awl, a yucca sandal with a buckskin toe and a host of small split-twig figurines fashioned out of desert willow trees. "The Mojave had put these figurines, which were representa-

tions of mountain sheep, under rocks and in the back of the cave," Simonis says. "We think it was part of a ritual that guaranteed them success in hunting."

Simonis says it is fortunate that archeologists got to the cave before vandals who have unearthed items from the cave for some 30 years forever wiped out the prehistoric record, as they have done in most other dry caves. "There's a chance here to really fill out the culture of these archaic people who were hunting here 3,000 to 4,000 years ago," he says.

A dry cave is something like a time capsule, the archeologist says, because each layer of soil is deposited chronologically and each holds clues to reconstruct the past. Pollen analysis, for example, is currently being done on soil taken from the cave. "We can reconstruct the environment—what species of plants were in the area and what plants Indians were utilizing," Simonis says. "We can tell what it was like 4,000 years ago—we can tell whether there were pine trees, for example, or whether it was cooler than today. "We estimate there are 15 different layers here," he says, "which represent different time periods." Preliminary analysis of human fecal samples from the cave shows that, along with meat, the Mojave were eating the inner parts of cactus, as well as lizards and birds.

The relationship of the different objects also holds important information. As Simonis explains, "Many times a single artifact by itself tells us very little. If we find a rock, it's just a rock. However, if we find three rocks together, we know they were a 'fire dog' [a structure used in cooking]." Says the Field Museum's Weber, "We're interested in the context of a piece more than the artistic merit of a pot. It's that information that allows us to reconstruct cultural history."

If the looting had continued, interpretation of the cave materials would have been impossible. The result, says Utah archeologist Winston Hurst, is chaos. "All of the soil matrix that contains vast amounts of information—how these people were living, what kinds of foods they were eating, the environment—becomes mixed and randomized [when a cave is vandalized]. It's gone, it can never be recovered, and no one will ever be able to unscramble it. It's even more tragic when you realize that there is no other record for some of these cultures. We have written records for less than 1 percent of the human experience. The rest we can understand only through archeology. These guys [pothunters] are out destroying that record. It's terminal."

What is the answer to what appears to be widespread destruction and theft of America's little-known past?

A critical element in a policy of protection would be a change in federal law, says Utah state archeologist Madsen. "We have to deal with the problem directly. If you can document that an artifact came from private land, fine, you can sell it. But it should be incumbent on the seller to prove that it came from private land." Currently it's up to the authorities to prove it came from federal land.

Many museums won't buy objects that have not been properly excavated. David Hurst Thomas, anthropological curator at the American Museum of Natural History in New York, says the museum purchases very few pieces. When it does, he says, "It would have to be established that the piece was removed from the site according to scientific and legal guidelines."

The real problem, according to Madsen, is small private museums that do not adhere to the code of ethics that governs the conduct of the larger museums. Madsen says there are even some private museums that have been set up to receive artifact donations and then provide the donor with inflated tax writeoffs. Though he refused to cite any museums specifically, he says, "There are a great many museums that do that." Even more than the museums, however, it is the private collectors who are keeping the black market healthy, officials say.

Most major museums in the country have Anasazi collections, says New Mexico state archeologist Kurt Schaafsma, but almost all were were acquired in the early part of the century. Weber at the Field Museum says the vast majority of the museum's Anasazi collection was excavated between 1930 and 1950 by then-curator Paul Marin, who received government permission for the digs. "Our collections are all documented," Weber says. "We would not acquire any object that was removed from an archeological site in the U.S. illegally or detrimentally." Today, he adds, the museum has little interest in expanding its Anasazi collection, preferring, given the museum's limited acquisition budget, to acquire pieces "with more scientific value."

Weber says he finds the looting of the sites in the Southwest and purchase by museums of the illegal pieces "just disgusting to us. We're vehemently opposed to it."

The answer in the long term, many observers believe, is education: making people aware of the value of what they are destroying. "Law enforcement makes people stop digging," says Blackburn. "It makes them paranoid. But it doesn't make them appreciate the resource." He would like to see a comprehensive program to educate area schoolchildren about cultural resources.

Understanding and appreciation could come about by involving people who live in the Southwest in the archeological process and the knowledge that can be gained from proper techniques, says Hurst. It should also include making the people who buy pots, baskets and other items aware of what they are doing.

"People who buy to collect are fairly innocent about the implications," says Hurst. "They lack the concept that when they buy a pot for $300, they're financing the destruction of a piece of the cultural record of mankind."

Jennifer Jack agrees. On her own she has been talking to schoolchildren in St. George, Utah, and environs on what analysis and interpretation of these artifacts can reveal. She also believes that a public-interest group for archeology should be formed and has taken steps in that direction herself. "There's no National Friends of Archeology or anything like that," she says, "and the BLM responds to public input. We're trying to build these little groups up."

Whether any effective remedy will come in time is anybody's guess. Some say it is already too late. Winston Hurst believes that the very fact that these resources are now so rare may, ironically, be their undoing. "There's a sense of calm, eye-of-the-storm situation here," he says of Blanding. "People waiting, a sense of imminent explosion simply because everyone wants to have participated in the great sport it is to go out and find artifacts. It's fun. It's an Easter egg hunt unsurpassed.

"There's a sense that the opportunity to do that is essentially gone. There's a sense, given half a reason or given the slightest encouragement, that there's an army waiting to blast out onto the landscape and frantically go for that last remnant."●

INFORMED CONSENT: KENTUCKY

● Mr. HUMPHREY. Mr. President, women have the right to know before undergoing an abortion, the risks and alternatives that exist. I urge my colleagues to help women get these facts by supporting S. 272 and S. 273. I ask unanimous consent that a letter from a woman in Kentucky be inserted in the RECORD.

The letter follows:

COVINGTON, KY,
June 5, 1986.

Senator HUMPHREY,

I wish to thank you for your support in the fight to stop abortion and to get to the floor of the Senate a bill to make them inform any woman of its effects.

I've had an abortion!

My husband was a drunk. I already had two children. I just couldn't think of having other babies.

I didn't know anything about abortion. My friend took me to a doctor. All I really knew is that I wanted to have my period.

He gave me drugs and took my baby from me. I started to bleed when I got home. I almost bled to death. I had no help, nowhere to turn. I did get through that, but my health was never good again.

This was not the worst. The psychological effects were the worst. There was guilt—I was suicidal when I lay down at night and I heard babies crying. I was full of anger and rage and had no self-esteem. Regret and remorse stayed with me.

Thank God for saving me. It breaks my heart to think of how many girls are suffering the way I did.

So please see to it that they are informed before the abortion procedure. I pray for all those girls each day. I pray they will get help.

GAYE WEBSTER.●

DEATH OF WILLIE VELASQUEZ

● Mr. SIMON. Mr. President, it is my sad duty today to report to my colleagues that the Nation has lost an esteemed civil rights leader. I have learned that Willie Velasquez, the founder and president of the Southwest Voter Registration Education project, died of cancer yesterday at the age of 44.

The triumphs and toils of Willie Velasquez are legendary in the Hispanic community throughout the United States. Through the Southwest Voter Registration Education project, Willie Velasquez has organized Hispanics to register and vote in record numbers. Fully 25 percent of all Hispanics who are registered to vote have been attributed to the project's voter registration drives. Even though we have lost Willie Velasquez today, his importance will be felt for the rest of this century as Hispanics take full part in the American political process.

The project, which in recent years has begun to conduct voter registration and education in the Asian American community in California and for many years has worked with other minority organizations on ending unfair apportionment in the Southwest, has conducted over 1,000 voter registration drives in 200 cities throughout the Nation.

I am particularly pleased that Chicago is the home of the Midwest/Northeast Voter Registration Education project. We now have a record number of Hispanics elected to the Chicago City Council and in public offices nationwide. This is in fact a tribute to the diligence of Willie Velasquez and many others who have followed him.

I wish to express my condolences to his wife Jane and their three children.

ORDER OF BUSINESS

Mr. BYRD. Mr. President, I will not put the Senate out just yet. Mr. DOLE indicated that he would be back shortly, and I would like to get some word as to where we are on the welfare reform bill before going out.

But tomorrow I shall suggest that the Senate come in at 9:30 and we will have some morning business. At 10 o'clock the vote will occur on going to the bill S. 1323 to provide to shareholders more effective and fuller disclosure and greater fairness with respect to accumulations of stock and the conduct of tender offers.

That bill has been on the Calendar now since last December, and if we go to the bill, which I hope the Senate will, then immediately it would be my plan to go back to the welfare reform bill and finish action on that bill, if that can be done, before proceeding further with S. 1323. Several Senators have asked for some time in connection with the bill, and even though it has been on the Calendar now for these many months I want to give them the opportunity for a little time at least in preparing their amendments.

So beyond going to the bill in the morning, it would not be my plan to spend further time on that bill tomorrow. The Senate would return to the welfare reform bill and there may be other matters, which I will discuss with the distinguished Republican leader, which perhaps we could take up.

WITHDRAWAL OF CERTAIN PUBLIC LANDS IN LINCOLN COUNTY, NV

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4799.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4799) to extend the withdrawal of certain public lands in Lincoln County, Nevada.

The Senate proceeded to consider the bill.

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

The bill (H.R. 4799) was ordered to a third reading, was read the third time, and passed.

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

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

The motion to lay on the table was agreed to.

PREVENTION OF ABUSES IN THE SUPPLEMENTAL LOANS FOR STUDENTS PROGRAM

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 728, H.R. 4639, the higher education technical amendments bill.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4639) to amend the Higher Education Act of 1965 to prevent abuses in the Supplemental Loans for Students program under part B of title IV of the Higher Education Act of 1965, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 2381

(Purpose: To make certain technical and conforming amendments to the Higher Education Act of 1965.)

Mr. BYRD. Mr. President, I send an amendment to the desk in the nature of a substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] for Mr. PELL and Mr. STAFFORD, proposes an amendment numbered 2381.

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

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

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. PELL GRANT APPLICATION REQUIRED FOR GSL AND SLS LOANS.

Section 484(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(b)(1)) is amended—

(1) by striking out "section 428A, 428B, or 428C" and inserting "section 428B or 428C";

(2) by striking out subparagraph (A) and inserting the following:

"(A)(i) have received a determination of eligibility or ineligibility for a Pell Grant under such subpart 1 for such period of enrollment; and (ii) if determined to be eligible, have filed an application for a Pell Grant for such enrollment period; or".

SEC. 2. GSL LOAN APPLICATION REQUIRED FOR SLS LOANS.

Section 484(b) of the Higher Education Act of 1965 is further amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2) In order to be eligible to receive any loan under section 428A for any period of enrollment, a student shall—

"(A) have received a determination of need for a loan under section 428(a)(2)(B) of this title; and

"(B) if determined to have need for a loan under section 428, have applied for such a loan.".

SEC. 3. DETERMINATION OF SLS LOAN AMOUNTS.

Section 428A(b)(3) of the Higher Education Act of 1965 (20 U.S.C. 1078-1(b)(3)) is amended by striking out "minus (B)" and inserting "minus (B) the total of (i) any loan for which the student is eligible under section 428 and (ii)".

SEC. 4. RESTRICTIONS ON SLS LOAN ELIGIBILITY.

Section 428A(a) of the Higher Education Act of 1965 (20 U.S.C. 1078-1(a)) is amended—

(1) in the last sentence, by striking "extenuating" and inserting "exceptional"; and

(2) by adding at the end the following: "If the financial aid administrator makes such a determination, appropriate documentation of such determination shall be maintained in the institution's records to support such determination.".

SEC. 5. SLS LOAN DISBURSEMENT.

(a) DISBURSEMENT REQUIREMENTS.—Section 428A(b) of the Higher Education Act of 1965 is further amended by inserting after paragraph (3) the following:

"(4) DISBURSEMENT.—Any loan under this section shall be disbursed in the manner required by subparagraphs (N) and (O) of section 428(b)(1).".

(b) CONFORMING AMENDMENTS.—(1) Section 427(b)(2) of such Act (20 U.S.C. 1077(b)(2)) is amended by striking out "section 428A, 428B, or 428C" and inserting "section 428B or 428C".

(2) Section 428(b)(1)(O) of such Act (20 U.S.C. 1078(b)(1)(O)) is amended by striking out "section 428A, 428B, or 428C" and inserting "section 428B or 428C".

(3) Section 428A(c) of such Act (20 U.S.C. 1078-1(c)) is amended—

(A) in paragraph (1), by inserting after "disbursed by the lender," the following: "or, if the loan is disbursed in multiple installments, not later than 60 days after the disbursement of the last such installment,";

(B) in paragraph (2), by inserting after "made under this section" the following: "which are disbursed in installments or,"; and

(C) in such paragraph (2) by inserting a comma after "428(b)(1)(M)(i)".

SEC. 6. TECHNICAL AMENDMENT CONCERNING TEACHER TRAINING PROGRAM ELIGIBILITY FOR GSL PROGRAM.

Section 484 of the Act is further amended—

(1) in subsection (a)(1), by striking out "subsection (b)(2)" and inserting in lieu thereof "subsections (b)(3) and (b)(4)"; and

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(2) by adding at the end of subsection (b) the following new paragraph:

"(4) A student who—

"(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution, and

"(B) is enrolled or accepted for enrollment in a program at an eligible institution necessary for a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State,

shall be, notwithstanding paragraph (1) of subsection (a), eligible to apply for loans under part B of this title.".

SEC. 7. TREATMENT OF TERRITORIAL AND FOREIGN TAX PAYMENTS FOR PURPOSES OF NEED ANALYSIS.

(a) PELL GRANT NEED ANALYSIS.—Section 411F of the Higher Education Act of 1965 (20 U.S.C. 1070a-6) is amended by adding at the end thereof the following:

"(17)(A) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as United States income taxes.

"(B) References in this subpart to the Internal Revenue Code of 1986, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in subparagraph (A), be treated as references to the corresponding laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may prescribe by regulation.".

(b) GENERAL NEED ANALYSIS PROVISIONS.—Section 480 of the Higher Education Act of 1965 (20 U.S.C. 1087vv) is amended by adding at the end thereof the following:

"(i) TREATMENT OF INCOME TAXES PAID TO OTHER JURISDICTIONS.—(1) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as Federal income taxes.

"(2) References in this part to the Internal Revenue Code of 1986, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in paragraph (1), be treated as references to the corresponding laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may prescribe by regulation.".

(c) TECHNICAL AMENDMENT.—The Higher Education Act of 1965 is amended by striking out "Internal Revenue Code of 1954" each time it appears and inserting in lieu thereof "Internal Revenue Code of 1986".

SEC. 8. ROBERT T. STAFFORD STUDENT LOAN PROGRAM.

Section 421(c) of the Higher Education Act of 1965 (as amended by section 2601 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988) is amended by striking out "may" and inserting in lieu thereof "shall" and by adding at the end thereof the following new sentence: "Loans made under this part shall be known as 'Stafford Loans'.".

SEC. 9. MICRONESIA PROVISION.

Section 105(h) of the Compact of Free Association Act of 1985 (99 Stat. 1794) is amended by adding at the end thereof the following new paragraph:

"(5) FEDERAL EDUCATION GRANTS.—Pursuant to section 224 of the Compact or section 224 of the Compact with Palau (as contained in title II of Public Law 99-658), the Pell Grant Program, the Supplemental Educational Opportunity Grant Program, and the College Work-Study Program (as authorized by title IV of the Higher Education Act of 1965) shall be extended to students who are, or will be, citizens of the Federated States of Micronesia, or the Marshall Islands and who attend postsecondary institutions in the United States, its territories and commonwealths, the Trust Territory of the Pacific Islands, the Federated States of Micronesia, or the Marshall Islands, except that this paragraph shall not apply to any student receiving assistance pursuant to section 223 of the Compact or section 223 of the Compact with Palau (as contained in title II of Public Law 99-658).".

SEC. 10. AMENDMENTS TO TITLE III.

(a) HISTORICALLY BLACK COLLEGE ELIGIBILITY FOR PART A FUNDS.—Section 312 of the Higher Education Act of 1965 (20 U.S.C. 1058) is amended by adding at the end thereof the following new subsection:

"(f) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—For the purposes of this section, no historically black college or university which is eligible for and receives funds under part B of this title is eligible for or may receive funds under this part.".

(b) NEW PART B ACTIVITIES.—Section 323(a) of the Higher Education Act of 1965 (20 U.S.C. 1062) is amended—

(1) by inserting a comma and "and faculty development" after "exchanges" in paragraph (3); and

(2) by inserting after paragraph (6) the following new paragraphs:

"(7) Funds and administrative management, and acquisition of equipment for use in strengthening funds management.

"(8) Joint use of facilities, such as laboratories and libraries.".

(c) TITLE III ELIGIBILITY.—Section 322(2) of the Act is amended—

(1) by adding a comma after the word "accreditation"; and

(2) by inserting the following before the period at the end of the sentence a comma and the following: "except that any branch campus of a southern institution of higher education that prior to September 30, 1986, received a grant as an institution with special needs under section 321 of this title and was formally recognized by the National Center for Education Statistics as a Historically Black College or University but was determined not to be a part B institution on or after October 17, 1986, shall, from the date of enactment of this exception, be considered a part B institution".

SEC. 11. INTERNSHIP DEFERMENT.

(a) IN GENERAL.—Sections 427(a)(2)(C)(vii) and 428(b)(1)(M)(vii) of the Act are each amended by inserting "after January 1, 1986," after "service".

(b) APPLICABILITY.—The amendments made by subsection (a) and section 10(b) of the Higher Education Technical Amendments Act of 1987 shall apply with respect to loans made, insured or guaranteed under part B of the Higher Education Act of 1965, on, before, or after the date of enactment of the Higher Education Technical Amendments Act of 1987.

SEC. 12. DELAY OF REGULATORY EFFECTIVE DATE.

Section 600.3 (c) and (d) of title 34 of the Code of Federal Regulations, relating to new special conditions imposed on an institution's authority to measure academic programs in clock or credit hours, shall not take effect until July 1, 1989.".

SEC. 13. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as otherwise provided, the amendments made by this Act to title IV of the Higher Education Act of 1965 shall be effective for any loan for which the eligibility of the borrower is certified by the institution 30 days after the date of enactment of this Act.

(b) SPECIAL RULES.—(1) The amendments made by section 5 shall be effective with respect to loans made on or after October 1, 1988.

(2) The amendments made by sections 6, 7, 8, 9, 10, 11, and 12 shall take effect on the date of enactment of this Act.

Mr. PELL. Mr. President, H.R. 4639 makes several important changes in the Higher Education Act. First, it tightens several loopholes in the Supplemental Loans for Students Program. If continued without change, these loopholes could become very costly.

Second, it makes a technical correction to clarify that students who have already completed their bachelor degrees remain eligible for Stafford loans if they return to school in order to obtain teaching credentials.

Third, this bill clarifies congressional intent on how territorial and foreign taxes are to be considered in student needs analysis.

Fourth, it delays for 1 year some rather controversial clock hour regulations that would otherwise go into effect this July.

Finally, it delineates institutional eligibility under parts A and B of title III, Institutional Aid.

In addition to the changes in the House-passed bill, this amendment would also correct several other problems in the Higher Education Act. Included are:

A technical correction to the naming of the Robert T. Stafford Loan Program;

A provision restoring eligibility for Pell grants, supplemental educational grants and college work-study to the citizens of Micronesia, the Marshall Islands, Palau, and the Trust Territories of the Pacific Islands;

A provision clarifying congressional intent on Stafford loan deferments for medical residents; and

A provision restoring title III, part B eligibility to the University of Shreveport in Louisiana. This eligibility was inadvertently dropped when we put a new definition of part B institutions in the Higher Education Act of 1986. The University of Shreveport was the only institution in the country that was previously eligible under this program but lost eligibility because of the manner in which we wrote that definition.

These amendments have been made in consultation with my colleagues on the Senate Subcommittee on Education, Arts, and Humanities and with the appropriate Members of the House of Representatives. I strongly recommend their passage.

Mr. STAFFORD. Mr. President, I would like to express my support for H.R. 4639, the higher education technical bill, and to ask my colleagues to pass this measure promptly. The purpose of this legislation is to correct several problems which have arisen in the administration of the Federal Student Financial Aid Programs with the implementation of the 1986 amendments to the Higher Education Act.

A major change initiated by the 1986 amendments was the codification of the needs analysis system used to determine eligibility for Federal assistance for postsecondary education. H.R. 4639 will correct errors in regulatory interpretation of this new congressional methodology, clarify certain provisions of law, and eliminate potential abuses of the system. It is legislation which will protect the interests of students as well as the Federal Government and allow the system to operate as intended by the Congress.

Most importantly, this bill will prevent abuse of the Supplemental Loans for Students [SLS] Program by restricting easy access by students who are in fact eligible for grants or subsidized Stafford loans. Passage of this legislation will mean that if a student qualifies for a Pell grant or a Stafford loan, those awards must be made before a student is eligible to receive the more expensive SLS loan. The Congress intended that the SLS Program complement other Federal student assistance. Unfortunately, it appears that some schools and lenders have instead encouraged students to borrow SLS loans without consideration of need based aid. Though the Federal Government does not pay interest or special allowance on the SLS loans, a 100-percent guarantee means the Government is responsible for all defaulters.

SLS loans can provide up to $4,000 per year to students. The interest rate on these loans is 12 percent, compared to 8 percent for a Stafford loan. The Department of Education estimates a $1.8 billion SLS loan volume this fiscal year. Compared to the $200 million borrowing volume in fiscal year 1986 and approximately $500 million in fiscal year 1987, this is quite an alarming figure. In the first quarter of fiscal year 1988 alone, the SLS loan volume was higher than the entire previous year—$515 million. What is the explanation for this staggering increase in borrowing? Quite simply, we have restricted access to the federally subsidized Stafford Loan Program and required lenders to disburse those loans in multiple payments to curb defaults. It is time we put the same restrictions on the SLS Program. The amendments included in H.R. 4639 will curtail these practices and restore the SLS Program to the supplemental loan status it was intended to serve.

Several other technical corrections are made in this bill. One will permit the American protectorates to continue to count their State income tax as Federal income tax for the purposes of the Federal needs analysis. The continued eligibility of Micronesian students is also clarified in this legislation. We have also corrected a regulatory interpretation pertaining to the deferment status of medical residents which has resulted in the inequitable granting of 2-year deferments. Finally, H.R. 4639 prohibits historically black colleges and universities, which receive allotments under part B of title III of the Higher Education Act, from competing for awards under part A. This is a change which has the support of the entire education community and will result in a more equitable distribution of funds to eligible developing institutions.

I urge my colleagues to vote for quick passage of this important legislation.

Mr. KENNEDY. I rise to support H.R. 4639, the higher education technical bill. The changes made in this legislation are necessary to clarify congressional intent arising from the higher education amendments of 1986 and the higher education technical amendments of 1987. In addition, this bill will correct a problem involving the supplemental loans for students [SLS].

This bill will ensure that eligible students receive financial assistance under the Pell Grant and Stafford Student Loan—formerly guaranteed student loans—Programs before getting aid under the supplemental loan for students program. The Labor Committee is convinced that too many students who are eligible for need based aid are being encouraged to borrow under the unsubsidized—and therefore more expensive—SLS Program. SLS loans are designed to supplement existing student aid programs. This bill will require that eligible students receive a Pell Grant and Stafford student loan before receiving a supplemental loan. In addition, lenders will be required to make multiple disbursements under the SLS Program, as they now are under the Stafford Student Loan Program.

The committee wishes to emphasize that the goal of this change is not to restrict access to the SLS Program for undergraduate, graduate or professional students. Rather, the intention is simply to make certain that all eligible students receive money from the need-based student aid before they borrow under the more expensive SLS Program.

This bill also clarifies congressional intent surrounding the internship deferment for medical residents under the Stafford Student Loan Program. This provision is designed to ensure that medical residents receive a 2-year deferment on their Stafford student loans, regardless of when the loans were made. This issue has been confused because of the way in which the Department of Education interpreted congressional intent. Let our intent be clear: Eligible medical residents are to receive a 2-year deferment.

Among other changes, this bill clarifies eligibility for Federal student financial assistance for students who are citizens of the Federated States of Micronesia. The bill also prohibits institutions eligible to receive grants under part B of title III of the Higher Education Act from receiving grants under part A of title III.

Mr. President, this is a very technical bill but it makes needed changes in the Federal Government's higher education programs. I urge my colleagues to join me in supporting it.

Mr. JOHNSTON. Mr. President, I strongly support this effort to restore eligibility for Pell grants, supplemental educational opportunity grants and College Work-Study Programs to Micronesian students under the terms of the Compact of Free Association Act.

As chairman of the Committee on Energy and Natural Resources I have had a long interest in our Nation's relationship with the people of Micronesia. That relationship has recently undergone a dramatic change with the implementation of the Compact of Free Association. Under the compact, the previous relationship which was governed by the terms of the United Nations Trusteeship Agreement, has been replaced by a more mature relationship under which the people of the Federated States of Micronesia and the Republic of the Marshall Islands gain full self-government as nations in free association with the United States. It is my expectation that this new relationship will also be established with the Republic of Palau before the end of the year.

In the year and a half that the compact has been in effect it has worked remarkably well. It provides a framework which allows more effective resolution of issues than did the trusteeship agreement. Of the main issues which have arisen during the period of transition since compact implementation, most have been resolved without legislation. One problem which we have been unable to resolve, however, is assuring the adequacy of the educational programs in these new nations. After 15 years of development and in all of its hundreds of pages of law and subsidiary agreements, the compact has, remarkably, revealed only this one major deficiency.

The amendment offered today will go a long way toward resolving this deficiency. By restoring post-secondary education grant programs we will assure Micronesian students from the Freely Associated States access to the best college education which our nation has available. Moreover, this policy will indirectly strengthen the primary and secondary education programs in the Freely Associated States by allowing the local governments to concentrate their resources and efforts on those more basic needs.

It is important to note that this amendment does not restore post-secondary education loan programs which Micronesian students received just 2 years ago under the trusteeship. Officials of the Freely Associated States appreciate the need to assume greater responsibility under the compact and they have therefore limited their request for amendment of the compact to post-secondary education grants only.

This amendment is also good for the United States. The reason for this is so obvious that I am a little embarrassed that our Government did not recognize this sooner. This amendment is good for the United States because encouraging Micronesians to attend college in the United States is one of the most effective ways to achieve our goal of strengthening the ties between the United States and the Freely Associated States. Or, viewed another way, there is probably no more effective way to undermine the new relationship of free association than by having the students of Micronesia attend college, not in the United States, but in Japan, China, or some other nation. Students would then likely learn another language and culture and thus weaken their ties to the United States.

Mr. President, education is essential to the growth and maintenance of any nation. Providing access to the U.S. colleges for Micronesian students will greatly assist the Freely Associated States in meeting this essential need and it will strengthen the ties between our nations.

Just 2 weeks ago I had the pleasure of visiting the states of Pohnpei and Truk in the Federated States of Micronesia. I can tell you first hand that the compact is working, and it is working well. But, far and away the greatest concern of the officials I met with was education, and a desire to have these grants restored. This single amendment will go a long way to assuring the success of the compact and to assuring an enduring friendship between the United States and the people of Micronesia.

Mr. President, I would like to recognize the effort of my colleague, Senator McCAIN, on this amendment. He is a true friend of the people of Micronesia. I would also like to thank Senator PELL for his consideration and assistance on this amendment. As he is well aware, there is a great desire to get this legislation enacted in time for the next school year and his efforts to meet this time table are very much appreciated. Finally, I would like to recognize the efforts of the Representatives of the Freely Associated States here in Washington; Mr. Jesse Marehalau and Mr. Tom Bussanich of the FSM, and Mr. Wilfred Kendell of the Republic of the Marshall Islands. Their efforts have been essential to gaining passage of this provision.

Mr. STAFFORD. Mr. President, some questions have been raised concerning section 3 of this bill. I would like to ask Senator Pell to clarify the intent of this provision.

Mr. PELL. This clarifies a provision in the Higher Education Act that prohibits the total amount of aid a student receives from exceeding the cost of attendance at an institution. Specifically, depending upon their status, students may borrow up to $4,000 under the Supplemental Loans for Students Program. However, when combined with other forms of student aid, this amount cannot exceed the cost of attendance.

Mr. STAFFORD. In other words, if the cost of attendance at my school were $10,000 and I received a $2,000 Pell grant, a $3,000 SEOG, $400 in college work study and a $2,500 Stafford loan, I would still be eligible to apply for a supplemental loan of $2,100.

Mr. PELL. Yes, that is correct. But, if in that same situation the cost of attendance were $14,000 the student could not borrow above $4,000 because that is the supplemental loan limit.

Mr. STAFFORD. I thank the chairman for clarifying the intent of this provision.

Mr. McCAIN. Mr. President, I rise in strong support of a committee substitute to H.R. 4639, particularly the provision which would restore eligibility for Pell grants, supplemental educational opportunity grants, and college work-study programs to Micronesian students for the length of the Compact of Free Association.

The amendment has the support of the Senate Energy Committee, the Senate Subcommittee on Education, and the House Interior Committee.

It is critical to the future of Micronesia-United States relations that the young people of Micronesia have access to postsecondary education in the United States. It is imperative that the grant portion of United States assistance that has been available in the past to students from the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau be continued.

The amendment opens the door of education for many young people who would otherwise be unlikely to attend a college or university in the United States. It is vital to the social development of the islands to have their next generation of leaders well educated, and I believe it is vital to U.S. interests that they obtain that education in U.S. institutions. This simple amendment will make Micronesian students eligible to compete for postsecondary education grants during the 15 years of the compact, which, coupled with scholarship support from their own governments, will at least give them a chance at an advanced education.

The Federated States of Micronesia and the Republic of the Marshall Islands have only recently emerged from nearly 40 years as a United Nations trust territory administered by the United States to their new political status as Freely Associated States. This status will soon be shared by the Republic of Palau.

Over these 40 years the United States and the people of Micronesia have developed a deep friendship. The Micronesian people share with us the values of freedom and democracy. As a result, the people of Micronesia have freely chosen for their future political status association with the United States. This association is defined in the Compact of Free Association as enacted by Congress under Public Laws 99-239 and 99-658. These laws detail our Nation's continuing commitment to the social and economic development of the Freely Associated States.

Section 224 of the compact states that the United States and the Freely Associated States may agree to the extension of additional U.S. grant and program assistance. In other words, this relationship is to be flexible to respond to changing needs. I am not suggesting that we extend programs casually and without careful consideration and I recognize that it is essential for the Freely Associated States to develop self-sufficency. However, I feel we have a special obligation with respect to education. It is only with a strong educational program that the Freely Associated States will develop the skills and leadership necessary to achieve this self-sufficiency. The Freely Associated States without this amendment will at best only be able to provide for the university education of 10 percent of their high school graduates.

On June 9, 1987, the Congress of the Federated States of Micronesia formally requested extension of these programs. The President of the Federated States of Micronesia reiterated the importance of the request in his state of the nation address on May 12, 1988. I believe it is incumbent on us to consider this request in recognition of their need, and in the spirit of friendship for which the compact stands.

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

ing to the amendment in the nature of a substitute.

The amendment (No. 2381) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 4639), as amended, was passed.

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

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

The motion to lay on the table was agreed to.

MEASURES PASSED TODAY

Mr. BYRD. Mr. President, does the distinguished Republican leader have any further statements or any further business?

Mr. DOLE. No further business, no further statements.

Mr. BYRD. I thank the distinguished Republican leader. I thank him for his cooperation and his good work.

I think the Senate has done well today. It has passed the energy-water appropriations bill, the military construction appropriation bill, the congressional coin bill, with the FSLIC moratorium language attached, and has set a vote for moving to the corporate takeover bill on tomorrow.

ORDERS FOR TOMORROW

RECESS UNTIL 9:30 A.M.

Mr. BYRD. Mr. President, for the moment, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 tomorrow morning.

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

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on tomorrow, there be morning business until the hour of 10 o'clock a.m. and that Senators may speak during that period for morning business for not to exceed 5 minutes each.

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

VOTE AT 10 A.M. TOMORROW

Mr. BYRD. Mr. President, the rollcall vote tomorrow morning at 10 o'clock will be a 15-minute rollcall vote. I ask unanimous consent that the call for the regular order be automatic at the expiration of the 15 minutes.

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

PROGRAM

Mr. BYRD. Mr. President, under the order that was previously entered, the pending business, S. 1511, Order No. 711, will retain its status as pending business notwithstanding the Senate's adoption of motions to proceed to other matters. So that will remain the pending business, and that will be the inside track so far as I am concerned, hoping we can complete action on it tomorrow and go to other matters. Senators should be aware again that it would not be my intention to go further with the corporate takeover bill tomorrow beyond the motion to take it up.

Mr. President, there is another measure on which I shall alert Senators that may be taken up—I want to discuss this with the distinguished Republican leader—Calendar Order No. 690, S. 1966, a bill to amend the Public Health Service Act to improve information and research on biotechnology and the human genome, and for other purposes.

Also, I should reiterate the statement that I made the other day in respect to nominations on the Executive Calendar. There are certain nominations that have been on the Executive Calendar since February. There are several nominations that were reported by the committee and placed on the Executive Calendar on February 17 of this year, and they are holding up other nominations. So Senators might anticipate at any time a motion to go to the executive calendar to take up those nominations.

Also, Mr. President, I want to alert Senators to the probability of my moving to take up H.R. 1495, the Great Smokey Mountains Park wilderness bill at some point soon. I have indicated to the distinguished Republican leader my intentions to try to go to that bill in the near future, and I have also indicated to the North Carolina Senators and Senator SASSER from Tennessee that it would be my intention at some point to go to that bill, or trying to go to it.

So I want to state for the record now that it is my intention to attempt to take up that bill within the very near future. It could be tomorrow, or the next day or the next day. But I urge Senators who are interested in that bill to be prepared for my effort to take it up.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

RECESS UNTIL 9:30 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 9:30 tomorrow morning.

The motion was agreed to; and at 6:53 p.m., the Senate recessed until tomorrow, Thursday, June 16, 1988, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 15, 1988:

THE JUDICIARY

ROBERT C. BONNER, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE PAMELA ANN RYMER, UPON ELEVATION.

DEPARTMENT OF ENERGY

JOSEPH F. SALGADO, OF CALIFORNIA, TO BE DEPUTY SECRETARY OF ENERGY, VICE WILLIAM F. MARTIN, RESIGNED.

DONNA R. FITZPATRICK, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY OF ENERGY, VICE JOSEPH F. SALGADO.

EXECUTIVE OFFICE OF THE PRESIDENT

DANFORD L. SAWYER, JR., OF FLORIDA, TO BE A MEMBER OF THE ADVISORY BOARD FOR RADIO BROADCASTING TO CUBA FOR A TERM EXPIRING OCTOBER 27, 1991 (REAPPOINTMENT).

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. EDWIN H. BURBA, JR. [redacted] U.S. ARMY.