SENATE—*Thursday, February 2, 1989*

(Legislative day of Tuesday, January 3, 1989)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

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

Let us pray:

Hear, O Israel: The Lord our God is one Lord: And thou shalt love the Lord thy God with all thine heart, and with all thy soul, and with all thy might.—Deuteronomy 6:4, 5.

Eternal God, "who giveth to all life and breath and all things * * *" we acknowledge Thy presence in this place. Let us not think of this moment as a routine formality which we do because it has always been done. We thank Thee that our Founding Fathers opened the Senate with prayer, not as a gesture but because they knew they needed to pray. Thank Thee for their insight, their wisdom, their vision which realized that, "If a sparrow could not fall to the ground without Your knowledge, an empire could not rise without Your blessing." Save us, Lord, from the spirit of tipping the hat to God and proceeding as though He is irrelevant. Keep us mindful of our constant, unending need of Thee.

To Thy glory, O Lord, and in Thy name we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized under the standing order.

THE JOURNAL

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

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators, I will describe my intentions regarding the schedule for the remainder of the day. I have consulted with the distinguished Republican leader and, following requests for unanimous consent which I will describe shortly, there will be a period for morning business until 2:45 p.m., at which time if the first unanimous-consent request, regarding the proposed nominations of four of the President's nominees, is approved, we will proceed to the consideration of those nominations, voting on them between the hours of 4:45 and 5:45.

We are presently seeking unanimous consent to then proceed to consideration of the resolution disapproving the recommendations of the Quadrennial Commission on executive, judicial and congressional pay raise. We hope to have that agreement shortly and, if it is approved, we will proceed to that at approximately 5:45 or 6 p.m. and hopefully conclude that matter this evening.

PROCEDURE ON CONSIDERATION OF NOMINATIONS TODAY

Mr. MITCHELL. Mr. President, as if in executive session, I ask unanimous consent that at 2:45 p.m. today, the Senate go into executive session to consider the nomination of Manuel Lujan, Jr., to be Secretary of the Interior, under a time agreement of 30 minutes equally divided between the Senator from Louisiana, Mr. JOHNSTON, and the Senator from Idaho, Mr. MCCLURE, or their designees; provided that no motions be in order and that at the conclusion or yielding back of time the nomination be temporarily laid aside and that the Senate proceed, without any intervening business, to the nomination of Michael J. Boskin, to be a Member of the Council of Economic Advisers, under a time agreement of 30 minutes equally divided between the Senator from Michigan, Mr. RIEGLE, and the Senator from Utah, Mr. GARN, or their designees; provided that no motions be in order and that at the conclusion or yielding back of time the nomination be temporarily laid aside and that the Senate proceed, without any intervening business, to the nomination of Jack Kemp, to be Secretary of Housing and Urban Development, under a time agreement of 30 minutes equally divided between the Senator from Michigan, Mr. RIEGLE, and the Senator from Utah, Mr. GARN, or their designees; provided that no motions be in order and that at the conclusion or yielding back of time the nomination be temporarily laid aside and that the Senate proceed, without any intervening business, to the nomination of William Kane Reilly, to be Administrator of the Environmental Protection Agency, under a time agreement of 30 minutes equally divided between the Senator from North Dakota, Mr. BURDICK, and the Senator from Rhode Island, Mr. CHAFEE, or their designees.

Provided further, that no motions be in order and that at 4:45 p.m., the Senate proceed without any intervening business to a 15-minute vote on the nomination of Manuel Lujan, and upon completion of that vote, the Senate proceed without any intervening business to a 15-minute vote on the nomination of Michael J. Boskin, and that upon completion of the vote, the Senate proceed without any intervening business to a 15-minute vote on the nomination of Jack Kemp, and that upon completion of the vote, the Senate proceed without any intervening business to a 15-minute vote on the nomination of William Kane Reilly.

Provided further, that upon the disposition of these nominations, the motion to reconsider, en bloc, be laid upon the table, the President be immediately notified of the confirmation of the nominations and the Senate return to legislative session.

The PRESIDENT pro tempore. Is there objection? The Chair hears none. That will be the order of the Senate.

Mr. MITCHELL. Mr. President, I ask unanimous consent that it be in order to request the yeas and nays on all four nominations with one show of seconds.

The PRESIDENT pro tempore. Is there objection to the request? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I now ask for the yeas and nays en bloc?

The PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered en bloc.

Mr. MITCHELL. Mr. President, I now yield to the distinguished Republican leader.

RECOGNITION OF THE REPUBLICAN LEADER

The PRESIDENT pro tempore. The Republican leader is recognized.

ORDER OF BUSINESS

Mr. DOLE. Mr. President, I thank the majority leader and Presiding Officer and indicate we hope to have an agreement soon. We are inching toward an agreement to take care of the remainder of the business for the day, which includes the pay raise issue

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

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and also, I guess, the honoraria issue. So hopefully they will have some agreement on this side and I understand they may have an agreement on that side.

So I will be working on that, I might indicate to the majority leader. As soon as we have that I will be back to the majority leader.

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

The PRESIDENT pro tempore. The Republican leader yields the floor and reserves the remainder of his time. The majority leader is recognized.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period of morning business for speeches only not to extend beyond 2:45 p.m., with Senators permitted to speak therein for up to 5 minutes each.

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

The junior Senator from Illinois, Mr. SIMON, is recognized for not to exceed 5 minutes.

WILLIAM BLAKEY AND THE SENATE STAFF

Mr. SIMON. Mr. President and my colleagues in the Senate, all of us are frequently in the same situation. We take bows when something is accomplished that has our name on it, but much of the credit for that really goes to the people on our staffs. I have had the good fortune of having on my staff in both the House and the Senate a gentleman by the name of William Blakey. I have never gotten up on the floor of the House or Senate to pay tribute to my staff, and I should have done that a long time ago. I want this to be a tribute not only to him but to my entire staff. But he has really done a dedicated job and contributed immensely to the cause of education in this Nation. He is a graduate of Knoxville College and Howard University Law School. He then worked for the old Department of HEW in the education area and then came to work for me to head the subcommittee that I chaired in the other body and has headed my subcommittee staff here in the Senate. He has done an absolutely superb job not just for PAUL SIMON but for the people of this Nation—a whole series of amendments helping young people like these pages I see down in front of me who want to go to college. A lot of young people are in colleges today because of what Bud Blakey has done as a member of my staff. Now, as he prepares to leave his work with the Senate to take a senior position with a law firm, I want him to know I am grateful to him. The people of this Nation ought to be grateful to him.

As I said, Mr. President, I want to use this opportunity to pay tribute not simply to him but to my staff and all of your staffs who really perform in a largely unseen way, performing a magnificent job for the people of this country. I yield back the remainder of my time.

The PRESIDENT pro tempore. The senior Senator from Nevada, Mr. REID, is recognized for not to exceed 5 minutes.

Mr. REID. I thank the Chair.

CAMPAIGN FINANCING

Mr. REID. Mr. President, we are moving beyond the limits. We are headed into the twilight zone of campaign finance practices.

In this imaginary region, the basic tenets regulating campaign expenditures are stretched to extraordinary lengths.

Sometimes the rules are violated. Most of the time, the penalties for those convicted of wrongdoing come too little—and too late.

The melodrama I invoke, Mr. President, comes from fear—fear that our system of enforcing proper campaign practices is being steamrolled by detractors.

I am speaking of the people who funnel illegal contributions through a maze of channels, just to name one of the wrongdoings. They play a game of skill and cunning. Noncompliance and fraud are cloaked in a shroud of credibility.

What can we do about this nonchalant attitude toward our laws?

Federal Election Commission regulations and enforcement measures have an alarmingly significant impact.

An evaluation of attitudes toward the FEC's purview led a major news magazine to observe: "Campaign managers know that strictly abiding by the rules is an invitation to almost certain defeat."

The notion of voluntary compliance generates snickers in campaign operations throughout the country. Why is it such a joke?

The FEC is laboring under the law of diminishing returns. They have too much work and too little authority. Alleged violations range from flagrant to subtle. They all require the same amount of painstaking work to investigate.

The FEC is victim to politically motivated actions from disgruntled campaigners. These opportunists use FEC petitions to embarrass their opponents, and most of the time they accomplish that. They believe that filing with the FEC makes their charges of alleged misconduct somehow more official.

Finally, compliance is difficult when the statutes are ambiguous. In the most recent election cycle, an FEC Commissioner spoke of claims that raised sensitive questions in election law—questions that would provoke dispute in the weeks and months ahead. That response was prophetic of the delays that are now anticipated and expected.

Campaign finance reform proposals that will be considered by this Congress seek to eliminate the vagaries of existing law. The proposals will set forth new standards by which we pay for and conduct our campaigns. This legislation should go a long way toward clarifying election law uncertainties.

But let us put the question of future laws aside. Regardless of the outcome of campaign finance reform, we must be able to enforce our present laws.

In the coming week, I will therefore introduce the Federal Election Enforcement Act.

My bill addresses the timeliness of FEC probes and actions. It provides for expediency. I am sure many of my colleagues remember the fable of the tortoise and the hare. The slow, plodding, persistent tortoise won the race. The reality of FEC actions is to the contrary. By the time the FEC acts and the case concludes, it is too late. The election is history.

In many cases, the convicted violator has already emerged victorious from the campaign. He gets a slap on the wrist and then heads back to the Capitol to continue his duties as an elected representative. As columnists Germond and Witcover wrote, "we can only lock the barn after the horse is stolen."

Just this past Tuesday, the FEC ruled on violations that occurred involving my opponent in the 1986 U.S. Senate race in Nevada. The first of many complaints lodged was in March 1986—almost 3 years ago. My proposed legislation seeks an end to this protracted process.

In another instance, it took more than 2 years for the FEC to rule against a Presidential contender's campaign. The organization was fined $25,000. This is a paltry, inconsequential sum when compared with the more than $20 million that the campaign raised. My bill increases the severity of penalties that violators must pay.

My bill will ensure that Federal election laws are enforced. No strong-arm tactics are called for in the proposal. The intent is to revitalize the Federal Election Commission with a mandate and authority to carry out their mission.

Regulations are not a joke. My bill ensures they will not be treated as such. I encourage my colleagues to cosponsor and support this proposal.

I yield the floor.

The PRESIDENT pro tempore. The junior Senator from West Virginia, Mr. ROCKEFELLER, is recognized.

Mr. ROCKEFELLER. I thank the President pro tempore.

THE U.S. STEEL INDUSTRY

Mr. ROCKEFELLER. Today the senior Senator from Pennsylvania, Senator HEINZ, and I begin a series of statements on the U.S. steel industry, on its workers, some of the problems that it faces, and the renewal of the Voluntary Restraint, the VRA Program.

Mr. President, the VRA Program was in fact instituted by President Reagan in 1984 in response to a flood of unfairly traded imports. Import penetration in fact had reached 26 percent in 1984. A bipartisan effort resulted, and then from that flowed passage of enforcement authority for the President's program, which was called the Steel Import Stabilization Act.

That act required that industry reinvest all of its net cash flow in modernization. That was a strong requirement, something that American industry in a rush for profits has tended not to do. But, Mr. President, in each year of the program the President of the United States was able to certify that in fact the industry had met this requirement, reinvesting all of its net cash flow back into modernization.

Mr. President, I do not want to recite the long litany of problems of the steel industry in the United States in the 1980's, but I do want to mention a few—the fact that $12 billion was lost by the steel industry between 1982 and 1986, 25 bankruptcies of large producers of steel have taken place, 15 percent of the industry, in fact, still is in bankruptcy this day, the closing of almost one-third of the capacity of steel—in fact, probably a layoff of close to 55 percent of all steelworkers who were working at the beginning of this decade. A number of very large steel mills, often in fact the largest local employer, and a very important part of the community's tax base, have closed their doors in this decade.

I, as chairman of the steel caucus in the Senate and the State of West Virginia, am certainly aware of that, as is the senior Senator from West Virginia.

The impact has been devastating on the workers and their families. We are talking about 350,000 jobs lost since 1980. It is a staggering and painful fact—manufacturing jobs, jobs that pay well, jobs that allow the recipients to buy homes and send their kids to college.

Now, what caused these massive cutbacks in U.S. capacity and employment? Mr. President, world excess capacity was No. 1. Unfairly traded imports was No. 2. And, therefore, an enormous import penetration of the U.S. market.

In 1974, when world steel consumption began its downward spiral, many developing countries were adding capacity, and continued to do so through the 1980's, and do so until this day. Developed countries, like those in the European communities, moved to preserve employment by pumping subsidies into existing mills. The United States took a different tack—the industry itself began downsizing and modernizing, while at the same time, the VRA's were put in place to have some control on the growth of dumped and subsidized imports.

The industry faces many problems in the future. While in the last 18 months some recovery has been seen from the dark days of the early 1980's, much remains to be done. The research and development capability of the industry has been decimated. With billions of dollars in losses, R&D was bound to suffer, and it has. It is important to begin rebuilding the industry's R&D, or U.S. companies will not be able to develop technology to remain competitive.

The industry must increase its use of continuous casting. Continuous casting, the best method of producing semifinish steel, eliminates several steps in the steelmaking process. Use of continuous casting is up from 20 percent in 1980 to 60 percent now, but it needs to move toward 100 percent.

The industry also has tremendous pension costs, as well as escalating health care costs for its workers and retirees. In fact, one of the major problems in the bankruptcy of LTV and Wheeling-Pitt is the founding of pension plans.

There is no doubt that the industry and its workers have made tremendous progress in modernizing, but there is much more to be done. The VRA Program has enabled the industry to begin the restructuring process. The continuation of the program is essential to the success of this process.

So in closing, Mr. President, I simply point out that our U.S. steel industry is important to our national defense, important to our country, important to our workers in trouble, and we need to continue the Voluntary Restraint Agreement Program supported by President Bush.

I think industry workers have done a terrific job so far but there is much work to be done.

I ask my colleagues in these intervening days to listen to what it is that Senator HEINZ and I have to say so that when on February 8 we introduce the Voluntary Restraint Agreement Program our colleagues will in fact be able to understand that our cause is just.

I thank the Chair.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Vermont [Mr. LEAHY] is recognized.

Mr. LEAHY. I thank the Chair. I will be very brief.

(The remarks of Mr. LEAHY pertaining to the introduction of legislation appear in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HEINZ addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Pennsylvania, Mr. HEINZ, is recognized.

EXTENSION OF PRESIDENT'S STEEL PROGRAM

Mr. HEINZ. Mr. President, as the Senator from West Virginia [Mr. ROCKEFELLER] indicated just a few minutes ago, we are going to be discussing the issue of the President's steel program and the need for its extension.

We will conclude our discussion on February 8 with the introduction of legislation that will give the President authority to continue the program for an additional 5 years. That legislation will simultaneously be introduced in the House by Congressman MURTHA.

Today I want to begin our discussion by outlining some of the history of this program and particularly the reasons for its creation. I do so because many of the factors in international trade in steel, that led to this program, such as pervasive unfair trade practices, still exist and will grow worse if the program is not continued.

I would like to draw rather heavily from the book entitled "Steel and the State," by former Deputy Special Trade Representative Alan Wolff and three of his colleagues to explain these circumstances.

It clearly lays out the facts about the extent to which foreign governments have rigged the world's steel supply, and about our Government's past failures to do anything about it until the 11th hour.

Several charts from the book illustrate the sad state of steel trade today—which is anything but free and fair.

First is the question of subsidies and Government support.

Here is some evidence for all of us to see, that between 1980 and 1985 the European community represented here during this 5-year period authorized some $37 billion in government subsidies to the steel companies, nearly $13 billion in Italy alone.

Therefore, it was not surprising that in the last 6 years, the U.S. Department of Commerce has found dumping of subsidized steel in this country on the part of some 25 different nations, as illustrated in the fine print that I brought along.

In 1987 alone, the Canadian Government pumped over $118 million into Sydney Steel Corp., SYSCO, a rail producer in Nova Scotia. This followed $350 million the Government had put into the same plant over the previous

10 years. Those funds helped offset over one-half billion dollars in losses.

One Toronto-based investment analyst called the bailout, "a stupid attempt to keep jobs, irrelevant of costs. * * * I've never seen figures like these in 20 years as an investment analyst."

Rail produced by that mill is now coming into the United States and is the subject of a countervailing duty complaint.

Taiwan, a successful newly industrialized country, offers a wide array of tax breaks to selected industries, including steel. Taiwan's China Steel Corp. has spent roughly $3.8 billion on construction and expansion since 1972, more than half provided by the government, which owns the company.

These examples are only illustrations of unfair trading practices that are pervasive in this industry. They are by no means all of them. We have to face facts, Mr. President. To many countries a steel mill is a symbol of their status as an industrial power and the economic status that goes with it. They will build them without regard to cost, without regard to need, and without regard to any basic economic considerations. Comparative advantage is irrelevant.

The result is too much capacity all over the world; mills built deliberately to export rather than serve limited domestic markets, and then kept alive by government handouts in order to maintain employment.

The result is a first-class mess which has had a devastating effect on the world steel industry and the U.S. market in particular.

By 1986, as we can see from this chart, LDC Steel capacity had tripled from 1970 to the present. Much of that growth, by the way, was financed by the World Bank, which only last year loaned Mexico some $400 million. At the same time, I might add, developed countries, our principal trading competitors, continue to build far beyond their needs, and as this chart shows, Japan, Germany, the United Kingdom, France, Italy, Canada, and Korea now provide for steel far in excess of their own requirements. The United States is the only one that does not have as much capacity as it needs.

The result is that excess capacity has ended up on our world markets, and as a result, the penetration of the U.S. markets has been upsized 27 percent; it is a lot lower at about 14 percent in Europe; and at only a fraction of that, 7 percent, in Japan. Of course, the result of that has been that our share of world steel production, once 45 percent in 1950, has dwindled to some 12 percent or somewhat more today.

Mr. President, this is from nobody's point of view a happy story. Our industry has been devastated. It lost $12 billion between 1982 and 1986. It lost 56 percent of its work force in the last 12 years. Entire communities in my home State of Pennsylvania, and in Ohio, West Virginia, and elsewhere have literally been wiped out economically.

Nor has it been all that good elsewhere. European producers have been undergoing the same retrenchment, as have the Japanese to a lesser extent. LDC governments have found the continuing operating subsidies, along with the debt burden from the loans that built the mills, an ever-growing financial millstone around their necks.

Breaking this cycle of subsidies will be difficult but essential for the survival of the American steel industry. When President Reagan announced his program in 1984, he made specific reference to unfair trade practices and directed the U.S. Trade Representative to work to eliminate them. Unfortunately, no real progress has been made—which is one of the main reasons why President Bush has indicated his intention to extend the program. When I next take the floor on this matter, I will discuss in greater detail how the VRA Program has worked and precisely what it has accomplished.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The junior Senator from Alabama.

(The remarks of Mr. SHELBY pertaining to the introduction of legislation appear in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WIRTH addressed the Chair.

The PRESIDENT pro tempore. The junior Senator from Colorado [Mr. WIRTH] is recognized.

Mr. WIRTH. Mr. President, I ask unanimous consent that notwithstanding the previous unanimous-consent request relating to morning business, I be allowed to introduce legislation at this point.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

(The remarks of Mr. WIRTH pertaining to the introduction of legislation appear in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. The Senator from North Carolina is recognized.

(The remarks of Mr. SANFORD pertaining to the introduction of legislation appear in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

UNANIMOUS-CONSENT AGREEMENT—SENATE JOINT RESOLUTION 7

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, after consultation with the minority leader, may proceed to the consideration of Senate Joint Resolution 7, the resolution disapproving the recommendations of the Quadrennial Commission on Executive, Judicial, and Congressional Pay Rates, at any time, and that it be considered under the following time limitation:

Two hours on the resolution equally divided and controlled between the two leaders or their designees;

Two hours on a substitute amendment to be offered by Senators PRESSLER, GRASSLEY, and others that rescinds the pay raise for everyone except for the Judiciary and requires an affirmative rollcall vote by the Congress before any future pay raise may take effect, with a vote occurring on, or in relation to the amendment;

That no other amendments or motions be in order with respect to the resolution; and that upon the conclusion or yielding back of time, the Senate proceed to an immediate vote on the resolution;

Provided further, that immediately upon disposition of Senate Joint Resolution 7, the Senate then proceed, without any intervening debate or motions, to the consideration of a joint leadership resolution on honoraria to be considered under a 1-hour time limitation, equally divided and controlled between the two leaders or their designees, with no amendments or motions to be in order.

The PRESIDENT pro tempore. The Republican leader is recognized.

Mr. DOLE. Mr. President, reserving the right to object and I will not object, I will just take a moment or two first to thank the colleagues on this side of the aisle, the ones we have contacted to forgo amendments so we might reach an agreement and dispose of this matter this evening.

We do have an agreement. I do know Senator SYMMS, for example, had a very good amendment. He will forgo offering that amendment.

I think we have the essential elements in the disapproval resolution, plus the amendment by Senator PRESSLER which will deal with a pay raise, and then the amendment to be offered by the leaders will deal with honoraria. So I think we have the basic elements.

I believe it is a good amendment. I would hope we would not use all the time. It seemed to me we could shorten up the debate. There are not many people in doubt on this issue. I have not found any. Some are in doubt privately but not publicly. So I would have no objection.

The PRESIDENT pro tempore. Does the Chair understand this is a Senate joint resolution and not a House joint resolution?

Mr. MITCHELL. That is correct.

The PRESIDENT pro tempore. Is the Chair correct?

Mr. MITCHELL. The Chair is correct.

The PRESIDENT pro tempore. The Republican leader.

Mr. DOLE. If I might, if the majority leader has no objection, suggest the absence of quorum for a few seconds, we have a phone call that might interfere with this.

The PRESIDENT pro tempore. What does the majority leader request as to the previous order that required an executive session at 2:45 p.m.?

ORDER FOR EXECUTIVE SESSION AT 3 P.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the previous order be amended to provide that we go into executive session at the hour of 3 p.m.

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

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

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MITCHELL. Mr. President, I now renew the unanimous consent request regarding the issue of pay and honoraria which I previously propounded.

The PRESIDENT pro tempore. Is there objection to the unanimous-consent request as proposed by the majority leader? The Chair hears none. That will be the order of the Senate.

REDUCING DEBATE TIME TO 15 MINUTES ON THE NOMINATION OF MANUEL LUJAN, JR., TO BE SECRETARY OF THE INTERIOR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time for debate on the nomination of Manuel Lujan be reduced from 30 minutes, as under the request previously approved, to 15 minutes to accommodate the delay in going into executive session.

The PRESIDENT pro tempore. With the time to be evenly divided as agreed to previously?

Mr. MITCHELL. Yes.

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

Mr. MITCHELL. Mr. President, I yield to the Senator from South Dakota.

PRIVILEGES OF THE FLOOR

Mr. PRESSLER. Mr. President, I ask unanimous consent that privileges of the floor be granted to Stan Bach of the Congressional Research Service during the pendency of Senate Joint Resolution 7, Senate Joint Resolution 8, or any other legislation relating to the congressional pay raise issue for today, February 2, 1989; each day the measure is pending; and for rollcall votes thereon.

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

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

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. PRESSLER. Mr. President, I will yield the floor at any moment to the majority leader. I would like to deliver a couple of speeches. At any time the leadership wishes the floor, I will yield it.

The PRESIDENT pro tempore. The Senate has until 3 o'clock.

A COCOM FOR CHEMICAL AND BIOLOGICAL WEAPONS

Mr. PRESSLER. Mr. President, the revelations of the past month have made it abundantly clear to all that the supplies of materials and technology related to the production of chemical and biological weapons must be controlled. It is absolutely vital that international trade be cleansed of this merchandise of death.

Wanting it to happen and making it happen, however, are two different things. Anyone who has considered the chemical and biological weapons production problem recognizes that controlling it will be very complex. Nearly every chemical precursor to chemical weapons production is a dual use item. That is, the chemicals which must be controlled also have common application in the pesticide and other fields. It has even been reported that the chemicals in ballpoint pen production could be misused.

Not only is it clear that this area is technically complex, it is equally clear that a unilateral American embargo of these materials and technology will not be sufficient. On January 24, Gen. William Burns told the Senate Foreign Relations Committee that it is hardly accidental that the names of firms alleged to be involved in this vile trade are not U.S.-based. Our export control system, while not perfect, has been fairly effective.

In order to control the supplies of chemical and biological agents, we must have the cooperation of all the potential suppliers. The suppliers must agree on what is to be controlled. Inevitably there will be differences of opinion to be resolved. Since technology does not stand still, discussions of technical experts on this subject should be more or less continuous. As a practical matter, the experts will need a regular place to meet and some sort of clerical assistance, copying facilities and the like.

The Coordinating Committee for Export Controls, known as Cocom, performs a similar function today in the field of strategic trade. It is composed of 16 major suppliers of high tech equipment, including the United States, and meets regularly in an annex of the American Embassy in Paris. Cocom has a small clerical staff and the usual office machines.

Currently there is no regular organization for the control of chemical and biological weapons. There is an informal organization, known as the Australia Group, which has met infrequently, has no regular meeting place and no assigned clerical staff.

This week, therefore, I wrote to President Bush proposing that the supplier nations should meet with a view to creating a Cocom for the control of chemical and biological agents. Such an organization would be small, perhaps modeled on Cocom, established in one of the supplier countries, and would contain a small clerical staff. It would be a place for experts to meet, discuss the latest technology and reach a mutual accommodation on what should and should not be controlled.

Mr. President, if we are serious about slowing down the proliferation of chemical and biological weapons, we must become serious about an organization of supplier countries to limit the trade in materials and technology necessary to produce such weapons. Failure to do so will send a dangerous message about our lack of resolve.

Mr. President, I ask unanimous consent that my letter, dated January 31, to President Bush be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, January 31, 1989.

Hon. GEORGE BUSH,
The President, The White House, Washington, DC.

DEAR MR. PRESIDENT: The shocking revelations of the past few months have made it abundantly clear that the supplies of materials and technology necessary to produce chemical and biological weapons must be controlled. It is absolutely vital that international trade be cleansed of this merchandise of death.

Given the complexity of the subject matter and the need for uniform standards of control, consultation and cooperation among the leading supplier nations must be a high priority. However, unlike the area of strategic trade which is coordinated by COCOM, there is no regular meeting place

for international coordination of controls on chemical and biological weapons. The Australia Group has met infrequently, and has neither an established location nor the clerical staff to assist the work of experts in the field.

I hope, therefore, that you will consider calling the supplier nations together at some suitable location with the intention of creating a COCOM for the control of chemical and biological agents. Such an organization should be small, perhaps modeled on COCOM, established in one of the supplier countries, and should contain a small clerical staff. It would be a place for experts to meet, discuss the latest technology and reach a mutual accommodation on what should and should not be controlled.

If we are serious about slowing down the proliferation of chemical and biological weapons, we must find a mechanism, such as an organization of supplier countries, to limit trade in materials and technology necessary to produce these weapons. Our resolve and determination on this matter is crucial to stopping the spread of chemical and biological weapons.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

THE AGREEMENT ON THE PAY RAISE VOTE

Mr. PRESSLER. Mr. President, I wish to thank the leadership for their cooperation in entering into the agreement on the pay raise vote. I think it is a very good agreement. The legislation which we will be voting on, of which I am a sponsor, has three parts developed in working with Senator GRASSLEY's office and others. I look forward to that debate.

I wish to thank our leadership and also our colleagues who gave up amendments so that an agreement could be entered into. I believe we have 30-some cosponsors of that legislation.

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

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EMORY HEBARD, QUINTESSENTIAL VERMONTER

Mr. LEAHY. Mr. President, flatlander is a Vermont term for anyone not born in the rolling terrain of our Green Mountain State. It's not a complimentary term. It is a way Vermonters have of distinguishing between who's who—and who's new.

Emory Hebard of Glover, who just retired as Vermont treasurer after being elected to that office for 12 years, and who served as a legislator before that for a great deal longer, was born in Massachusetts.

As soon as he was old enough to realize that mistake, he moved to Vermont and has been one of us ever since, becoming the quintessential Vermonter.

A graduate of Middlebury College, Em asserted his independence early. After working for the airlines and an insurance company here in Washington, he knew he wasn't a corporation man and he and his uncle bought a country store in East Charleston.

East Charleston is a lovely town in the northeast kingdom of Vermont, Mr. President. In the early days, that little town had two covered bridges within a couple hundred yards of each other. They were eventually torn down to the great sorrow of many of us who still remember how beautiful they looked.

Em did a second hitch in the Coast Guard during the Korean war—he had served during World War II—and returned to Vermont to resume his career as a storekeeper, this time in Glover.

He and his wife, Irma, who was working in Washington as a legal secretary when he first met her, kept that store going 7 days a week. Since just about everyone in the community got to know him, Em was a natural candidate for the Vermont Legislature when Glover's seat became vacant in 1961.

Em liked the legislature and the lawmakers liked Em—and pretty soon he had to make a choice—the store or the State capital.

He studied to become a real estate broker and appraiser so that he could earn a living around his service in Montpelier. Em became one of the most powerful men in State government—and there are some who still say he never should have stopped short of being Governor.

I'm one of those who feel that way, Mr. President—though up to now I hadn't mentioned that Em is a Republican—and come to think of it, that's not very important in the measure of a man's contribution to his State.

He was elected State treasurer in 1977, reluctantly giving up his chairmanship of the House Appropriations Committee to seek that office. He's been elected ever since, most often with the Democrats having the good sense to nominate him on our ticket as well.

I know few men who leave political life with as much love and respect from the people they have served, as has been shown to Em.

Mr. President, I would like to conclude this dissertation about a man who embodies the Vermont spirit of honesty and fairness by asking unanimous consent that this editorial that appeared in the State's largest paper, the Burlington Free Press, be printed in the RECORD as part of this tribute to an old family friend and fine gentleman.

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

[From the Burlington [VT] Free Press, Dec. 24, 1988]

GOODBYE, MR. HEBARD

Here's the simple view of the retirement of State Treasurer Emory Hebard: He's managed the state's money for 12 years. He's done a good job at a highly technical task. It's too bad he's leaving.

Here's the not-so-simple view: Em Hebard is a last symbol of a bygone era in Vermont politics, and his departure should be greeted with general mourning.

Which is right? Both of the above.

Hebard was elected to the Vermont House from Glover in 1961, when every small town had its own representative. A rumpled country storekeeper with thrift in his heart and a twang in his voice wasn't just a stereotype, he was an accurate stereotype.

It was no surprise that Rep. Hebard denounced welfare payments, the coming of Medicaid, federal interference and reapportionment. It was no wonder he rose to chair the powerful Appropriations Committee.

He had ambition to be governor in the 1970s, but by then Vermont had changed. Media buys and campaign consultants had replaced small-town politics. Hebard measured his debits and credits with the cold eye of a man who has balanced the books of a general store. He settled for the treasurer's job.

But this capsule history sells Hebard short. He is, in fact, a Massachusetts boy who got his twang in Maine and his education at Middlebury long before buying a store in the Northeast Kingdom. Any narrowness he brought with him or acquired there, he outgrew in Montpelier.

The man who hated reapportionment chaired the House committee to carry it out. Better than letting a federal court do it, he said.

The man who fought Medicaid and welfare programs later convinced the House to spend record amounts on welfare. No sense letting Vermonters go cold and hungry, he argued.

The man who believed in independence and local government, ended up fighting to increase Vermont's share of federal funds. "If we don't take our share they'll just divide it in 49 pieces instead of 50," he said.

A Republican who sometimes talked like a Democrat, Hebard's real affiliation was always Pragmatist. This made him a rarity—a politician who listens to reason, a politician with a clear view of his own limits.

He understood that managing money really means managing people and programs. He succeeded as state treasurer not because he could make money stand up and dance, but because he had a storekeeper's shrewdness about door-to-door salesmen.

He continued to look and talk like he got off the last horse-and-buggy from Glover, but the New York City financial hotshots couldn't sell Em anything he didn't want.

That is the simple, and the complicated view of Emory Hebard. He has graced the Republican Party and state government by his presence. His departure leaves an empty place Vermont is unlikely to fill.

TERRENCE E. SAUVAIN

Mr. HOLLINGS. Mr. President, it is always a pleasure for me as the chairman of the Senate Commerce Committee to bring the Coast Guard promotions list to the floor of the U.S. Senate for approval.

Today, it is more of a pleasure because one of the promotions is for Terrence E. Sauvain, a member of the Senate Appropriations Committee staff who has served this Member and many others with distinction and dedication during his 15 years in the U.S. Senate.

Mr. President, I can remember clearly when Terry first came to the U.S. Senate as a clerk on the D.C. Appropriations Subcommittee in the service of Senator Birch Bayh. At that time, Terry also served as an assistant clerk for the Labor, Health and Human Services Subcommittee. In both positions, Terry manifested a tremendous compassion for the poor and underprivileged of the Nation and a real desire to help the Senator deal with pressing human needs. Terry then moved on as clerk for the State, Justice, Commerce, and Legislative Subcommittees. After serving with distinction on the Appropriations Committee, Terry became the minority secretary of the U.S. Senate in 1981–82 and a most able floor assistant to Senator BYRD for the last 6 years.

A native of Cleveland, a graduate of the University of Notre Dame, Terry's career in the U.S. Senate has been one of distinction, and it is with great honor today that I ask the Senate to add the rank of captain in the U.S. Coast Guard to Terry's already distinguished record. I am sure I speak for the whole Senate when I congratulate Terry for this promotion and for being named as the new deputy director of the Senate Appropriations Committee.

LEVERAGED BUYOUTS

Mr. DOLE. Mr. President, I am submitting the attached articles which were published in the January 14, 1989 issue of the New York Times and ask that they be printed in the RECORD. These articles demonstrate some of the competing considerations involved in the issue of leveraged buyouts. I commend them to my colleagues.

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

[From the New York Times, Jan. 14, 1989]

(A POP QUIZ) LEVERAGED BUYOUTS ARE: GOOD FOR U.S. BUSINESS

(By Harry K. Schwartz)

WASHINGTON.—Somewhere, in the midst of the public clamor about leveraged buyouts, a small but persistent voice is trying to be heard. If we listen carefully, we will hear some things that may surprise us: that disassembling inefficient conglomerates can be good for American business, that when managers own equity in their corporations they perform better and that LBO's can help make industry more competitive.

Today the pack is in full cry against LBO's. We are being told that this country must curtail LBO's and other destructive business activities and that there is something seriously wrong in a system that provides incentives for the liquidation of corporate conglomerates.

But if we could tune down the hyperbole, we might hear this:

1. Huge conglomerates are not divinely ordained. They are the consequences of an economic and regulatory system that has permitted them to be assembled, partly for the ego gratification of their founders. Some of them work well; others do not.

LBO's have performed a useful and perhaps a necessary function in downsizing conglomerates that have become too large, too bureaucratic and too inefficient to be effective players in a world economy. By giving back independence to smaller companies that were gobbled up in the feeding frenzy of an earlier era, LBO's have played a conservative role. LBO's are, in fact, the means by which big companies are made into small companies, not the reverse.

2. It has been more than 55 years since A. A. Berle and Gardner Means established, in "The Modern Corporation and Private Property," that the typical publicly held corporation is characterized by a separation of ownership and control. They pointed out that in most large businesses the people who run the company do not participate in the benefits of ownership, and the people who own it do not run it. This gap has produced corporate managers who, as bureaucrats, are more interested in preserving the status quo than in taking extreme risks.

Given the genius of American entrepreneurship, it is hard to see why one would favor a system that stultified and suppressed it by separating ownership and control. We have lived with such a system since World War II, and we find our industrial base hard pressed by aggressive competitors in the Far East and Europe. If we are serious about making business less sluggish and bureaucratic, we should seek to repair the breach of interest identified by Berle and Means and to encourage the people who run our giant businesses to take an equity stake in them. Since, typically, managers are not people of great wealth, the most attainable route to ownership is the management LBO.

Critics ask, Why couldn't management work as hard and as creatively under the old arrangement? The answers are complex, but at bottom the reason is the genius of the capitalist system: The chance to "make it big" calls forth energy, resourcefulness and ingenuity that simply cannot be summoned in any other way.

It is ironic that we have begun to think pejoratively of this basic motivation as greed at the time that the Chinese and Russians have begun to search for ways to nurture it in their own torpid economies.

3. What we heard of competitiveness in the Presidential campaign would suggest that it is something that government can do for business. Candidates vied with one another in their support of proposed government programs and policies to make businesses stronger competitors. But none of them told us the hard truth that competitiveness is something that American business must accomplish, basically, for and by itself.

Waking up a sleepy company involves tough choices—decisions that will be inevitably unpopular in parts of the organization. Someone's project needs to be defunded, someone's plant needs to be consolidated, layers of approvals need to be stripped out, committees need to be disbanded. Decisions like these are not likely to be sought by bureaucrats reluctant to roil the waters.

But not after an LBO. Obligations to make interest and principal payments on the acquisition loan have a way of forcing decisions that ought to have been made but weren't. The twin igniters of management ownership and debt service requirements can jolt a company into new life, frequently without any change in executive personnel. A sleepy backwater of a conglomerate can be transformed into a leaner, tougher competitor with management ownership.

The unwisdom of fixing things that are not "broke" is a precept not much heard in Washington these days. Too bad. It is advice that Government needs to hear as it considers the fate of the LBO.

(A POP QUIZ) LEVERAGED BUYOUTS ARE: "A BLIGHT ON THE LAND"

(By James Grant)

Leveraged buyouts are a blight on the land. They are risky, ill-conceived and—perhaps most objectionable from an investment point of view—popular. In America, nowadays, everyone is on the same side of the financial boat, and that is the side of debt.

"Leveraged" means "indebted." An LBO, therefore, is a business in debt. Its management has used the company's credit to buy out the former owners—that is, the stockholders. After the buyout, the company's balance sheet has a nontraditional look, showing more debt than equity. If there was $90 million in equity and $10 million in debt before the deal, there is likely to be $10 million in equity and $90 million in debt afterward.

Under the lash of this new debt—or so the theory goes—the new owners streamline operations, sell redundant assets and fire unwanted people. They build no empires, buy no corporate jets and make no unnecessary investments. They can't afford to.

It is a wonderful theory and for years it yielded good results. A decade ago, when the many of the better deals were done, stock prices were low. Interest rates were low. And the typical LBO candidate was an established company in a steady line of business.

Oddly enough, however, investors that would have nothing to do with financial leverage in the halcyon days of the 1970's are throwing money at deals today.

On Wall Street, a law of paradox governs investments. It holds that good ideas are almost never popular and that the class of asset most favored by bankers is the one least likely to succeed. It is worth nothing, therefore, that banks are thronging the LBO market and that state-employee pension plans—not generally known for their hot investment hands—have committed most of the funds to the $5.6 billion buyout partnership of Kohlberg, Kravis, Roberts & Company.

A decade ago, when the LBO investing climate was balmy, Kohlberg, Kravis did $25 million deals. Nowadays, a time of high inflation-adjusted interest rates and high stock prices, it proposes to do a $25 billion deal.

The irony of Michael Miken, Drexel Burnham's junk-bond king, is that he has never been nearer the center of the financial establishment than he is in the hour of his legal crisis. If he is beyond the pale, his securities, however, are mainstream.

LBO's are bigger than ever, and shabbier, too. To effect a change of ownership in a public corporation, the acquiring group must borrow massively. That is, it must first damage the credit of the company it wishes to acquire, wrecking the investments of existing bondholders. If the acquiring group is the incumbent management, it must bid for the stock of the public stockholders for whom it theoretically works.

As deals have grown bigger, investment returns become skimpier. Why, then, this rush to do deals? The answer is simple: The deal makers and their investment bankers are paid on piecework. The more deals, the bigger their fees. Being honorable men and women, they would prefer that the LBO's they create not go bankrupt. On the other hand, they would rather do marginal deals than none at all.

Some canons of faith have evolved. First, it is suggested, the business cycle is as obsolete as the old-fashioned norms of corporate finance. Second, the Government will not allow a major banking debacle. Never mind that the balance sheet of the typical new LBO is almost indistinguishable from that of a bankrupt. The economy will continue to grow and the needy will continue to find credit. Is a leveraged company in urgent need of funds? Not to worry: It can sell assets to a greater optimist.

Critics of the palpable excess of LBO makers have suggested legislative reform, including (most sensibly, I think) the elimination of the double taxation of dividend income. By removing the tax incentive to borrow, they contend, the Government can foster greater use of equity capital.

Still, I have my doubts about any such reform. After all, the LBO phenomenon is only one feature of the debt predicament. These are odd times but there is a coherence in their strangeness. As the economic expansion rolls on, so does borrowing on ever more liberal terms. In the 1920's, the term of the average auto loan was one year. In 1955, it was three years. In 1989, it is five years and going on six. In 1946, fewer than 9,000 Americans filed for personal bankruptcy. In 1987, 9,000 filed a week. In the shank of the Reagan prosperity, there are record bank failures.

The deeper debt problem in America is that lenders and borrowers are doing things with money that have rarely, if ever, been done before. The resolution of this debt problem awaits a change in financial attitude, a reversion to financial conservatism. Laws don't make lenders and borrowers conservative. Recessions do.

RICHARD D. ANDREWS

Mr. BIDEN. Mr. President, today concludes 16 years of Senate service by my longtime staff member, Richard D. Andrews. While I wish he and his wife, Ann, all the best as they begin a new chapter in their life, I also want to say how very much I will miss Dick Andrews.

When I came to the Senate in 1973, Dick was one of the very first people that I hired. He had been a top aide to the New Castle county executive during my term as a county councilman and had impressed me greatly with his ability to calmly and constructively resolve a wide variety of difficult situations. As a 30-year-old lawyer who suddenly found himself a Member of this distinguished body, I very much needed the wisdom and counsel that Dick brings to every situation.

He has served me ably ever since with his intellect, his extensive knowledge of the workings of the Senate and the complexities of the budget process, and his dedication to the ideals which make this body function. During my tenure on the Budget Committee, Dick was invaluable in our efforts to control a process whose intricacies sometime seem overwhelming. He earned the respect of both Senators and staff alike, and will be sorely missed by all.

Having spent better than a third of my life here in the Senate, I have grown a great deal since I first took the oath of office. Through it all, good times and bad, victories and defeats, frustrations and accomplishments, I have been fortunate to have Dick at my side. He has been a counselor and a friend, and I will always owe him a debt of gratitude.

The Senate as an institution, is 16 years the better for his service.

FUNDS ARE LACKING, CANCER IS GAINING

Mr. STEVENS. Mr. President, Armand Hammer, the chairman of Occidental Petroleum Corp., is well-known for his business acumen, his knowledge of U.S.-U.S.S.R. relations, and his support for the arts. He is also a tremendous philanthropist, and I want to bring to the attention of my colleagues his latest effort in the area of health.

At the age of 90, Dr. Hammer is embarking on the greatest philanthropic endeavor of his life. His Stop Cancer campaign is intended to raise $1 billion from new sources over the next 4 years. These funds would be used to expand cancer research, accelerating the search for a cure for this terrible disease. Stop Cancer's goal is to eliminate cancer by the year 2000.

Discovering a cure for cancer would not only save the lives of 500,000 Americans a year, it could also provide scientists with clues to the AIDS engima and other diseases which attack the body's immune system. I hope that my colleagues will carefully examine Dr. Hammer's important initiative.

Mr. President, I ask unanimous consent that the following article by Dr. Hammer, which appeared in the New York Times on January 16, be printed in the RECORD.

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

[From the New York Times, Jan. 16, 1989]

FUNDS ARE LACKING, CANCER IS GAINING

(By Armand Hammer)

LOS ANGELES.—The impressive gains made over the last few years in the battle against cancer are at risk. Simply put, there is not enough money to do the research work necessary to find the elusive cure.

Today, only 25 percent of the research projects approved by the National Cancer Institute are being funded, compared to 60 percent in the mid-1970's.

Not only are we missing out on potentially important new cancer research because of inadequate funding, but are losing some great medical minds as they become frustrated and turn their energies elsewhere.

Scientists are on the brink of a major breakthrough, especially in adaptive immunotherapy—the regime that fights cancer by strengthening the body's immune system. Many scientists believe a clue to the mystery of AIDS also may lie in this area of research since AIDS, like cancer, is a result of the failure of the immune system.

On Jan. 4, as chairman of the President's Cancer Panel, I presided over the first meeting of a committee to recommend ways to expedite effective new treatments and drugs for cancer patients and AIDS victims. This committee of leading scientists was appointed at the specific request of President-elect Bush.

While this work is vitally important to assure patients access to new treatments, we must at the same time expand the number of scientists at work in the laboratory and in clinical research to build on the progress we have made. That is why I formed Stop Cancer, a nationwide crusade to speed the search for a cure the way the March of Dimes accelerated the cure for polio.

The goal of this crusade is ambitious, seeking to raise $1 billion over the next four years—half from private donations and half from matching funds from Congress. With the extra effort these funds would finance, I believe we would succeed in eliminating cancer by the year 2000.

As a boy living in New York City, I remember my father, who was a doctor, talking about the helplessness he felt in treating polio patients. He believed there was no hope of finding a cure for that terrible disease, which was so crippling to children. Yet Jonas Salk found the way, and today polio has been virtually eliminated around the world.

In my lifetime, I have seen the same happen with smallpox, typhoid fever, diphtheria and tuberculosis, all of which were thought to be incurable. Today we have the right tools to defeat cancer—we cannot afford to backslide.

This crusade is a onetime effort to locate new sources of funding by raising the consciousness of the general public and targeting major donors who have not given before. It has never been our intent to take funds that would normally go to other organizations. We believe it is possible to raise funds from new sources.

Efforts to find a cure for cancer may eventually succeed at their current pace. In the meantime, however, the price of delay is unacceptable. Each year, this disease affects one out of three Americans and kills 500,000, almost as many as were killed in World War II, the Korean War and Vietnam combined.

The longer we wait, the greater the toll will be.

SPONTANEOUS ERUPTION IN ISRAEL IS SCARCELY SPONTANEOUS

Mr. HELMS. For more than a year, the major media have focused upon the uprising in what is too commonly referred to as Israel's occupied territories. The networks and newspapers such as the Washington Post and the New York Times have gone to great lengths to convince the American people that this uprising is a spontaneous eruption caused by years of deprivation and oppression.

But knowing the propensity of the media to malign all governments—such as Israel's—which are most fervently anti-Communist, I have long doubted the veracity of the picture the media are trying to paint.

Is the uprising a spontaneous uprising? Or is it an orchestrated campaign aimed at weakening Israel, diminishing America's influence in the region, and propelling radical forces to power? As time passes, evidence points increasingly to the latter.

According to an account by United Press International on January 8, the past year has seen radical forces in the territories assassinate dozens of moderate Palestinians.

Just days after his most recent renunciation of terrorism, Yasser Arafat threatened the life of any Palestinian advocating a cessation of the violence. Immediately afterward, the Palestinian mayor of Bethlehem dropped his proposal for a cease-fire in the territories.

Further evidence that the uprising is more than a spontaneous eruption was provided to me last week by Rev. Kenneth Fellenbaum, pastor of Grace Baptist Church of Milford, CT, and president of the Connecticut Association of Evangelicals. The Rev. Mr. Fellenbaum stopped by to share his observations gained from a number of trips of the territories over the past year.

According to the Rev. Mr. Fellenbaum, the PLO has done everything possible to orchestrate the violence in the territories. The strikes planned by the PLO are not intended to punish the Israelis, but rather to make news.

In addition, the Rev. Mr. Fellenbaum describes the financial incentives fueling the uprising. He notes that the PLO pays stone throwers $35 a day. In fact, Palestinian men are told not to go to work and are assured of payment from the PLO if their youth participate in demonstrations.

The Rev. Mr. Fellenbaum's report is consistent with evidence now coming to light on the funding of PLO activities in the territories. According to a story in the Kuwaiti press late last month, Arab leaders agreed last June in Algiers to pay the PLO $128 million immediately, and $43 million monthly to support the uprising. Of this $43 million, Qadhafi pays $5 million per month, and Iraq pays $4 million. It is unclear what other countries foot the balance of the $43 million monthly payment.

Mr. President, the Middle East is a very complex place, and there are many causes of the uprising in Judea and Samaria. As the Rev. Mr. Fellenbaum has discovered, the uprising cannot be attributed solely and simply to spontaneous outbursts of frustration as the media suggests.

If America's interests in the Middle East are to be preserved and promoted, it is essential that policymakers in the State Department and in Congress look beyond the simple explanations of the major media. With this in mind, I hope Senators will take a moment to review an article written by the Rev. Mr. Fellenbaum last year for the New Haven Register which sums up his observations.

I ask unanimous consent that the article be printed in the RECORD.

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

ARABS MAKING ISRAELIS LOOK LIKE BAD GUYS

(By Kenneth Fellenbaum)

The current situation on the West Bank reminds me of two boys who were caught fighting. When an adult tried to find out who caused the scrap, one pointed a finger at the other and blurted out, "He started it, he hit me back!"

It seems to me that this is exactly what we are seeing on the front pages of our newspapers and at the top of the nightly news on television. The pictures coming to us only show Israel's reaction to Arab provocation.

I recently returned from my third trip in three years to Israel and the occupied West Bank. There are, indeed, two sides to every story and in the Middle East there are many versions and variations to the basic Arab-Israeli conflict.

You must view the Palestinian unrest and Israeli countermeasures in the historical context. I would like to share some findings from this year's trip.

The first question I asked was why is all the unrest occurring now? The standard answer I got was because the people of the occupied territories are fed up after 20 years of occupation and the spontaneous protests just broke out.

While there may be some truth to this, it is also widely known that the PLO has certainly done all it can to orchestrate the protests and strikes. It has done this through radio broadcasts from Damascus, literature distribution and local "enforcers."

Anyone who does not cooperate is in danger of punishment. Often mysterious fires burn homes or businesses.

During the strikes, the Arabs close their shops. It is interesting that they all just happen to close at the same time and when they do open for a few hours again it is done together. Since the people who shop in these stores are either Arab or tourists, it seems to me to be a case of cutting off your nose to spite your face.

I must have asked the question about the reason for the strikes a dozen times. Finally, I got the message by reading between the lines. The purpose of the strikes is not to punish the Israelis, but to make the news.

It is amazing how the presence of the cameras and news teams can produce a demonstration. In fact, it has gotten very predictable where and when the unrest will occur so that it makes the nightly news.

Another consequence of the strikes is to make it difficult on the Palestinians so they will become more angry at the Israeli government, which is blamed for the strikes that the PLO calls for.

Interesting to me as well was that even though the stores were closed in East Jerusalem, the shopkeepers were only too happy to let me, an American, in. When they found out that I was a tour leader and that my group was staying at the Hilton, they offered to send taxis over to pick us up anytime free.

One Palestinian, who called himself Charlie, must have called and left a half dozen messages for me at the hotel reiterating his offer. Apparently, greenbacks have the power to circumvent a strike.

An Arab told me the PLO was paying the stone throwers $35 per day. This story was confirmed by several other Arabs with whom I spoke.

The men are told not to go to work at their jobs in Israel proper and are offered the money if their youth join the demonstrations. Again this is something that I had problems relating to.

Maybe there are circumstances where I as an adult might put myself at risk to protest against authority, but I would not encourage or permit my youngsters to do so.

Why are so many young people involved in the protest? The answer is more than teen rebellion—it's $35 per day.

I actually had one Palestinian tell me in no uncertain terms that the more beatings and killings the better. "How is that?" I asked.

Because it helps to create more nationalistic fervor I was told. And what was not said—the younger the victim, the better, because it stirs up the people all the more and gets bigger headlines.

Israel, you see, is facing just another form of warfare. A year ago I had visited Hebron, Ramallah, and other parts of the West Bank. Before the current situation reached the present crises level, it was apparent to me that sooner or later the Palestinians would try to capitalize on their occupation.

The Arabs have discovered another means of combating Israel and from all appearances their recent success at capturing world opinion is only going to produce more of the same.

Remember the story of the two boys related in the beginning of this article and remember some of this information the next time you view pictures of Israeli soldiers trying to control anarchy and riots.

Remember also how Israel became an occupying power. In 1948, and again in 1967, Arab hostility created wars in which the Arabs lost territory to the Jews.

Israel is holding the land it won in wars for security. Prior to 1967 the northern and southern sections of Israel were connected only by a coastal strip nine miles wide. During those 19 years many attacks were launched over the so-called "green line" from the territory of the West Bank.

Perhaps one day Israel will feel secure enough to permit another country for Palestinians to exist side by side with the Jewish state.

I doubt that the current Arab unrest will convince a majority of the Israelis of this

possibility. It is past time for the Arabs to put down their guns and rocks, recognize Israel's existence and sit down and negotiate with their neighbors a solution to the West Bank.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, the hour of 3 o'clock has arrived and morning business is closed.

EXECUTIVE SESSION

DEPARTMENT OF THE INTERIOR

NOMINATION OF MANUEL LUJAN, JR., OF NEW MEXICO, TO BE SECRETARY OF THE INTERIOR

The PRESIDENT pro tempore. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Manuel Lujan, Jr., of New Mexico, to be Secretary of the Interior.

The PRESIDENT pro tempore. Under the present order, the time is limited to 15 minutes on this nomination to be equally divided and controlled by the senior Senator from Louisiana, Mr. JOHNSTON, and the senior Senator from Idaho, Mr. MCCLURE.

Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself such time as I may require.

The PRESIDENT pro tempore. The Senator is recognized.

Mr. JOHNSTON. Mr. President, I am very pleased to bring before the Senate the nomination of Manuel Lujan, Jr., of New Mexico to be Secretary of the Interior. We had hearings on this nomination in the Interior Committee, after which we approved Mr. Lujan's nomination by a vote of 19 to 0.

Mr. President, Manny Lujan, as he is known to Members of the Congress with whom he has served for some 20 years, has built a reputation, very solid, in the field of resource matters. He is sensitive to the environment. He is aware of the need to develop our infrastructure. In summary, he is balanced in this knowledge of, his attention to, and his dedication to managing the great resources of this country, which is the responsibility of the Secretary of the Interior.

Mr. President, this is, perhaps, one of the least controversial nominations that any President could ever make, and is as well received by Members on both sides of the aisle. We have had the opportunity, not only to discuss the matters relating to the Interior Department in public, in our hearings, but in private where we could deal with all of these concerns in greater length. And I can say that all members of the committee were very satisfied.

At this point, Mr. President, I would like to have printed in the RECORD copies of:

My opening statement at Congressman Lujan's nomination hearing;

His statement at that hearing;

The committee background questionnaire for the nominee; and

The letter from the Director of the Office of Government Ethics stating that Mr. Lujan will be in compliance with applicable laws and regulations governing conflicts of interest.

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

STATEMENT BY THE HONORABLE J. BENNETT JOHNSTON

The purpose of the hearing this morning is to consider the nomination of Manuel Lujan Jr. of New Mexico to be Secretary of the Department of the Interior.

For the past 20 years, Congressman Lujan has served as a member of the U.S. House of Representatives.

During all or a portion of this period, he has served as a member of the Committee on Interior and Insular Affairs, the Joint Committee on Atomic Energy and the Committee on Science, Space and Technology. He served as the ranking minority member for several years on both the Interior Committee and the Science Committee. So Congressman Lujan comes before us today well acquainted with a number of the major issues which will confront him at the Department of the Interior.

We sometimes forget the enormity of the responsibilities which rest upon the Secretary of the Interior. He or she is the steward of our natural heritage—charged with the protection of our richest treasures as a nation. Our children and grandchildren—all Americans present and future must rely upon the Secretary of the Interior to safeguard our public lands and their wildlife and to preserve our precious natural environment while wisely managing the development of coal, oil and gas, as well as other renewable and nonrenewable resources. This adds up to a complex and difficult job—one which leaves no room for partisanship or inflexible ideological motives. No area of public policy has a richer tradition of bipartisanship than the history of the conservation movement in America.

It is my sincere hope that Congressman Lujan will continue this tradition of bipartisanship. In this regard, I would like to share a thought with Congressman Lujan and the members of the committee. Throughout the 1960's and 70's, virtually every bureau chief within the Department of the Interior was a career professional. During the last eight years, political appointees have been placed in almost every one of these positions at the Department.

I hope we can count on you to reverse what I see as a dangerous trend in the Department and to seek the good judgment and counsel of the large cadre of career resource managers and other professionals you have throughout the Department of the Interior.

Finally, Congressman Lujan, when I came to the Senate in November, 1972 this committee's predecessor, the Committee on Interior and Insular Affairs had 16 members. Only one was from a State lying east of the 100th meridian. Today, the committee has 19 members and a majority of the committee comes from non-public lands States. I say this only to underscore the enormous complexity and the breadth of the job that you are about to undertake. You do not only deal with the west and western problems. You are responsible to all Americans and to all parts of the country.

I have met with you in my office and feel confident that you can do a professional and responsible job at the Department of the Interior. I look forward to your testimony today and look forward to voting for your confirmation.

U.S. SENATE, COMMITTEE ON ENERGY AND NATURAL RESOURCES

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Lujan, Manuel, Jr.

Position to which nominated: Secretary of the Interior.

Date of birth: May 12, 1928.

Place of birth: San Ildefonso, New Mexico.

Marital status: Married.

Full name of spouse: Jean Couchman Lujan.

Name and ages of children: Tera Everett (39), Jay Lujan (32), Barbara Lujan (28), Jeff Lujan (26).

Education: St. Mary's College (Calif.), 1946–47; College of Santa Fe, B.A., 1950.

Employment record: Manuel Lujan Agency, Albuquerque, New Mexico, 1948–1968. Member of Congress, Washington, DC, 1968–1988.

Honors and awards: Honorary Doctorate: College of Santa Fe, University of Albuquerque and Western New Mexico University.

Memberships—Organization, Dates, Office held (if any):

BPOE Elks, 1946-Present, None.

Kiwanis International, 1951-Present, President (Santa Fe) in 1964.

Knight of Columbus, 1946-Present, Grand Knight (Santa Fe) in 1960.

Manuel Lujan Insurance Agency, 1948-Present, Board (Resigned).

Lujan & Lujan (Real Estate Ptrshp), 1965-Present, Partner.

Lujan, Marchi, Lujan (Eqpt Leasing), 1965-Present, Partner.

Sunwest Bank, May 1988-Dec. 1988, Board (Resigned).

Lovelace Medical Foundation, May 1988-Dec. 1988, Board (Resigned).

1st Congr. District Scholarship Foundation, 1984-Dec. 1988, Chairman (Resigned).

Future employment relationships:

1. Will you sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate?

Yes.

2. Do you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization?

None.

3. Has a commitment for employment after you leave government been made to you by anyone? Have you made any such commitment?

No.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

I will serve at the pleasure of the President.

(b) If you have been appointed for an indefinite term, are there any known limitations on your willingness or ability to serve for the foreseeable future?

No.

Financial statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

Only those shown on Form SF 278.

3. Are you currently a party to any legal action? If so, describe its nature and status.

No.

4. Have you ever declared bankruptcy? If so, describe the circumstances.

No.

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

Yes.

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

Yes, 1982, 1983, 1984. I received a refund of $800 for all 3 years combined.

Potential conflicts of interest:

1. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

None.

2. Describe any business relationship, dealing or financial transaction (other than taxpaying) that you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, which might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

Member of Congress—no other Associations.

3. Describe any lobbying activity which you have performed during the past 10 years with respect to legislative or administrative actions at the Federal, State or local level.

None.

4. Have you been informed of the conflict of interest laws and regulations applicable to the position to which you have been nominated?

Yes, I requested and have met with Agency Ethics Officials.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to this form and the attachments thereto. Attach a statement of the appropriate agency ethics official explaining the applicable laws or regulations, any potential conflicts, and the action taken required to resolve such conflicts.

In order to eliminate potential conflicts, I have sold certain assets and resigned various positions as reflected on Form SF 278.

6. Explain how you will resolve any potential conflicts of interest that may arise in the future if you are confirmed for the position for which you have been nominated.

I intend to recuse myself from participating in any particular matters which may have a direct and predictable effect within the meaning of Section 208 of Title 18 United States Code on my financial interests. I also intend to recuse myself from participation, on a case-by-case basis, in any particular matter which, in my judgment, it is desirable for me to do so in order to avoid even the appearance of impropriety, despite the lack of actual conflict of interest. I will also inform Department officials of my recusal policy, and I intend to direct my staff to advise me when any particular matter arises in which it may be necessary or desirable for me to recuse myself.

Public disclosure:

Do you have any objections to this form and the attachments thereto being made public?

No.

AFFIDAVIT

I, Manuel Lujan, Jr., being duly sworn, hereby state that I have read the foregoing Statement for Completion by Presidential Nominees, including all attachments thereto, and that the information provided therein is, to the best of my knowledge and belief, current, accurate, and complete.

MANUEL LUJAN, JR.

Subscribed and sworn to before me this 19th day of January 1989.

——— ———,

My Commission expires April 14, 1992.

STATEMENT OF MANUEL LUJAN, JR., BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES, U.S. SENATE, JANUARY 26, 1989

Mr. Chairman and distinguished Members of the Committee, I am honored to appear before you today as President Bush's nominee to be Secretary of the Interior.

I am particularly pleased to be before so many friends with whom I had the pleasure of serving during my 20 years in Congress. I hope that you will find me qualified for this important position and that we can continue to work together. Although we sometimes disagreed in the past on specific issues, we always worked toward achieving a consensus that each of us thought was best for our constituents, and best for the Nation. If confirmed, my new constituency will be the Nation. And I pledge to you that I will continue to be a consensus-builder.

I would like to take a few moments to review my background.

BACKGROUND

I am a Westerner, I am a native of New Mexico, where I grew up in a tricultural environment—Spanish, Indian, and Anglo—where reverence for the beauty and the sanctity of our land was instilled in me from the earliest days of my youth. I am also an "Easterner," having lived and worked in the Washington area for the past 20 years. I subscribe to the philosophy so eloquently articulated by President Theodore Roosevelt: "This country will not be a good place to live in unless it is a good place for all of us to live in."

During my 20 years in Congress, I served on the House Committee on Interior and Insular Affairs from 1969 until my retirement this year, including a four-year stint from 1981 to 1985 as the Committee's Ranking Republican Member. I also served on the Joint Committee on Atomic Energy from 1969 to 1977, and on the House Committee on Science, Space, and Technology from 1977 until my retirement, where I was that Committee's Ranking Republican Member since 1985.

I believe that a careful review of my record for the past two decades will demonstrate that I have consistently shown a sensitivity for the preservation of the land and waters and the environment we all cherish.

Over the years, I have introduced, cosponsored and supported numerous pieces of legislation to create Wilderness Areas, to designate Wild and Scenic Rivers, and to establish National Trails. For example, I voted for the environmentally-oriented Alaska land legislation in 1979. In 1980, I sponsored the New Mexico Wilderness Act, Public Law 96-550, which set aside more than 600,000 acres of New Mexico land as Wilderness Areas, ensuring its beauty and enjoyment for future generations. During the 100th Congress, I sponsored the Santa Fe Trail Act, the El Malpais National Monument Act, the legislation which created the Rio Chama Wild and Scenic River, and a bill to create the Petroglyphs National Monument.

I also consponsored seven major environmental protection bills including the Clean Air Act of 1970 and the Clean Water Act.

Let me now turn to the goals and agenda that President Bush and I have agreed upon if you confirm me as Secretary of the Interior.

STEWARDSHIP

In his inaugural address last Friday, President Bush said that "not only leadership is passed from generation to generation, but so is stewardship." The President and I agree that the conservation and wise management of our natural resources—this whole notion of stewardship—will have high priority in his Administration. We are committed to protecting and enhancing the Nation's valuable resources, as well as proceeding with their environmentally sound development. We can do both; we do not have to choose between them.

In addition to this principal goal of stewardship, the President and I have jointly agreed to an expanded ten-point agenda for the Department. And the word "stewardship" naturally expands into an acronym outlining these ten points: "Stewardship; Territories; Education; War on Drugs; America the Beautiful; Responsible, Efficient and Ethical Management; Domestic Resources; Science and Technology; Harmony; Indian Tribes and Alaska Native Groups; and Partnerships.

I will comment briefly on each of these ten points.

TERRITORIES

The Secretary of the Interior has responsibilities with respect to the U.S. Territories of Guam, American Samoa, and the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Trust Territory of Palau, as well as the new Freely Associated States of the Federated States of Micronesia and the Republic of the Marshall Islands.

I will work with the leadership of the Territories and Freely Associated States to further the political, economic and social development of their peoples.

EDUCATION

Education has an important role to play in assuring the public's knowledge, appreciation, and support of our natural resource policies which are essential if I am to achieve my principal goal of stewardship.

On a personal note, I take a deep interest in the education of young people. In 1984, I established the Endowment for Excellence in Education, a privately-endowed scholarship fund for students graduating from high schools in the First Congressional District of New Mexico. Each year, an outstanding student from each of the 25 high schools is

selected to receive a $2,000 scholarship for his or her continued education. I have helped raise nearly $322,000 for the Endowment, and last month I signed over the $123,000 in my campaign treasury which remained at the end of my tenure in Congress giving the Endowment a total of $445,000. So far, close to 60 young people have received scholarships and 6 have now graduated from college. It is my belief that many educational initiatives such as this can be crafted to aid in educating America's youth.

Consistent with the Department's mission, if confirmed as Secretary of the Interior, I will work with others to develop a long-range plan to reform, rejuvenate, and revitalize our educational system by targeting Departmental resources to ensure access to appropriate high-quality educational programs. I will use these resources to establish throughout all the Bureau cooperative work-study and stay-in-school programs, and educational programs for Department employees. It is my hope that through these programs we could entice 5,000 to 10,000 youngsters to stay in school.

WAR ON DRUGS

I will be an aggressive soldier in the Nation's war on drugs. I will take all appropriate measures to assist the President including: (1) increased efforts toward working with State and local law enforcement officials on a coordinated basis to eradicate illegal crops and to interdict the sale and transportation of drugs on the Department's lands and properties; (2) providing a drug-free workplace; and (3) encouraging treatment for drug users.

I am committed to maintaining a drug-free workplace, and I expect no less of those who will serve with me at the Department. To demonstrate this commitment, I was tested for drugs on January 13 as part of the Department's new program. I am told that I was the first U.S. Government employee to be tested under the new law which mandates that new employees be tested.

AMERICA THE BEAUTIFUL

President Bush has often spoken of "America the Beautiful." This concept has particular relevance to our commitment to strengthen and preserve our National Parks, wildlife refuges, and Wilderness Areas. President Bush and I want to be known as a team who passed on these national treasures to the next generation in better shape than we found them.

RESPONSIBLE, EFFICIENT AND ETHICAL MANAGEMENT

If confirmed, I will manage the Department in a fiscally responsible, efficient, and ethical manner. I will expect all employees of the Department to demonstrate unquestioned character, integrity, loyalty and dedication to public service. I will also see that individual opportunities for women and minorities are available at all levels. My own appointments will reflect a diversity of ethnic backgrounds and an increase in women and minority managers as an example to the senior managers of the Department of what I expect of them.

DOMESTIC RESOURCES

Consistent with my principal goal of stewardship, I will manage the multiple-use Federal lands and waters to provide the widest range of benefits from these domestic resources to the American people, including preservation, recreation, energy, minerals, water supply, food and fiber.

President Bush and I are committed to protecting and enhancing the Nation's natural resources, as well as proceeding with their environmentally sound development. We believe that development of our most promising domestic resources is called for, because continued development is essential to the national security and economic well-being of the United States.

At the same time, we will oppose development in those environmentally sensitive areas where the risk of damage is great. If confirmed as Secretary of the Interior, I will not permit mining, drilling or timber harvesting in the National Parks and Wilderness Areas.

SCIENCE AND TECHNOLOGY

The Nation's continued progress depends in part on scientific and technological innovation. I will seek to strengthen the Department's science and technology base, and, in concert with other Federal agencies, will aggressively apply the Department's unique resources to aid in the solution of national and international problems such as water and air quality, global climate change, acid rain, and biodiversity.

HARMONY

President Bush has called for a "kinder, gentler nation." This means, in part, a nation in which disparate opinions are treated with respect. Discussions of natural resource issues have too often been marked by bitter controversy. We all need to lower our voices so that we can hear each other.

As a Member of Congress for 20 years, I appreciate the necessity for an "open-door" policy of communication among the Executive Branch, Congress, and outside groups of all interests. Lengthy confrontation is costly, so if confirmed as Secretary of the Interior, I will always encourage discussion, and I will always try to bring a spirit of harmony to these discussions through a process of consultation, cooperation, and coordination, instead of confrontation among competing interests. I intend to bring the people and the land together.

INDIAN TRIBES AND ALASKA NATIVE GROUPS

Growing up in a tricultural environment has given me a deep appreciation of Native Americans. President Bush and I also share a commitment to make the ideals of Native American self-government and self-determination a reality. If confirmed as Secretary of the Interior, I will respect and honor all treaties and laws which establish the unique political status for Native Americans. I will work with Native Americans to promote economic development, improved educational opportunities, and other measures to enhance the quality of their lives. One of my first official actions will be to travel with Secretary of Education Cavazos to the Bureau of Indian Affairs' schools to raise the awareness of and to assess the needs of our Indian schools.

PARTNERSHIPS

If confirmed, I will promote partnerships with State and local governments, individuals, and public and private groups at all levels, as well as utilize President Bush's "thousand points of light"—the varied, voluntary and unique organizations within our nation of communities—to achieve my primary goal of stewardship. It is my goal to have at least 50,000 volunteers throughout the Park Service, Fish and Wildlife Service, and other Bureaus within the Department. I know this is an ambitious goal, but one I will strive to accomplish.

President Bush, in his inaugural address, said: "We must bring in the generations, harnessing the unused talent of the elderly and the unfocused energy of the young." I could not agree more. Volunteerism is a traditional American trait, and I will use it at every opportunity. There is much to do and there are many who are willing and able to contribute.

CONCLUSION

Mr. Chairman, and Members of the Committee, this is the agenda which I will work to implement if you confirm me as the 46th Secretary of the Interior. I pledge to you and to the American people that I will strive to achieve my principal goal of stewardship of our national resources of unlimited beauty and value entrusted to me.

But I obviously cannot do it alone. I will need your help and cooperation, the help and coooperation of the Department's 71,000 dedicated employees, and the help and cooperation of the American people.

John Donne wrote: "No man is an island, entire of itself; every man is a piece of the continent, a part of the main. If a clod be washed away by the sea, Europe is the less . . .". I believe that we as individuals, as a nation, and as part of all mankind are diminished if we allow our natural heritage to deteriorate.

Thank you for your consideration of my nominaton.

BIOGRAPHY OF SECRETARY-DESIGNATE MANUEL LUJAN, JR.

On December 22, 1988, President-Elect George Bush selected Congressman Manuel Lujan, Jr. to join his Cabinet as Secretary of the Interior.

First elected in 1968, Mr. Lujan represented the First District of New Mexico for 10 terms in the Congress. He served on the House Interior and Insular Affairs Committee from 1969 until his retirement in January, 1989, including a four-year term from 1981 to 1985 as the Committee's Ranking Republican Member. He also served on the Joint Committee on Atomic Energy from 1969 to 1977, and on the House Committee on Science, Space, and Technology from 1977 until his retirement, where he was that Committee's Ranking Republican Member since 1985.

Over the years, Mr. Lujan introduced, cosponsored and supported numerous pieces of legislation to create Wilderness Areas, to designate Wild and Scenic Rivers, and to establish National Trails. He also cosponsored seven major environmental protection bills, including the Clean Air Act of 1970 and the Clean Water Act.

Mr. Lujan's other major interests during his legislative career included space policy, energy and scientific research, education and fiscal responsibility in government.

Mr. Lujan was born in San Ildefonso, New Mexico on May 12, 1928. He was raised in Santa Fe where his father, Manuel Lujan, Sr., served three terms as Mayor. Lujan received a B.A. from the College of Santa Fe.

Lujan and his wife, the former Jean Couchman, have four children: Terra, Jay, Barbara and Jeff.

U.S. OFFICE OF GOVERNMENT ETHICS,
Washington, DC, January 23, 1989.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Manuel Lujan, who has been nominated by President Bush for the posi-

tion of Secretary of the Department of the Interior.

The report has been reviewed and advice has been obtained from the Department of the Interior concerning any possible conflict in light of its functions and the nominee's proposed duties. In their letters of January 23, 1989, which are also enclosed, Mr. Lujan and the ethics officials of the Department have advised us that he will divest his interest in the Manuel Lujan Insurance Agency.

Based thereon, it appears that Mr. Lujan will be in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

FRANK Q. NEBEKER,
Director.

DEPARTMENT OF THE INTERIOR,
Washington, DC, January 23, 1989.

Hon. FRANK Q. NEBEKER,
Director, Office of Government Ethics, Office of Personnel Management, Washington, DC.

DEAR JUDGE NEBEKER: The enclosed financial disclosure report filed by Manuel Lujan for the position of Secretary of the Interior, has been reviewed in compliance with 5 CFR 734.604(a). In addition to the standard conflict of interest prohibitions contained in 18 U.S.C. §§ 201-209 and Executive Order 11222, as amended, the Secretary of the Interior is also subject to five statutory prohibitions that apply only to employees in our Department. These statutory prohibitions are: 18 U.S.C. § 437; 30 U.S.C. § 6; 30 U.S.C. § 1211(f); 43 U.S.C. § 11 and 43 U.S.C. § 31(a). Except for 30 U.S.C. § 1211(f), the provisions of each of these statutes are extended to the Secretary of the Interior by Department of the Interior regulations in 43 CFR Part 20.

We have compared each reported interest on Mr. Lujan's financial disclosure form to the provisions that will apply to his position. The Manuel Lujan Insurance Agency has no direct business with the Department of the Interior. However, it is possible that the agency insured people or organizations that do have business with the Department of the Interior. For this reason, Mr. Lujan has resigned from his board member position in the Manuel Lujan Insurance Agency. He will divest himself of his 10% interest in the Manuel Lujan Insurance Agency upon confirmation as Secretary of the Interior.

The Lujan & Lujan partnership and the Lujan Marchi Lujan partnership have no business with the Department of the Interior. The Lujan Marchi Lujan partnership leases office equipment to the Manuel Lujan Insurance Agency. Neither partnership has any real estate or other holdings which can be affected by the programs of the Department of the Interior or the duties of the Secretary of the Interior. Further, none of the real estate holdings reported by Mr. Lujan involve any permits, leases or other rights in Federal lands administered by the Department of the Interior. Accordingly, Mr. Lujan may retain his partnership interests in the Lujan & Lujan and the Lujan Marchi Lujan partnerships in full compliance with applicable conflict of interest laws.

The entry for contract on the sale of a house refers to a mortgage held by Mr. Lujan on property he sold to Monique Chantel. Mr. Lujan paid the capital gains associated with that sale in one sum and therefore reports only the interest he is receiving on this note. To our knowledge, Monique Chantel has no business with the Department of the Interior.

The Keystone Tax Free Fund is a diversified mutual fund consisting of tax free bonds. The bond interests reported for Casa Grande, Arizona, Tucson, Arizona and Washington State are zero coupon Fannie Mae mortgage bonds. The Texas State Water Development services interest is not a prohibited interest under the laws applicable to the Secretary of the Interior.

Mr. Lujan loaned $100,000 to the Manuel Lujan Agency. This is a personal loan reported in the entry listing "Promissory Note" on Page 4 of Schedule A.

Mr. Lujan has been informed about the regulations governing the acceptance of honorariums and about the 15% limitation on outside earned income. All of the other financial interests reported by Mr. Lujan are acceptable under the conflict of interest statutes and regulations that will apply to him as Secretary of the Interior. Based on our review and analysis and on the actions agreed to by Mr. Lujan in the enclosed commitment letter, I have certified to the enclosed financial disclosure report.

Sincerely,

CHARLES E. KAY,
Principal Deputy Assistant Secretary—Policy, Budget and Administration and Designated Agency Ethics Official.

DEPARTMENT OF THE INTERIOR,
Washington, DC, January 23, 1989.

Hon. FRANK Q. NEBEKER,
Director, Office of Government Ethics, Office of Personnel Management, Washington, DC.

DEAR JUDGE NEBEKER: This letter will document the actions I intend to take to prevent any actual or apparent conflicts of interest under the statutes and regulations that will apply to me as Secretary of the Interior.

Upon confirmation as Secretary of the Interior I will divest myself of my 10 percent interest in the Manuel Lujan Insurance Agency.

I have been advised by the Department of the Interior Designated Agency Ethics Official that all of the other financial interests and associations reported on my Financial Disclosure Report are in full compliance with the laws that will be applicable to me as Secretary of the Interior.

Sincerely,

MANUEL LUJAN, Jr.

Mr. JOHNSTON. Mr. President, I congratulate President Bush on his choice for this post. I look forward to working with Manny Lujan in the days and weeks and months to come and I know that my colleagues will join, as they did in the Energy Committee, in giving him a vote of resounding success which I hope will auger well for a new period of cooperation between the Congress and the Secretary of the Interior. Not that the last Secretary had difficulty. He did not. I thought a great deal of the last Secretary but I think Manny Lujan will be an outstanding Secretary and I urge my colleagues to endorse his nomination.

I yield the floor.

The PRESIDENT pro tempore. Who yields time? The Senator from Idaho.

Mr. McCLURE. Mr. President, I yield myself such time as I may consume.

Mr. President, I thank the distinguished chairman of the committee for the statement that he has made. I agree with the points that have been made here with respect to the appearances of Manuel Lujan before our committee.

For those of us who have known him for a long period of time, it came as no surprise that he was knowledgeable on the issues. He is experienced. He has studied those issues. He has worked with them for a long period of time.

I will take very little time today to extol the virtues and competence of Manuel Lujan, but I want to underscore just one area because, while I understand it, I am not sure everyone in the country does, and that is the responsibility that the Secretary of the Department of the Interior has to large areas of our country. I am speaking now, not just of policy choices, but of areas of the country such as my State of Idaho, where two-thirds of the surface area of my State is owned by the Federal Government and 12 million acres are administered by the Bureau of Land Management, an agency of the Department of the Interior.

Much has been written over the last decade of the conflict between State interests and local interests and that of the Federal Government. The sagebrush rebellion may have been one of the reasons that lay behind the massive victory of Ronald Reagan in 1980. Because there was a tremendous dissatisfaction by people affected by Federal decisions and the fact that they were not involved in the decisions. They felt they were ignored and they felt that their interests were not represented accurately and faithfully by the Federal Government agencies.

That is better today than it was 10 years ago for a variety of reasons. One of the most important reasons is there has been a change of attitude in the way in which Federal personnel relate to the local citizens.

One of the admonitions I gave to Mr. Lujan in the committee and which I would repeat now is that every Federal employee must be sensitized to the absolute necessity of listening carefully and attentively and speaking respectfully to the people that are affected by his or her decisions.

For those of us in the West, in the public-land States, the leverage of the Department of the Interior on the quality of our life is very, very great. The impact of a decision made by the Federal Government can change the life of a community. When the Federal Government has that kind of authority and can have that kind of influence on what happens, it is absolutely imperative that the spokesmen for, and the people that bear the administrative responsibility for the Department of the Interior, speak not ar-

rogantly—certainly not submissively, but not arrogantly, to the people whose lives are being affected by those decisions.

Mr. Lujan understands that and, because he does, he will be an excellent Secretary. He needs to make certain that every employee of the Department of the Interior, no matter what his post, no matter how small or remote the village, the hamlet or the community may be, he must speak to the people in that community as their servant and not as their master.

I believe, if we keep that admonition in mind and if that is actually the way it works at the grass roots—if I can use that term—then we will not have another sagebrush rebellion.

But I can guarantee if the Government acts with arrogance and disregard of the sensibilities and emotions as well as the impact of their actions on the local people that, once again, there will grow the resentment that became characterized as a rebellion.

I am confident that will not happen but I take this time today only, to the extent that others may listen to our discussion, that they recognize how the Federal Government is seen by people who are subject, as those in the public lands are subject, to the decisions made by a Federal Government that is sometimes very, very remote.

Mr. President, on February 1, 1989, the Committee on Energy and Natural Resources favorably reported the nomination of Manuel Lujan to be Secretary of the Interior by a unanimous vote. Mr. Lujan and I served together on the House Interior and Insular Affairs Committee some 20 years ago, and have worked together on numerous occasions during his distinguished career representing the First District of New Mexico. I look forward to a close working relationship with him in his new post.

I look forward to that relationship not only as ranking member of this committee, but as a Senator from Idaho. As of the day he is confirmed and sworn in as Secretary, he will become one of the most important individuals to my State and the people working and living there. The Federal Government owns almost 64 percent of the land in Idaho. The Bureau of Land Management alone administers nearly 12 million acres. Literally every day, there are thousands of interactions between the people of my State and the employees of the Department of the Interior. Those occurrences may involve lofty discussions of policy or mundane, but critical administrative actions. Each in its own way is important.

I am concerned that too often these interactions are confrontational, rather than cooperative, excessively bureaucratic rather than efficient. I believe one of the most important things which Mr. Lujan must do immediately as Secretary, is to reiterate a commitment to working in a constructive and cooperative way with the States and the people. Moreover, he must impress that message on the people who work for him not only here in Washington but also in the smallest office in the most remote outpost in this land.

The issues which he is about to face are tough ones, made tougher in times of severe fiscal constraints. Whether it be a controversy regarding water rights, wilderness, grazing, mining, creation of a new park, preserving a historic building, or issuing a special use permit, a solution will be found much more quickly if we all listen a lot more and litigate a lot less.

Mr. Lujan is about to become the steward of a vast treasure of natural and cultural resources. During his confirmation hearing, I urged him to strive to maintain the proper balance between development and conservation of these resources, but most importantly, not to forget that his decisions will have impact on our greatest resource—our people.

I raised certain concerns of particular importance to me with the Secretary-designate; and from his responses I am confident that these concerns will be satisfied. I look forward to working with him in assuring that the Department of the Interior is part of the solution not part of the problem in meeting the challenges ahead.

Mr. President, I urge my colleagues to join me in supporting Mr. Lujan's confirmation as Secretary of the Interior.

The PRESIDENT pro tempore. Who yields time?

Mr. JOHNSTON. Mr. President, I yield to the distinguished senior Senator from West Virginia such time as he may require.

Mr. BYRD. Mr. President, I thank the distinguished chairman.

Mr. President, I am pleased that President Bush has nominated the Honorable Manuel Lujan, Jr., to join his Cabinet as Secretary of the Interior.

Mr. Lujan represented the First District of New Mexico for 10 terms in the House of Representatives. During that time, he served on the House Interior and Insular Affairs Committee, including 4 years, from 1981 to 1985, as the committee's ranking Republican member. He also served on the Joint Committee on Atomic Energy from 1969 to 1977, and, since 1977, on the House Committee on Science, Space, and Technology, where he was the ranking Republican member from 1985 until his retirement from the Congress this year.

Mr. Lujan begins his stewardship over the many natural resource programs falling under the jurisdiction of the Interior Department with great ability and experience. He is well equipped for the job. The Secretary of the Interior is responsible for the management of 354 units of the National Park System, 445 refuges of the Fish and Wildlife Service, 270 million acres managed by the Bureau of Land Management, and 52 million acres of Indian trust lands. Thus, programs under his jurisdiction affect every State in one form or another.

In total, the Interior Department manages approximately one-fourth of the land area of the United States. In addition, the Bureau of Land Management has mineral leasing responsibilities over another 300 million acres. The Secretary of the Interior regularly must make difficult decisions on natural resource issues, but also has great opportunities to provide enlightened stewardship over public lands and resources, which the Federal Government holds in trust for all Americans.

Mr. President, it is obvious that not all Americans agree as to how these vast holdings of public lands should be managed. The many, very intense debates which have occurred in this very body over issues such as minerals development and creation of wilderness areas reflect honest differences in public opinion. As Secretary of the Interior, Mr. Lujan will be the principal advisor to the President, the Congress, and ultimately, the American people on the best use of our public lands and resources.

Protecting and preserving wilderness lands, parks, and refuges, reasoned development of the Nation's resources on public and private lands, assuring the continued existence of endangered species, mineral leasing on the Outer Continental Shelf, preservation of wetlands, and trust responsibilities for native Americans and territorial peoples are only some of the areas where the Secretary is called upon to resolve conflicts in the best interests of the American public. In my recent discussions with Mr. Lujan, I have found him to be very open, direct, and forthright in his views. These are important qualities for a Secretary of the Interior.

In keeping with President Bush's call for bipartisan efforts to address the issues confronting the Nation, I believe the nomination of Mr. Lujan is an excellent step in that direction. I hope, and expect, to work closely with him on the issues he will soon face as Secretary of the Interior.

As chairman of the Appropriations Subcommittee on the Department of the Interior, working with my distinguished colleague across the aisle, Mr. McCLURE, the senior Senator from Idaho, the ranking member, we will both be working with the Secretary very closely, and I look forward to that association.

I am pleased to vote in favor of the nomination of the Honorable Manuel Lujan, Jr., to be the next Secretary of the Interior, and I hope we get 100 votes.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. I yield 5 minutes to the distinguished Senator from New Mexico.

Mr. DOMENICI. I thank my good friend, the ranking Republican on the Energy and Natural Resources Committee. Let me also thank the chairman, Senator JOHNSTON, for the expeditious and extremely fair hearings he chaired on our former New Mexico Congressman, Manuel Lujan, who I hope will soon be Secretary of the Interior.

Mr. President, I come to the floor today, I think, speaking for almost all New Mexicans. We are a long way from here, but we are very pleased the way the Senate is set up. Two U.S. Senators come up here and, from time to time, we have a sense that we might be speaking for all our people.

In this case, I come in their behalf to say to the Senate we are very proud of our President for having appointed one of our own, a Congressman of 20 years, a very significant public servant in our State—Manuel Lujan, Jr. As many said, he is one who is not prone to polarize issues but rather to talk about them and resolve them. That is exactly the kind of quality needed in the dynamic, ever-changing, and very serious operations of the Department of the Interior.

Mr. President, as I have said, Manuel Lujan is one of our own. One of our own in the sense that his family's origins in New Mexico are older than we are as a State. We have only been a State since 1912, and the Lujan family traces itself back centuries before that. One of our own because we are very proud of our heritage, and we are equally proud of what the Lujan family represents. Their father, Manuel Lujan, Sr., instilled in his children, all of them some very basic qualities. They are filled with integrity; they understand stewardship and public service, and do it well.

Our Secretary-designate is no exception. He got those qualities and he preserved them and utilized them well. We think he is going to be a very good Secretary. We think he will work with us whether we are Democrats or Republicans. He is not blindly philosophical or partisan, but he is strong in his views. He understands development and preservation issues well.

I am hopeful, to, as the distinguished former majority leader said, that everyone will support him today. I thank the Senator for yielding.

Mr. McCLURE. How much time remains?

The PRESIDING OFFICER. The Senator from Louisiana controls 35 seconds. The time of the Senator from Idaho has expired.

Mr. JOHNSTON. Mr. President, I yield 35 seconds to the distinguished Senator from South Carolina.

Mr. THURMOND. I wish to express my appreciation to the able Senator from Louisiana.

Mr. President, I rise today in support of the nomination of former Congresssman Manuel Lujan, Jr., to be Secretary of the Interior. The experience of Congressman Lujan in the Congress and Federal Government amply qualifies him for this important position.

Born in San Ildefonso, NM, Mr. Lujan grew up in Santa Fe where his father, Manuel Lujan, Sr., served three terms as the mayor.

First elected to the House in 1968, Mr. Lujan represented the First District of New Mexico for a total of 10 terms. While a Member of Congress, he served on the House Interior and Insular Affairs Committee from 1969 until the end of last year. From 1981 to 1985, Mr. Lujan served as the ranking Republican member of the committee and provided very able and dedicated leadership. His experience and outstanding service on this committee will serve him well as the new Secretary of the Interior.

In addition, Mr. Lujan served on the Joint Committee on Atomic Energy from 1969 to 1977, as well as the House Committee on Science, Space, and Technology, where he was the ranking Republican from 1985 until his retirement.

In the Congress, Mr. Lujan was an effective and proven legislator. He played an active role in creating several wilderness areas, promoting wild and scenic river designations, and establishing national trails. As the cosponsor of seven major environmental protection bills—including the Clean Air Act and the Clean Water Act—he has demonstrated his commitment to the natural resources of this country.

All these experiences provide a solid foundation for this well-qualified and outstanding nominee. His dedication to public service is proven, and I am convinced he will be a great asset to the Department of the Interior and the Bush administration.

I strongly endorse the nomination of Mr. Lujan to be Secretary of the Interior and I urge my colleagues to expeditiously approve his nomination.

Mr. DOLE. Mr. President, the Department of the Interior is the guardian of one of America's most precious resources—its land, and all that it carries with it.

And the man who heads that Department must have a total commitment to balancing two sometimes conflicting goals: protecting and preserving our natural resources, but at the same time, acknowledging the need and desire to utilize some of that land.

Manuel Lujan served as the ranking Republican on the House Interior Committee for a number of years, and is knowledgeable about both the problems and the possibilities the Interior Department faces as anyone around. In fact, his name had been mentioned on a number of prior occasions as a possible Interior Secretary. Thankfully, President Bush was wise enough to offer him the job, and he was willing to accept.

I say thankfully, Mr. President, because I have no doubt that Manuel Lujan will show the same thoughtful, even-handed approach to guiding the Department of the Interior, as he did during the 20 years he served in the House of Representatives. He understands the needs of the environmentalists, as well as the developers; the needs of the American people who want to enjoy the beauty of the American landscape, and their need to have energy and water. And Manuel Lujan has the expertise and the political acumen to balance all these interests and develop solutions acceptable to all.

I urge my colleagues to show their support, by unanimously confirming Manuel Lujan's nomination as Secretary of the Interior.

Mr. BURNS. I rise today to endorse the nomination of Manual Lujan, Jr., as Secretary of the Interior.

From all I have gathered, Mr. Lujan has all the elements and talents to be a good Secretary of the Interior.

Twenty years of public service in the House of Representatives.

His work in the House mostly dealt with public land management. He represented a State where the Federal Government is charged with managing a large share of the lands.

He has not only a keen knowledge of lands held in public trust, but also has knowledge of water and mineral development on those lands, and the importance of the impact of bad decisions on those lands.

Montana is the largest watershed State in the Union so water development, storage, and conservation is of importance.

Mr. Lujan understands that.

I heartily recommend Mr. Lujan's confirmation and urge all Senators to support him.

Mr. HEFLIN. Mr. President, I rise today to congratulate Mr. Manuel Lujan, Jr., of New Mexico, on his confirmation as Secretary of the Interior. I met him in my office recently and subsequently listened to his testimony before the Senate Energy Committee. I found him to be very competent and highly qualified to serve as the Nation's largest landlord.

Mr. Lujan has served with great distinction in the U.S. House of Representatives for approximately 20 years.

Although a Westerner by birth, and an Easterner by acclimation, I believe that he has demonstrated a commitment to balance the interests of all four major geographical regions of this country.

Not only is he inclined to weigh and balance regional issues, but he understands and is willing to strike balances, where necessary, between development and conservation interests.

I believe that Mr. Lujan will work very closely with the Members of Congress in trying to solve many of the highly controversial issues awaiting him as the new Secretary of the Interior.

I was pleased to support Mr. Lujan's confirmation in the Senate Committee on Energy and Natural Resources, and I am delighted to have done so today before the full Senate. I congratulate him again, and wish him the very best of luck.

Mr. SPECTER. Mr. President, I am pleased to express my support for the Honorable Manuel Lujan, Jr., as Secretary of the Interior.

Congressman Lujan is well-qualified for the position of Secretary of the Interior, as reflected in his impressive list of accomplishments and experiences. Manuel Lujan, first elected to Congress in 1968, represented New Mexico's First District for 10 terms. He served on the House Interior and Insular Affairs Committee from 1969 until January 1989, and was the committee's ranking Republican member for 4 years.

In addition, Congressman Lujan served for 8 years on the Joint Committee on Atomic Energy, and for 12 on the House Committee on Science, Space, and Technology, on which he was ranking Republican member from 1985 until his retirement in 1989. Certainly these experiences will serve him well as Secretary of the Interior.

A graduate of the College of Santa Fe, Manuel Lujan worked in the insurance business prior to his election to Congress.

While serving in Congress, Manuel Lujan worked on natural resources and space policy, energy and scientific research, and education and fiscal responsibility. I am confident that he will be an effective leader on these and other important issues addressed by the Interior Department.

I support the nomination of Manual Lujan to this post. If confirmed by the Senate, as I am sure he will be, I have every confidence that he will perform the new duties with exceptional skill, as he has in the other positions he has held in the past.

Mr. BINGAMAN. Mr. President, I rise today to voice my strong support for the nomination of Manuel Lujan, a good friend and former colleague for whom I have great respect and trust, to be Secretary of the Interior.

I congratulate President Bush for having nominated Manuel Lujan to serve as Secretary of the Interior, the steward of our Nation's public lands. Manuel's long and distinguished career in the House of Representatives which he served for many years as ranking member of the Interior and Insular Affairs Committee gives him the experience and knowledge to appreciate the tremendous responsibility he has been given.

He reflected that sense of responsibility when he acknowledged immediately upon accepting the appointment that even placing 1 acre of our public lands at risk was too great a risk to take.

Clearly, Manuel understands the importance of our national treasure—our public lands. New Mexico is one of the great public lands States of the West and we in the Land of Enchantment pride ourselves for preserving and protecting these lands.

This protective legacy was begun, in large part, under the leadership of another New Mexican, Senator Clinton Anderson when he chaired the Senate Interior Committee during the 1960's in what has been called the Conservation Congress. Senator Anderson led the fight for legislation creating our national wilderness system and the Land and Water Conservation Fund. Manuel is ably qualified to carry on in that tradition.

Manuel is from a northern New Mexico family that has distinguished itself in public service. He continues that fine tradition.

Manuel inherits a Department that has in many ways, lost the trust of the American people through policies that raise questions about our government's commmitment to protect and preserve our lands. Under Manuel's leadership, I think the Department will find its way and once again earn the public's trust.

It has been an honor to have served with him in the Congress for the past 6 years. I have witnessed his commitment to finding the importance balance between multiple use management and public lands protection. I know he will give us the leadership at the national level required to maintain that proper balance.

I share the pride of my fellow citizens in New Mexico in the nomination of Manuel Lujan to be Secretary of the Interior. I urge your support for his nomination.

Mr. MATSUNAGA. Mr. President, I rise to voice my strong support for the confirmation of the nomination of Congressman Manuel Lujan, Jr. as Secretary of the Interior.

President Bush has said that his administration will give greater attention to the environmental concerns of our Nation. His selection of Congressman Lujan, in my estimation, is an appropriate one to achieve this end. I have known the nominee personally since 1968, when he was first elected to the House representing New Mexico's First Congressional District. It has been my observation that his is a judicious temperament, a lawmaker who listens to both sides of the issues before taking a position. This is a practice that will serve him in good stead in dealing with the contention involved in Interior policies. His call at his confirmation hearing for "lower voices" in order that all might be heard is evidence of his judicious approach to resolving conflict.

Manny Lujan also has been a legislator with a wide-ranging interest in science, as he demonstrated to good effect as a member of the House Science, Space, and Technology Committee. His service on the House Interior Committee, especially on the Energy and the Environment and Water and Power Resources Subcommittees, makes him thoroughly familiar with the programs of the Department he will head and the issues he will face.

I for one am comforted by the fact that he has flatly ruled out mineral and timber extraction in national parks and wilderness areas. He has shown a pragmatic sensitivity to environmental issues associated with resource development and he is knowledgeable about weighing risks, a trait acquired, no doubt, from his days in the insurance business before coming to Washington.

Mr. President, I fully support the nomination of my good friend Manny Lujan to be our next Secretary of the Interior and urge my colleagues to confirm it.

Mr. LEAHY. Mr. President, today the Senate will consider the nomination of Mr. Manuel K. Lujan to the position of Secretary of the Department of the Interior.

In the spirit of bipartisanship, and following the favorable recommendation delivered by the Committee on Energy and Natural Resources, I will be voting in favor today of Mr. Lujan's confirmation. I do so, however, with reservation.

My criticism is not meant as a personal attack against Mr. Lujan. In fact, I find the Secretary-designate amiable, hard working, and dedicated to public service.

My criticism focuses on his voting record. During his 20-year tenure in the House, Mr. Lujan compiled a voting record on environmental issues that I would consider disturbing.

At this point in the confirmation process, the League of Conservation Voter's assessment of Mr. Lujan's environmental voting record is familiar. Out of a possible 100 points, he averaged merely 18—a score approached by few of his colleagues.

He supported, and pledged his continued support, for oil and gas explo-

ration in the Alaska National Wildlife Refuge. Mr. Lujan voted twice in favor of weakening amendments to the Endangered Species Act. The Secretary-designate has been a consistent foe of clean air legislation. In short, he opposed environmental initiatives offered from both sides of the aisle.

I am confident that Mr. Lujan is aware of the significance of the position of Secretary of the Interior. I also hope he is aware of the extraordinary challenge this position represents today.

Not only will he have to balance the need to conserve our natural resources at a time when they are in such demand, as every Secretary of the Interior has had to do;

Not only must he manage these resources with equal attention to productivity and conservation, as every Secretary of the Interior has had to do;

Not only must he conform to the current budget climate at a time when Federal support for public projects is so much in demand, as every Secretary of the Interior has had to do;

Not only must he carry out the duties ascribed to him by law as Secretary of the Interior;

He must do more than was ever expected of a Secretary of the Interior. At no time before has our environment faced the crises it does now; it will not withstand the neglect of another environmentally disinterested administration.

I encourage Mr. Lujan to rise and meet this extraordinary challenge as Secretary of the Interior. I look forward to working with him to effectively address the issues threatening our environment today.

Mr. SIMPSON. Mr. President, I rise today in support of the nomination of Manuel Lujan, Jr., to be the next Secretary of the Interior. President Bush has made an excellent choice by selecting Manuel Lujan for this very important position.

As a westerner, I have particular interest in the secretarial post for the Department of the Interior. Approximately 50 percent of the State of Wyoming is owned by the Federal Government and that is largely controlled by the Department of the Interior through the Park Service, the Bureau of Land Management, the Bureau of Reclamation, the Bureau of Indian Affairs, and other agencies.

Manuel Lujan has the experience so crucial to successfully running the Department of the Interior. He has served for many years on the House of Representatives Interior and Insular Affairs Committee, including service as the ranking Republican member for a long period of time.

Manuel Lujan knows the value of protecting the grandeur of the American outdoors for public recreation and relaxation while at the same time respecting the concept of multiple use which allows development of very crucial natural resources so vital to our economy. In addition to Manny's experience as a native of New Mexico, a westerner and a Congressman, he has the advantage of having grown up in a tricultural environment, including Spanish, Indian, and Anglo influence—and yet he knows Washington from the inside and just how the system can most effectively function.

I have reviewed his statement which he presented to the Committee on Energy and Natural Resources on January 26, and I am encouraged by his dedication to the many responsibilities incumbent upon a Secretary of the Interior. He has shown through his opening remarks that he is willing to work with Congress, State and local governments, as well as volunteers throughout the United States, in order to accomplish the mandates of the Department of the Interior.

I do greatly look forward to working with him in the coming years. There is no question that we will have the opportunity to work together on some very tough issues. While I certainly trust that the ill-designed policies which led to the intensity of Yellowstone fires of last year have been identified and are being revised, it is very likely that some other, presently unknown issue looming just out of sight, will require immediate attention by the Secretary and the Congress. With Manuel Lujan at the helm, I am confident that we will be able to work toward the improvement of our stewardship of public lands, minerals, and water.

So then, Mr. President, I heartily endorse the nomination of Manuel Lujan as Secretary of the Interior. I also greet his vivacious wife Jeannie and wish them well in this near assignment. I urge my colleagues to join me in providing Mr. Lujan with a unanimous vote of approval which he so richly deserves.

COUNCIL OF ECONOMIC ADVISERS

The PRESIDING OFFICER. All time having expired, the Senate will now proceed to the nomination of Michael J. Boskin to be a member of the Council of Economic Advisers.

The legislative clerk read the nomination of Michael J. Boskin, of California, to be a member of the Council of Economic Advisers.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum. Mr. President, I ask unanimous consent that the time consuming the quorum call be equally divided.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. 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. RIEGLE. Mr. President, I rise to put before the Senate the nomination of Dr. Michael Boskin to be Chairman of the President's Council of Economic Advisers. The Senate Banking Committee reported this nomination unanimously earlier today. So now the full Senate is in a position to be able to act on it this afternoon.

Mr. Boskin is an economist of distinguished background and achievement, graduating from the University of California at Berkeley with a B.A. degree in 1967, an M.A. degree in 1968, and a Ph.D. in 1971. He has won a number of awards and commendations for his academic scholarship, his teaching and his writings. He has written and published many books and articles. Since 1971 he has been on the economics faculty at Stanford University. He has also been a visiting professor at Harvard University and has done work for the National Bureau of Economic Research. During his career he also served as a consultant advisor to the House Ways and Means Committee, the Joint Economic Committee and the Treasury Department. So he is familiar not only with the crucial economic issues facing our Nation, but also with the political institutions, we have to resolve those problems. That is important for he will need both economic and political skills. He is, I think, by any measure destined to become a central figure in terms of developing economic stategy policies and alternatives within the new Bush adminstration. It is clear, I think, that he enjoys the full confidence of and has a close working relationship with the new President. From his appearance before our committee, he is clearly deeply involved already in thinking through many of the major economic issues that confront the country; not just major structural issues and policy issues but also the broad macroeconomic circumstances that face us within the country and increasingly on the global scale.

So certainly he is a person that brings the kind of established, thorough, professional background in economic analysis and economic policy, and he will be coming into the job obviously at a very critical time in our Nation's history.

I say as well to my colleagues that I thought he was very forthcoming in his responses to the committee the day that we held his confirmation hearing. The hearing went on at quite some length, and I thought his answers were direct and to the point. He was asked questions about some of the more controversial views that he has expressed in the past, particularly by

myself on the issue of Social Security that he had earlier published in a couple of books that he had written. He said the Bush administration had no intention to move on Social Security in any adverse way. It was very important that that be stated and be stated on the record.

But I would say that anyone who wants to obtain a sampling of his thinking on numerous issues ought to review that committee record. I think it touches on most of the critical issues. And, as I said, we found him to be direct and responsive in his answers. I think he is a person who is well suited to chair the Council of Economic Advisers.

So with that, Mr. President, let me put his nomination before the Senate. There may be others who wish to speak or have statements inserted in the RECORD.

So I ask unanimous consent that any statements any Members wish to insert in the RECORD on behalf of this nominee be in order, and be printed at this point in the RECORD.

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

Mr. WILSON. Mr. President, I am very pleased to rise in support of Michael J. Boskin, for the President did very well by choosing Mike to serve as the Chairman of his Council of Economic Advisers.

Mike Boskin is an extremely talented economist and teacher who has spent his entire career perfecting his craft.

He started on the right path very early by his decision to attend the University of California, where he received his B.A., M.A., and Ph.D. in economics. At Berkeley he excelled. He was elected Phi Beta Kappa, received an award for the outstanding honors thesis as an undergraduate, and was further recognized by receipt of the National Tax Association Award for his doctoral dissertation. From Berkeley, he went on to another fine California university, Stanford, where he has been on the faculty for 20 years—10 as a full professor.

Mike's expertise and integrity are recognized throughout the economic community. He is not a doctrinaire of any stripe. No, Mike Boskin does not promote a doctrine: He studies a problem fully, he considers a host of proposed solutions and their impact not only on the economy but also on individuals, and he promotes what is effective.

This clear-eyed approach to economic problems is not only recognized and commended by Mike Boskin's peers, as I have said, but it has also been recognized on both sides of the political aisle. Mike has been asked to testify at more than a dozen congressional hearings, including a number held by the Joint Economic Committee, both when it was controlled by Republicans and by Democrats.

It has been widely reported that Mike Boskin is the father of the flexible freeze concept. He recognizes, correctly, that spending must be restrained, but that it makes no sense to simply freeze present spending in place—that would allow bad programs to linger while overlooking real needs for increases, such as for AIDS and long-term care for the elderly.

Mike also knows how to read lips, so even if he had a moments thought about a tax increase—which he has assured me he does not—he thoroughly understands the President's position on the matter.

Mike Boskin's writings, his accomplishments, his ideas are all impressive and commendable. But as impressive as any of what he has done is his dedication to teaching. He is not simply an accomplished economist, he is also a teacher of economics. He is not a distant educator; rather, he is eager to meet with students to hash out theories and answer their questions. Just last year, in recognition of his work as a teacher, he was awarded the Deans' Award for Distinguished Teaching—an award that is granted on the recommendation of both teachers and students at Stanford.

Mike's expertise as a teacher of economics will benefit us all, for not only will he provide invaluable advice to President George Bush just as he did to candidate George Bush, but he will also help us all understand what must be done and what must not be done to deal with economic enemy No. 1—the Federal budget deficit.

Michael Boskin's service on the Council of Economic Advisers will not only serve well our President, but also our entire Nation. I commend the President for his sage selection and I commend Mike for taking up the challenge.

Mr. DOLE. Mr. President, I rise in support of President Bush's nominee for Chairman of the Council of Economic Advisers, Dr. Michael J. Boskin.

I congratulate President Bush for choosing one of the economics profession's brightest rising stars to serve as his Chief Economics Adviser. Although only 43 years old, he is a highly regarded expert on taxation, saving and the Social Security Program, and the effect of government policy on the economy. He has, in fact, published over 80 books and articles on these and other topics.

In addition to being one of Stanford's most popular professors, he is director of the center for economic policy research. He has won numerous awards for both his teaching and his research, including the First National Tax Association's Outstanding Doctoral Dissertation Award, the Abramson Award for outstanding research and Stanford University's Distinguished Teaching Award.

Dr. Boskin is probably best known as the author of President Bush's plan for a flexible freeze. I have learned a great deal about this plan since the campaign and am anxious to learn more. His commitment to solving the budget problem without raising taxes is something all Republicans should be pleased with.

In the past, Dr. Boskin has generously shared his expertise with those in Congress, testifying on numerous occasions before the Senate Finance, Budget and Joint Economic Committees. I am sure we, on Capitol Hill, can look forward to seeing him often during his tenure in the administration.

I urge my colleagues to support his nomination as Chairman of the Council of Economic Advisers.

Mr. SIMPSON. Mr. President, I rise to speak in support of the appointment of Michael Boskin as Chairman of the Council of Economic Advisers.

I enthusiastically support the selection of Michael Boskin as the next Chairman of President's Bush's Council of Economic Advisers.

I have come to know Michael Boskin—when he served as an economic adviser to then-Senate Majority Leader Howard Baker and most recently through his writings and participation in various seminars.

As an economics professor at Stanford University he has written extensively on Social Security and savings issues. And very lividly so.

I have read some of his works and I know Michael Boskin to be a steady thinker. He writes and speaks with great clarity—unlike some of his peers in the economic realm!

Michael Boskin worked closely with Nick Brady and Richard Darman throughout President Bush's campaign—and I know he will continue to provide high-quality economic advice in his new role as Chairman of CEA.

Michael Boskin will be good for President George Bush. He will be good for the Congress. And, Ann and I are pleased to welcome he and his wife Chris to Washington, DC.

We also appreciate his willingness to serve his country in this way.

Mr. RIEGLE. Mr. President, we will have some additional time here if others want to come to the floor and be heard directly on the issue. I would be happy to accommodate any requests within the limits of the time that we have.

In addition, let me ask the Chair. Now, having presented the information with respect to Dr. Boskin—I know we have a vote scheduled later in the afternoon and votes are coming in sequence—would it be in order for me now to set his nomination aside and take up the Kemp nomination?

The PRESIDING OFFICER. The time under the control of the minority, which is 9 minutes, 8 seconds, would have to be yielded back before the motion would be in order.

Mr. RIEGLE. I believe that the majority and the minority are together on this. The ranking minority member, Senator GARN, is not able to be on the floor at this particular time. But let me suggest the absence of a quorum so that we can allow anyone else who wishes to come to the floor on the nomination to do so at this time.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. 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. RIEGLE. Mr. President, I have been informed by the minority side of the aisle that they have no objection to my yielding back their time and I am prepared to yield back the balance of my time in the absence of any requests. So I do that.

The PRESIDING OFFICER. Without objection, the minority and the majority time has been yielded back.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The PRESIDING OFFICER. The Senate will proceed to the nomination of Mr. Jack Kemp to be Secretary of the Department of Housing and Urban Development.

The clerk will report the nomination.

The legislative clerk reported the nomination of Jack Kemp of New York to be Secretary of the Department of Housing and Urban Development.

The Senate proceeded to consider the nomination.

Mr. RIEGLE. Mr. President, the Banking Committee also has jurisdiction over the presentation of some Cabinet nominees to the Senate. So I now present our observations on Jack Kemp, our former House colleague, to become the Cabinet officer of the Department of Housing and Urban Development.

Representative Kemp recently appeared before the Senate Banking Committee in regard to his nomination. We were able to cover with him a very broad range of subjects that related to current policy issues before that department.

We talked with him about the homelessness problem which he listed as his top operational priority. And we spoke at great length about the need to make sure that the Department's programs and thrust are aimed in such a way that they really reach all the people across the society that are in need of those services and assistance.

In addition, let me just say with respect to his background that Mr. Kemp has served a good many years in the House of Representatives representing the district around Buffalo, NY, and certainly is well known for his activist efforts in the House of Representatives on a wide range of policy issues. He is a graduate of Occidental College with a BA degree in 1967. He did some additional college work beyond that. He has received a number of honorary degrees, and has participated as well in a number of outside civic organizations.

His service in the House of Representatives began in 1971, and ran through January 2, 1989. Prior to that time, which is well known, he had a very active and distinguished career in professional football playing as a quarterback for various teams, over a series of years.

He, too, has widely written and published articles in a number of areas, and on a variety of policy subjects. When we questioned Mr. Kemp at his nomination hearing, he was very direct and forthcoming in his responses. He, I think, evidenced great interest and enthusiasm for the job, is very anxious to take it on, and a number of supportive comments were made by Members on both sides of the aisle about his nomination and the way he said he would carry his responsibilities if confirmed.

He was introduced by the two Senators from the State of New York, Senator MOYNIHAN and Senator D'AMATO, who were present, and who spoke warmly on his behalf.

I will shortly, in the absence of other requests for time on either side, entertain a quorum call, so that people will have the opportunity to come and speak on this nomination if they wish.

Mr. SHELBY. President, I am pleased that we have the opportunity to vote on the nomination of Jack Kemp to be the Secretary of the Department of Housing and Urban Development. Let me reveal my bias by saying that I believe Jack Kemp is an excellent choice to tackle one of the more urgent problems of this new administration.

Housing was not a priority of the Reagan administration. Consequently, problems that were with us in 1981 persist and have worsened. We are falling short of the commitment made in the House Act of 1949 to provide "a decent home and a suitable living environment" to all Americans. Homelessness has reached disturbing proportions and it has been necessary to pass an Emergency Assistance Act to provide temporary aid. From the report of the National Housing Task Force, I learned that the homeownership rate in this country steadily increased from the post-Depression rate of 44 percent in 1938 to a high of 65.6 percent in 1980. At that point, our progress faltered. Between 1973 and 1983, we lost 4.5 million units from the Nation's housing stock. On the heels of this loss, the amount spent to rehabilitate existing units doubled, putting many more units out of reach of the poor.

A more shocking comparison is the decrease in the production of new units. More than 1 million new units of federally subsidized low-income housing were built during the 6-year period of 1976 to 1982. However, in recent years, fewer than 25,000 units have been produced annually. Moreover, our deficit-constrained budget dictates that we can do relatively little financially to improve the situation.

Thus the stage is set for a Jack Kemp. He is a man of energy and initiative that believes, as I do, that Government's role is to assist people in helping themselves. He understands that the mission established by the Housing Act of 1949 of providing decent housing is more than a socially desirable goal. It makes economic sense. It is difficult to work—although 20 percent of the homeless do—when you do not have a home to go to at night, a place where you can take a shower, and keep your clothes, and get your evening's rest. Having an affordable residence in a decent neighborhood is essential to securing steady employment.

Business knows that an affordable housing stock is necessary to attract qualified employees. Jack Kemp knows this and thus sees a role for the private sector in working with Government, for mutual benefit. He realizes that providing decent, affordable housing is not an end in itself but a means to an end. Stimulating community development starts with encouraging people to establish a permanent home, to take pride in the community. A clean, safe neighborhood nurtures family stability and provides a good place for children to grow up. A clean, safe neighborhood fosters entrepreneurship and job creation; home ownership affords an avenue to the accumulation of assets and a way off public assistance. Jack Kemp is a champion of these ideas and often led the charge in housing/job related initiatives during his tenure in the House.

The job of HUD Secretary requires someone with stamina and persistence. Countering the decrease in affordable housing at a time of severe budget constraints will demand fresh ideas. It requires someone who can speak up at Cabinet meetings and insist that housing be a priority issue once again. Jack Kemp has said that we will not balance the budget on the backs of the poor. I am confident that Congressman Kemp will dedicate his usual

vigor and determination to the task before him and that 4 years from now we will be hailing HUD's progress, rather than lamenting its problems.

I wholeheartedly support Congressman Kemp's nomination.

Mr. DOLE. Mr. President, I rise in support of President Bush's nominee for Secretary of the Department of Housing and Urban Development, Jack Kemp.

In his nine terms in the House of Representatives, Jack Kemp has demonstrated his commitment to rebuilding America's inner cities, as well as providing shelter for the poor and homeless. He understands the need to bring strong leadership and high visibility to the Department, while making every effort to balance the economic and social needs of a broad range of citizens in both rural and urban America.

Jack Kemp brings commitment and creativity to solving the problems of the poor and the average American—those who are struggling to find shelter for their family, those young people trying to save enough for a down payment on their first home, and those families in small towns across America who fight to scrape enough together to pay their rent.

But in our drive to care for those less fortunate in our cities, we must not forget the men, women, and children in the Nation's rural areas. Urban enterprise zones and urban revitalization does not touch, cannot help these people. Yet their needs are the same. Talented and innovative leadership which reaches out to all our citizens is critical. Jack Kemp faces a difficult challenge in meeting these diverse needs. I am confident that Jack Kemp will exhibit strong leadership and compassion to this post. And I urge my colleagues to confirm his nomination.

Mr. SANFORD. Mr. President, I rise today in support of the nomination of Jack Kemp to be the next Secretary of the Department of Housing and Urban Development.

The importance of the Secretary's position cannot be overestimated. As we walk through the streets of our Nation's Capital, we are constantly reminded of the failure of this great country to provide the basic necessity of shelter to its people. The destitute, urban homeless provide the most shocking symbol of the tragic housing crisis, but the housing problems facing the Nation's rural communities are no less acute. The entire Nation cries out for innovative and constructive thinking to provide all Americans with decent shelter at an affordable price.

When undertaking the tasks of the Department of Housing and Urban Development, I urge the Secretary to remember that housing assistance cannot merely be directed to urban problems; the plight of the rural poor and homeless must not be ignored. While I understand that many rural housing programs are directed by the Department of Agriculture, through the Farmer's Home Administration, I hope that Mr. Kemp, as Secretary of HUD, will work to coordinate the Federal housing efforts to ensure that the housing needs of all Americans are being met.

The housing situation in America is becoming bleak. Millions of Americans live in substandard housing units with little or no indoor plumbing, crumbling foundations, and inadequate heating. Millions of Americans reside in cramped, overcrowded dwellings, and still more Americans pay beyond their means for modest shelter.

During the next 5 years, over 300,000 units of HUD-assisted housing will become eligible for prepayment, placing a tremendous strain on the already short supply of low-income housing. Also, much of the existing public housing needs immediate rehabilitation. First-time homebuyers face tremendous obstacles to homeownership, and the ever-increasing homeless population cannot find any shelter at all.

These serious challenges will require strong leadership, steadfast courage, and effective administration by the Secretary of HUD. It is my hope and my belief that Jack Kemp will fulfill the duties of this position with the integrity and innovation that have characterized his tenure in Washington.

During his 13-year professional football career, and his 18-year stint in Congress, Jack Kemp has stood at the center of public attention. I believe that he will bring a well-deserved and long-needed prominence to the housing problems of the Nation. Public opinion strongly supports the inclusion of housing as a top agenda item for the next administration, and I think that Jack Kemp is the man to focus and energize public support into positive action.

We all understand the need for fiscal restraint created by the looming Federal deficit. I am pleased with Congressman Kemp's creative ideas for public/private partnerships, and his support for a nationwide effort by public entities, private businesses, and nonprofit organizations to provide decent shelter for all Americans. However, I hope that he will see the need for the Federal Government to play a crucial role in housing low-income citizens.

The Department of Housing and Urban Development cannot take a back seat in the Bush administration. Instead, HUD must be revitalized to take on the challenges of the future. I look forward to working closely with Jack Kemp in his efforts, and I wish him the best of luck in the next 4 years.

Thank you, Mr. President.

Mr. RIEGLE. Mr. President, I yield to the Senator from South Dakota [Mr. PRESSLER].

Mr. PRESSLER. Mr. President, first of all, I am very honored to have joined the Banking, Housing, and Urban Affairs Committee. I think we are very well led by our chairman and our ranking member. I think the spirit of that committee was reflected during the hearings on Jack Kemp. I want to compliment our chairman for the way he is leading us in the search for a bipartisan solution to the problems of the savings and loan industry. I intend to work to help him become a great chairman of that committee.

I would like to proceed with a few remarks on Jack Kemp, if I may. I think Jack Kemp is a great choice for Secretary of Housing and Urban Development. I served with him in the House of Representatives from 1975 to January 4, 1979, I have observed him closely.

I am proud to say that his ancestors founded Watertown, SD, and the main street there is called Kemp Avenue. It was from there that he launched his Presidential campaign. So we South Dakotans also have a special interest in Jack Kemp.

I think one of the reasons that it is good to have Jack Kemp in this particular job is that he has shown an ability to take a new approach to certain social problems. For example, the old Kemp-Roth tax bill caused a lot of skepticism at first, but it was new thinking and something different in the social tax area.

Many of the problems that he will be dealing with will require some new thinking. I do not know what some of the solutions to some of the problems are, but, for example, in the housing area, the area of the homeless is much-discussed in our society. Very few people have the courage to say that in addition to spending more money on the problem, building more homes and shelters, there is also an issue of the power of detention by governments.

You could build beautiful homes for some of the people who are homeless, and they would not go into them because they, very frankly, have a mental condition or an addiction to drugs or alcohol, so that they will not accept free shelter.

In the 1950's and early 1960's, our mental institutions were almost emptied by changes in Supreme Court rulings, as well as decisions by administrators in our States and legislative action in the Congress.

To deal with this problem effectively is going to take somebody who has the courage to examine and state the whole problem and to define what needs to be done. I think Jack Kemp is capable of such thinking and following with appropriate action.

With respect to many of our urban problems and in the area on our Indian reservations, Jack Kemp has a major responsibility. Much of the housing on Indian reservations is HUD housing. The record there in the utilization of the assisted housing, I regret, is not good. After a time, many of the properties are virtually wrecked, and the whole syndrome is one of poverty, alcoholism, and unfortunate people.

It will require some real thinking to analyze what the real problem is and tackle it and bring it to this Congress. Some of the things Jack Kemp will have to say and do may not be popular, but I think we need a rigorous analysis of the problems, not only of the homeless but also of what happens to some of our public housing after it is built, in urban areas as well as in some rural areas.

The new Secretary will also take on the difficult social problems of urban areas, the formulas for our cities, great and small. Some of our small towns have enormous problems, proportionately maybe greater. So it is with that hope that I endorse Jack Kemp's nomination, and I shall vote for him with pride. I am excited about his becoming Secretary of HUD, because I have confidence that he will bring some new thinking and will address directly and intellectually the problem that exists in our country and for which solutions can be found within the jurisdiction of the Department of Housing and Urban Development.

I hope that he will be able to visit some of our Indian reservations and consider what can be done to better assist the people there. Those in their need for decent housing and the need to properly maintaining it. I wish him well, and I think we are very lucky to be getting him to serve as Secretary.

The PRESIDING OFFICER. Who yields time?

The Senator from Michigan.

Mr. RIEGLE. Does the Senator from Mississippi want to be recognized? If so, I will be pleased to yield to him at this time.

Mr. LOTT. I thank the Senator for yielding.

Mr. President, I, too, rise to endorse the nomination of my colleague in the other body, when I served there, to be the Secretary of Housing and Urban Development.

Jack Kemp is an outstanding man. I have known him well for the past 18 years, having served with him and worked with him in the Congress, but I have also known him on a personal basis, in his home and with his family. I have known him to be a man of vision and great ideas. He will not be a Secretary of Housing and Urban Development that just pushes the paperwork, schedules his appointments, does the minimum work he has to do. He will be a real leader in that Department, and he will be an activist across this country.

I believe as the Secretary of Housing and Urban Development he will look at housing needs in this country, in the urban areas, and in the rural areas.

I know that he will go to New York City and Chicago and Philadelphia and Detroit, MI, but also I believe he will be in places like Laramie, WY, and Alligator, MI, where we have housing needs, also. But the solutions to our problems with housing and urban development in this country are not always just money, although I acknowledge sometimes that is necessary. I think that he will look for innovative ways for our people to have their own home or to build up equity in their public housing. I believe he will find ways to help people to manage their own lives and their own homes, as they have an opportunity to live in Federal housing or to develop private ownership.

So I think that he has the leadership, the inspirational leadership that we need in this very important Department. Quite honestly, I was somewhat surprised at first that President Bush selected Jack Kemp for this important position, but I think it was an ingenious move. So I want to say to my colleagues in the Senate and to the American people that I think we are going to have one of the most active Secretaries of Housing and Urban Development we have ever had in Jack Kemp. He will be a man that will run the Department very honestly, and I think we will be inspired by the leadership that he gives to this position.

I thank the Senator for yielding and urge my colleagues to support this fine former Congressman from New York, as he is confirmed for Secretary of Housing and Urban Development.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. Mr. President, I think what I am going to do is propose that the time that will be used here that has been used by the two Senators who have just spoken and the remarks I am about to make in reading three letters into the RECORD, three letters of support, be taken from both sides equally. I do not imagine there will be a problem with that. Let me just suggest that.

Let me cite the first letter which has come to us from the President of the National League of Cities, Terry Goddard, the mayor of Phoenix, AZ, who serves as president of that national organization at this time. He says as follows:

On behalf of the National League of Cities and our member cities, I would like to express our support for confirmation of Jack Kemp as Secretary of Housing and Urban Development (HUD).

We believe he will be both committed and sensitive to municipal issues. We believe he will bring leadership to the Administration as an advocate for our concerns. He will be a spokesman for housing, community and economic development and confrontation of urban poverty.

And the letter goes on in that vein. I ask unanimous consent the entire letter be printed in the RECORD at this point.

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

January 18, 1989.

Hon. DONALD W. RIEGLE,
Chairman, Subcommittee on Housing and Urban Affairs, Senate Dirksen Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the National League of Cities and our member cities, I would like to express our support for confirmation of Jack Kemp as Secretary of Housing and Urban Development (HUD).

We believe he will be both committed and sensitive to municipal issues. We believe he will bring leadership to the Administration as an advocate for our concerns. He will be a spokesman for housing, community and economic development and confrontation of urban poverty.

I have met with Mr. Kemp and I am very encouraged by his genuine interest in forging a new federal-local partnership.

We are very impressed and welcome his earnest desire to develop a working relationship with the nation's cities and, once confirmed, look forward to working with him and his staff towards placing the issue of housing at the top of the national agenda.

Sincerely,

TERRY GODDARD,
President, Mayor, Phoenix, AZ.

Mr. RIEGLE. The second letter I would like to make reference to is one we received from the National Association of Homebuilders over the signature of Shirley McVay Wiseman, who serves as president at this time. This letter, dated January 25 of this year, to our committee says as follows:

On behalf of the more than 155,000 members of the National Association of Home Builders (NAHB), I would like to extend our strong support for the nomination of the Honorable Jack Kemp for the position of Secretary of the Department of Housing and Urban Development.

As the former Congressman of the 31st District of New York, he has played a significant role in the development of this nation's laws which affect housing and economic policy. He was instrumental in amending the 1987 Housing Act to allow the sale of public housing to tenants and included enterprise zones as a means to regenerate the economy of distressed inner cities. Furthermore, he has been a strong advocate for lower interest rates that are so important for first-time homebuyers to qualify for homeownership.

And this letter of support goes on in that vein. I ask unanimous consent that that also be printed in the RECORD in its entirety.

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

NATIONAL ASSOCIATION
OF HOME BUILDERS,
Washington, DC, January 25, 1989.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN RIEGLE: On behalf of the more than 155,000 members of the National Association of Home Builders (NAHB), I would like to extend our strong support for the nomination of the Honorable Jack Kemp for the position of Secretary of the Department of Housing and Urban Development.

As the former Congressman of the 31st District of New York, he has played a significant role in the development of this nation's laws which affect housing and economic policy. He was instrumental in amending the 1987 Housing Act to allow the sale of public housing to tenants and included enterprise zones as a means to regenerate the economy of distressed inner cities. Furthermore, he has been a strong advocate for lower interest rates that are so important for first-time homebuyers to qualify for homeownership.

Congressman Kemp has distinguished himself as an energetic, innovative and thoughtful leader. We believe he will bring these skills to address America's housing needs and promote affordable housing through facilitating strong public/private partnerships.

His dedication to this nation and its government has been continually demonstrated. I urge the committee to confirm Congressman Kemp as Secretary of the Department of Housing and Urban Development.

Sincerely,

SHIRLEY MCVAY WISEMAN,
President.

Mr. RIEGLE. Next I make reference to a letter that comes to us by the Mortgage Bankers Association of America addressed to our committee that read as follows:

The Mortgage Bankers Association of America is pleased to endorse the selection by President Bush of Jack Kemp to be Secretary of the U.S. Department of Housing and Urban Development. We look forward to working closely with Mr. Kemp on the many housing issues he will face at HUD.

The Mortgage Bankers Association of America is a national trade association representing more than 2,700 mortgage companies, savings and loan associations, savings banks, commercial banks and others in the mortgage lending business. Our members provide mortgage funds for homeownership and the development of multifamily and commercial properties. Mortgage bankers currently service more than $870 billion in home and apartment mortgages and, in the first three quarters of 1988, originated over $278 billion in new mortgage loans.

It goes on to say:

We believe we are among HUD's principal constituents, recognizing that addressing the housing needs of the nation's citizens is a primary concern of Congress.

It goes on to say—and I will paraphrase it omitting a few paragraphs; I will ask that the whole letter be made a part of the RECORD and it concludes by saying:

MBA believes that Jack Kemp has displayed a positive, "can do" approach to many of the issues facing HUD. His stature as an American leader will help put housing on the front burner of issues which must be addressed by the Bush Administration.

The letter is signed by Mr. Willard Gourley, Jr., who is serving at the present time as the national president of the Mortgage Bankers Association of America.

So I ask unanimous consent that the entire text of that letter also be printed in the RECORD.

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

MORTGAGE BANKERS ASSOCIATION,
January 30, 1989.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Mortgage Bankers Association of America is pleased to endorse the selection by President Bush of Jack Kemp to be Secretary of the U.S. Department of Housing and Urban Development. We look forward to working closely with Mr. Kemp on the many housing issues he will face at HUD.

The Mortgage Bankers Association of America is a national trade association representing more than 2,700 mortgage companies, savings and loan associations, savings banks, commercial banks and others in the mortgage lending business. Our members provide mortgage funds for homeownership and the development of multifamily and commercial properties. Mortgage bankers currently service more than $870 billion in home and apartment mortgages and, in the first three quarters of 1988, originated over $278 billion in new mortgage loans.

We believe we are among HUD's principal constituents, recognizing that addressing the housing needs of the nation's citizens is a primary concern of Congress. Members of MBA make and service virtually all loans insured by HUD, and issue nearly all GNMA guaranteed securities. We are proud of the fact that over 10 million American families live in homes of their own with mortgages backed by HUD and made and serviced by our members.

MBA believes that Jack Kemp has displayed a positive, "can do" approach to many of the issues facing HUD. His stature as an American leader will help put housing on the front burner of issues which must be addressed by the Bush Administration.

We wish Mr. Kemp well and thank you for the opportunity to endorse his selection.

Sincerely,

WILLARD GOURLEY, Jr., *CMB.*

Mr. RIEGLE. I will say this to my colleague, Senator DOLE, who has just joined us on the floor, that when we spoke by telephone last night, he said, "Is there any way we can go ahead and report the Kemp nomination through?"

I would like to be able to be responsive at this time, and I am happy to be able to be so this time.

Mr. DOLE. If the chairman will yield, I appreciate very much his expeditious response. It is important to Jack Kemp. I know he appreciates it very much and I appreciate it.

I have known Jack Kemp for a long time. I think he has the right attitude and he is ready to go and has a lot of energy which he will need in the job, as the Senator just indicated.

I personally thank the chairman for his response to my request.

Mr. RIEGLE. I thank the minority leader.

We were complimenting Kemp on his football prowess in the earlier days. We were using lot of sports anologies, and he said that he thought he knew what broken field running was all about until he ran up against Senator DOLE in Iowa. Then he said Senator DOLE taught him a lesson that he has not forgotten.

In any event, we appreciate the Senator's comments and are pleased we can have the nomination on the floor today.

Mr. President, there are other Senators who I know have comments they wish to make. So I am going to reserve the remainder of the time and ask it be drawn down in equal measure here in the time that remains.

The PRESIDING OFFICER. The Senator from Michigan has consumed the 15 minutes allocated to the majority. There are 10 minutes, 30 seconds for the minority.

Mr. RIEGLE. I would indicate that that time should be reserved. I do not see a minority colleague on the floor right now. In the interim I would ask that a quorum call be initiated. And I ask that it be done.

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. SYMMS. 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. SYMMS. Mr. President, I ask the distinguished chairman of the Banking Committee to yield time.

The PRESIDING OFFICER. The majority has utilized its time. There are 10 minutes, 58 seconds for the minority.

Mr. SYMMS. Mr. President, I yield myself 3 minutes of the minority's time.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I am extremely happy to be able to come to the Senate floor today to encourage my colleagues to support and endorse the nomination of Jack Kemp to be the new Secretary of Housing and Urban Development.

Often Representatives are elected and do not make a major impact on policy and ideas. But Jack Kemp is one man that came to Congress in 1970 and immediately started pointing out excessive marginal tax rates. Furthermore, he emphasized the necessity for this country to restore incentives

and rewards back into our economic system. He had a major and profound impact on where this Nation is today. Incentives and rewards have been put back into the Tax Code of the United States and there has been an across-the-board reduction of marginal tax rates.

I believe he will give this administration many new ideas, ideas that are imaginative, entrepreneurial, and that will have a real impact in this administration's goal of increasing private ownership of housing. I think in time we all will see that Jack is a great humanitarian. He has great faith in the marketplace. Jack will be a strong voice in the Cabinet, reminding all of us that the reason things are better in the United States than they are in other nations is because we have free markets and allow people to make decisions voluntarily through institutions in the marketplace. I think that Jack Kemp will be an asset and well respected leader of the Bush administration.

I have known Jack Kemp since 1972 when I was elected to the House of Representatives. I consider him a friend, a patriot, a great leader, and a fine addition to the Bush administration.

I yield the floor.

Mr. DIXON. Mr. President, I wonder if my friend from Idaho on the opposite side would consent to give me a brief moment or two to speak in support of the nominee.

Mr. SYMMS. Certainly; I yield the Senator as much time as he may need.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from Illinois.

Mr. DIXON. Mr. President, I am pleased to support the nominee. I think Jack Kemp has been a fine Congressman. His views, incidentally, Mr. President, on questions involving those who live in housing developments around the country, I think, are interesting views and ought to be developed by the Banking, Housing, and Urban Affairs Committee on which I serve.

As the Chair and others here know, I was the sponsor of tenant management legislation that passed last year that I think is an exciting new concept that will enhance living in housing developments around the country. Mr. Kemp has expressed some very enlightened ideas about ownership and tenant management and other things in these housing developments that I think are exciting concepts worthy of consideration by the Congress. When he came to call upon me with his staff, we visited at length about those concepts. I was well pleased with his assertion that he will assiduously pursue the goal of providing better housing for the poor and unfortunate of America. That is an encouraging thing.

So, Mr. President, I am pleased to rise from this side to suggest that we have in this nominee a man who may bring some exciting new concepts to the thought of public housing in America. I am happy to support his nomination.

I yield back whatever additional time may have been allotted to me, Mr. President.

Mr. THURMOND. Mr. President, I yield myself as much time as may be required.

Mr. President, I rise today in strong support of the nomination of former Congressman Jack Kemp to be Secretary of Housing and Urban Development. He is no stranger to public service and his qualifications are well known.

First elected to the House in 1970, Mr. Kemp's election to Congress followed a 13-year career as a quarterback in the American and National Football Leagues. Both on and off the field, he has demonstrated a commitment to leadership and excellence.

Mr. President, as a member of the House Appropriations Committee, Mr. Kemp served as ranking Republican on the Foreign Operations Subcommittee. He was instrumental in carrying out United States foreign policy goals, including aid to freedom fighters in Central America, Angola, and Afghanistan. In addition, he has been a strong supporter of economic and security assistance to United States allies in Europe, Israel, and around the world. Mr. Kemp served as a senior counselor to the President's National Bipartisan Commission on Central America, and as an observer of the El Salvador elections.

Mr. Kemp also has demonstrated his leadership skills as former chairman of the House Republican Conference, the third ranking party leadership post in the House of Representatives. He served in this capacity for 7 years.

In addition to these leadership posts, Mr. Kemp received wide acclaim for his work in authoring the Kemp-Roth 30 percent across the board tax cut, which became the cornerstone of President Reagan's economic recovery plan when it was enacted by Congress and signed into law in 1981.

He had led the way for further tax reductions in 1986. As author of the Kemp-Kasten fair and simple tax plan, Mr. Kemp was instrumental in lowering tax rates on working families, removing the tax burden from the working poor, doubling the personal exemption to $2,000 for each family member, and creating incentives for investment and economic growth. This Kemp-Kasten plan formed the basis for the Tax Reform Act of 1986.

Finally, Mr. President, this nominee believes very strongly that the family is the foundation of American life. I agree with him 100 percent. He has worked for initiatives that strengthen the family and traditional values, including measures to put an end to abortion, and measures to combat child pornography. Mr. Kemp has a fine record of demonstrated excellence. His past public service will serve him well in his new position.

I strongly urge my colleagues to support this talented nominee. He will be a great asset to this country and the administration as Secretary of Housing and Urban Development.

Mr. CRANSTON. Mr. President, I rise simply to express support with enthusiasm for the nomination of Jack Kemp to be Secretary of HUD. I know it is a foregone conclusion that he will be confirmed, so I will not go on at any length. I simply want to say that he has great enthusiasm, and I believe great creativity, great energy, and a great commitment that he will bring to the task of seeing to it that we deal with the plight of the homeless in our country to the best of our ability within constrained resources, deal with the plight of those living in dilapidated and deteriorated housing, and seek to deal with the plight of new young families with reasonably good incomes who now cannot find homes they can afford in so many communities in our country.

I look forward as chairman of the Housing Subcommittee of the Banking Committee to working intimately with Jack Kemp as we seek to cope effectively with these problems for the people of our country.

In recent weeks, I have met with Jack Kemp and talked with him on several occasions. I have talked with many people from around the country who know of Jack Kemp's abilities and who understand the enormous challenge and opportunity that lie before the new Secretary of HUD. All of these conversations leave me very encouraged.

The Senate Housing Committee, which I chair, has been working on housing and urban affairs for several years in a spirit of strong bipartisanship. Now I expect that same cooperative spirit can mark the working relationship between Congress and the administration on the country's housing problems. It is long overdue.

I'm convinced Jack Kemp shares my enthusiasm about the challenge that lies before us in housing. We have a rare opportunity to launch a fresh, effective attack on the country's housing and urban problems—problems that are becoming ever more urgent.

I believe that Jack Kemp and I have much in common.

We both are committed to end the scandal of homelessness in America. Congress has learned clearly that homelessness is not an isolated problem—it is one bitter symptom of a whole chain of problems that make decent housing increasingly unaffordable for many Americans. I'm sure we can work with Jack Kemp, not only to

fully fund the McKinney Act, but also to solve the root causes of homelessness in America.

We both support an increase in tenant management and ownership of public housing. The 1987 Housing Act took an important step in this direction. I'm sure we can make further progress without reducing the Nation's very scarce supply of housing for the poor.

We both believe that tenant-based housing assistance must be a key element in national housing policy. I'm sure that Jack Kemp can work with us to find better ways to do this—by building on the best features of vouchers and section 8 certificates.

We both understand the need for improving incentives for the production of housing for low-income and moderate-income families. I'm sure that—with Jack Kemp's leadership at HUD—the administration, the Banking Committees and the tax committees can together develop an effective mix of incentives.

We both support enterprise zones. The 1987 Housing Act authorized only the framework for enterprise zones. I'm sure we can make them into a powerful tool for urban economic development.

We both believe the country needs to build partnerships among Government and the private sector and nonprofit organizations—mobilizing the Nation's skills and resources to provide decent, affordable housing and economic opportunity for all Americans.

Most importantly, we both share a common desire to search widely for the best and most workable ideas that the country has to offer—so that we can put those ideas to work to provide decent and affordable housing, to improve the quality of life in our cities, and to expand economic opportunity for those who are disadvantaged.

The Senate has made enormous progress in this regard during the past 2 years. Senator AL D'AMATO and I issued a nationwide invitation to build an effective, new housing policy—and we received a remarkable outpouring of enthusiasm and effort.

Virtually every major housing organization came forward with carefully considered recommendations. Under the leadership of MIT, some of the Nation's top housing researchers reviewed what we have learned about what works in housing policy. A landmark effort came from the National Housing Task Force, which included housing leaders from private industry, State and local government and nonprofit organizations—led by Jim Rouse and David Maxwell. The Senate Housing Subcommittee has held an extensive series of hearings.

I believe the ideas that have emerged are the best the country has to offer. They are not Democratic ideas. They are not Republican ideas. They are just sound, imaginative, workable ideas for improving America's housing.

We are not drafting those recommendations into the National Affordable Housing Act, which we hope to introduce in the coming weeks. It will be bipartisan legislation. My sincere hope is that the new administration will work closely with us to refine that legislation and launch an effective national housing policy without delay.

I am confident that Jack Kemp will follow through on this opportunity.

Jack Kemp couldn't be coming to the responsibilities of the Secretary of HUD at a better time. I'm excited by the possibilities for cooperative and productive work that his confirmation will bring.

Mr. DOMENICI. Mr. President, it is with great pleasure that I fully endorse and support the nomination of Congressman Jack Kemp, of New York, to be this Nation's next Secretary of Housing and Urban Development.

As a former chairman of the Albuquerque City Commission, I have great empathy for the plight of our Nation's inner cities. In New Mexico, we call these areas the "barrios."

The homeless, the poor, and too many minority citizens find themselves trapped in the downward spiral of poverty in the inner city. Poverty in the inner cities has lately degenerated further due to the explosion of drug abuse, especially new derivatives of cocaine.

Jack Kemp believes we can do a far better job in our inner cities, and so do I.

When selected by President Bush for this Cabinet position, Mr. Kemp quoted words of Dr. Martin Luther King, Jr. When Dr. King accepted the Nobel Peace Prize 25 years ago, he did so: "With an abiding faith in America and an audacious faith in the future of mankind."

Jack Kemp believes in the American way of solving problems, the way of freedom. Combined with Dr. King's faith in the future, I believe we will see fresh thinking and exciting innovations during a Kemp stewardship of the U.S. Department of Housing and Urban Development.

Let me add a few specific thoughts on specific issues facing American and Secretary Kemp.

HOMELESSNESS

As Mr. Kemp pointed out in his confirmation hearing before the Senate Banking Committee, full funding of the McKinney Act is "necessary" but "not sufficient" to begin to solve the problem of homelessness. He pointed to the need for a "complete and effective safety net consisting of both public and private sector efforts." I couldn't agree more.

Mr. President, I have shared a vital concern of mine with Mr. Kemp. Both McKinney Acts are very complicated from a local point of view. This is an issue that directly affects the ability of mayors and Governors to make full use of available programs in the McKinney Acts.

The worst example, as I see it, is the case of the mentally ill homeless. Without transitional housing, we will be able to do very little for them. A local program in Albuquerque or Santa Fe, under the current McKinney Act, has to apply to the Governor for service funds. The problem comes in the housing area. If housing is to be part of a local program, a city must succeed in a national competition.

This means that too many local programs for the homeless mentally ill will have no housing component from the McKinney Act because there is no coordination mechanism to match service funds with housing funds.

I look forward to working with Secretary Kemp to lower the legislative and administrative barriers now in place for housing the homeless who are mentally ill.

NATIONAL HOUSING POLICY

Mr. President, 1989 will be a very important year in the formulation and improvement of our national housing policies, particularly for the poor. That is a major responsibility of HUD.

Again, I believe we will have good reason to have confidence in the vision and leadership of Jack Kemp. In his confirmation hearing, he told the story of Kimi Gray at the Kenilworth/Parkside housing project in Washington, DC. Under her leadership, this failing public housing project has become a community symbol for the success of resident management and ownership.

The U.S. Government cannot afford to build a house for every poor person, Mr. President. We need examples of public housing successes to inspire more local leadership and better support from our Federal resources. I believe Jack Kemp will take us closer to this goal of a working federalism to achieve a goal never achieved in any previous society—a safe and decent place for each citizen to live.

ENTERPRISE ZONES

Like Mr. Kemp, I believe our poorest areas need economic incentives. The enterprise zone concept must be shaped to meet the special needs and potential of many inner-city problems. In New Mexico, I am convinced that the enterprise zone concept will work in many cities: Santa Fe, Albuquerque, Las Cruces, as well as Espanola, Grants, and Gallup.

I believe, Mr. President, that enterprise zones will also prove a boon to native Americans. This is a concept I am exploring for use on Indian reservations, and I have Mr. Kemp's promise of full support for applying this important economic development tool on

our Nation's Indian reservations—the worst pockets of poverty in the United States.

As Jack Kemp says, "We need to unlease the power of free enterprise in our inner cities." He reminded us in his confirmation hearing that "there is still a forgotten frontier in our midst—ghettos and barrios that still experience unconscionable levels of poverty, unemployment, and despair."

Mr. President, I am proud to support Jack Kemp's confirmation as the next Secretary of Housing and Urban Development. Jack Kemp is a man who believes in trying new solutions to old problems. As Secretary of HUD, he will have a golden opportunity to help lead the poorest of the poor out of the misery of a life of despair in the ghetto or the barrio.

I will do all that I can to support his efforts to improve the lives of millions of Americans, Mr. President. I ask my colleagues to vote in favor of Jack Kemp as the next national leader in urban affairs. The issues are tough ones and Jack Kemp is the right leader at the right time.

I thank the Chair and urge my colleagues to vote in favor of Jack Kemp's confirmation as Secretary of Housing and Urban Development.

Mr. SPECTER. Mr. President, I congratulate President Bush on his selection of the Honorable Jack Kemp as Secretary of the U.S. Department of Housing and Urban Development, and I am pleased to express my support and vote for his confirmation today.

My confidence in Representative Kemp's ability and integrity arises from having known and worked with him for over a decade. He displays tremendous energy, great innovation, and a real dedication to public service.

Even before Representative Kemp's confirmation hearings began, he personally expressed to me his interest in matters of concern in Pennsylvania. I am especially pleased with his expressions of concern for the homeless and housing for the needy.

He is well-qualified for the position as Secretary of Housing and Urban Development, as reflected in his impressive list of accomplishments and experiences. Jack Kemp served in the U.S. Congress from 1971 through 1988 as the representative of New York's 31st District. While in the House, he was elected to the leadership post of chairman of the House Republican Conference in 1981, in which capacity he served until his resignation in 1987. He also served as a member of the House Appropriations Committee, the Budget Committee, the Select Committee on Children, Youth, and Families, the Education and Labor Committee, and the Select Committee on Small Business.

As a Member of Congress, Representative Kemp helped develop new and creative initiatives to address some of the major housing problems in our country. These include the Enterprise Zone Job Creation Act, an initiative to allow public housing tenants to manage their own projects leading to the ultimate purchase of their own homes, and the Fair Housing Act amendments, which was enacted with strong bipartisan support in Congress and from President Reagan and Vice President Bush.

A graduate of Occidental College, Representative Kemp also received honorary doctor of laws degrees from Wake Forest University, Medaill College, Clarkson College, and the Miami University of Ohio. He also has served as an honorary chairman or board member of numerous charitable organizations.

Enshrined in the hearts of many avid sports fans, Jack Kemp also played professional football for the Pittsburgh Steelers, the New York Giants, the San Francisco 49'ers, the Los Angeles Raiders, the San Diego Chargers, and the Buffalo Bills, when he retired in 1970. A strong and effective quarterback on the field, Jack Kemp will be an effective leader in the many important housing issues facing our country.

I support the nomination of Representative Kemp to this post. If confirmed by the Senate, as I am sure he will be, I expect him to be an outstanding Secretary of Housing and Urban Development.

Mr. GARN. Mr. President, I rise today on behalf of the Honorable Jack Kemp, President Bush's nominee for Secretary of HUD.

The Banking Committee voted unanimously in favor of Secretary-designate Kemp this morning, and I look forward to the full Senate showing their support for Mr. Kemp this afternoon.

Jack Kemp brings 18 years of legislative experience to the post of Secretary of HUD. He's well known for innovative ideas in legislation, for example, tax legislation he coauthored with the Senator from New Jersey.

While in the House of Representatives, Jack Kemp started discussing other ideas, ideas on housing, community, and economic development issues such as enterprise zones and tenant ownership of public housing. With Jack Kemp as HUD Secretary, we have an opportunity to see a person with incredible energy and ideas turn both into sound new housing policy.

Jack Kemp described himself before the committee as audacious. Appropriately, the American Heritage Dictionary defines "audacious" to mean "fearlessly daring, bold." Bold and daring are exactly the qualities necessary in a HUD Secretary when the Nation is faced with the budget deficit we have before us, and so few dollars to spend on programs for the less fortunate in our society.

In his testimony before the committee, Secretary Kemp talked about his personal conviction that the lack of suitable housing and the problem of homelessness should not be tolerated or accepted as an unavoidable evil in society. He also discussed the fact that he was raised in a family where everyone was urged to succeed, and no individual should be left behind while others went on to achieve greater things. The Nation desperately needs a Secretary of HUD who does not tolerate the status quo in housing problems, and who will not be content until he arrives at creative solutions to difficult problems.

I applaud President Bush in his choice for HUD Secretary. Jack Kemp is one of the few people I can think of with the energy, experience, and audaciousness, to serve the country as HUD Secretary.

Mr. DODD. Mr. President, I'm honored to stand here today and vote for the confirmation of Jack Kemp to be Secretary of Housing and Urban Development.

One of the ancient poets—Virgil, I think—exhorted us to "look with favor upon a bold beginning." With Jack, and with the energy and enthusiasm he brings to the Secretary's Office at HUD, we have reason to look with favor upon the bold beginning that his stewardship signals and we have reason to expect the bold return of housing to its rightful and high place on the agenda of national priorities.

Affordable, decent housing—a fundamental component of the American dream—has never been more out of reach for American families. And the proud streets and avenues of most American cities are now paved with the broken dreams of the homeless.

At his confirmation hearings last week, I was heartened to hear Jack say that the eradication of the national tragedy of homelessness will be his No. 1 priority. I was further heartened to hear Jack say that we must not only provide shelter for homeless Americans but we must also commit ourselves to considering additional areas where further assistance can be made available to attack the causes of homelessness. We must pave the way, in his words, to jobs, training, permanent housing, health care, and human dignity.

Shelter is a basic need, a need addressed by national leaders across the political spectrum for half of a century. Although it was a Democratic President, Franklin Roosevelt, who in 1937 first affirmed a Federal commitment to decent housing for every American, much of the Federal spending on housing has occurred under Republican administrations, perhaps most notably under Nixon and Ford, with the bipartisan support of Congress.

That pattern changed dramatically—and regrettably—in this decade: Housing funds were slashed by 70 percent under President Reagan. The result is that today our housing problem has grown to proportions unconscionable for the greatest Nation in the world, and unseen since the depths of the Great Depression.

The need to reestablish a Federal housing role has never been more urgent. Last Congress, Senator D'AMATO and I introduced the Housing Grant Action Program [GAP] Act which represents a realistic, Federal approach to creating housing but which emphasizes local and State expertise and flexibility. The GAP Act proposes to bridge the gap between taxpayer dollars and consumer need by recognizing the central role of State and local governments and nonprofit organizations in the establishment of an effective national housing policy; using limited Federal resources to leverage substantial private investment; targeting limited Federal resources based on need; and better coordinating tax and spending policies.

I mention the GAP Act here today because it is a paradigm for the 1980's: A bipartisan solution incorporating the best cost-saving ideas both Democrats and Republicans have to offer. It reflects a consensus that while arduous and painful budgetary decisions constrain every area of policy debate, the administration and Congress have cut housing dollars beyond the bounds of reason during the past 8 years—and policy must change.

Jack indicated at his hearing last week that he is serious about changing our national housing policies and making them more responsive to the daunting realities we face in providing shelter for all Americans. I was particularly pleased to hear him say that tax and housing policy—like all domestic policies—must be more effectively coordinated and not work at cross-purposes. The Secretary designate went on to say that "we must reexamine tax policy to determine whether we can more effectively provide greater incentives in low-income housing. I believe we can use tax policy to promote and achieve social goals." We have reason to look with favor on Jack Kemp's beginning at HUD.

There is a bipartisan sense in this Congress that too much distance has grown between the rhetoric and reality of the American dream of home ownership. It is my hope that the Bush administration and the Kemp Department of Housing and Urban Development will work with Congress to make a strategic investment in the future of a nation that has badly neglected housing—and reaped devastating consequences.

I welcome my former House colleague and friend to his new position at HUD. I look forward to working with Jack Kemp and colleagues on both sides of the aisle, to fashion a national housing policy worthy of the trust of those who look to us for leadership.

Mr. SIMPSON. Mr. President, Jack Kemp is a person whose boundless energy and enthusiasm can be well-utilized in this Government. During his years as a Representative from New York we came to have high respect for his great determination.

President George Bush has nominated Jack for a task for which he is very well suited. The Secretary of Housing and Urban Development will find himself right smack in the middle of some of this country's most distressing problems—the issues of the homeless and urban poverty. They are the issues that tug at us all. And yet they demand creative solutions—new approaches—and Jack Kemp is just the right person for that task.

Many of us have worked with Jack Kemp on any number of issues. He is well grounded in issues of the budget. We know from his previous record that he will pursue his new task with a keen eye always on the budget. For we all know as well, that America has passed the point where we could simply create a new program—and pay for it later.

I am impressed, too, by Jack Kemp's efforts—now and in years passed—to reach out to all segments of this country. He is a responsive person who will be accessible to all of the various groups that deal most frequently with his agency. His door is always open, and that augers well for the resolution of the many tough issues he faces.

I look forward to working with Secretary Kemp as he brings his proposals to the Congress. For I know those proposals will always have a good basis in common sense. And from working with Jack Kemp in the past, I know he will be right there—pressing his case in a spirited way—and always ready to discuss his proposals.

Jack Kemp is a man truly dedicated to public service. We are fortunate that he has accepted the job of Secretary of Housing and Urban Development. I am very pleased.

Mr. BYRD. Mr. President, I am delighted to express my support for the nomination of Jack F. Kemp to be the Secretary of Housing and Urban Development.

I met with Mr. Kemp in my office last week and I was impressed by his eagerness to meet, head-on, the many challenges which he faces. Our country's current stock of low-income housing is inadequate and communities all over this country—certainly in my own State of West Virginia—are in desperate need of assistance in improving their basic infrastructure in order to increase economic development and to create jobs.

Mr. Kemp has a number of innovative ideas as to how to address these problems, some of which are controversial and will require careful congressional review.

But he brings to his task a genuine and refreshing enthusiasm which, coupled with the experience of nine terms of service in the House of Representatives, should serve him well.

I look forward to working with him, and I wish him well in his new role.

Mr. Kemp will be inheriting a housing and community development crisis which is the result of 8 years of neglect. Millions of units of low-income housing have disappeared from our Nation's inventory and Federal grants to State and local governments for physical capital have been cut by more than half. If President Bush's fiscal year 1990 budget for housing and community development follows the lead of President Reagan's last budget, my own State of West Virginia will lose millions of dollars needed to create housing, improve infrastructure, and increase jobs and economic development.

I hope that Mr. Kemp will use his new position to redirect this Nation's attention to the serious needs of States like mine in the areas of housing and community infrastructure.

Mr. MACK. Mr. President, I am pleased to cast my favorable vote to confirm Jack Kemp's nomination as Secretary of Housing and Urban Development.

During the course of Mr. Kemp's confirmation hearings it was very clear to me and to everyone present that his nomination is welcomed with open arms—not only by Members of the Senate but by all Americans who support individual freedoms.

I spent 6 years in the House with Jack Kemp. He's a good friend and a leader in the cause of economic opportunity for all Americans.

Jack Kemp will bring to HUD the forceful energy needed to revitalize the Nation's housing programs and help each individual American family realize the dream of home ownership.

President Bush could not have chosen a better person than Jack Kemp for HUD Secretary.

Jack Kemp believes in the power of individual ideas and dreams—but he doesn't stop there. Jack Kemp is driven by forcing action through ideas.

He has spent his career in public service, fighting for the belief that individual freedoms are the backbone of our country. He realizes that our housing problems don't rest with more government, but with less government as evidenced by his strong support of enterprise zones. Jack Kemp's support of enterprise zones would strengthen the bond between the public and private sectors by realizing that Government alone can't solve our problems.

I've always been a strong supporter of enterprise zones and I'm excited that we have Jack Kemp in the position to put that idea into practice.

He knows that an economically strong and vibrant America begins with the basics such as family, jobs, and home ownership.

As I noted in committee, we are taking the first step in reestablishing the American dream of home ownership for all Americans.

Jack Kemp has caught the imagination of the entire Nation. I'm delighted with the prospect of working with Jack Kemp and look forward to moving ahead in shaping new policy initiatives to meet our housing and urban development needs.

The PRESIDING OFFICER. The Chair observes there are 1½ minutes remaining. Does anyone yield time?

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

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

ENVIRONMENTAL PROTECTION AGENCY NOMINATION OF WILLIAM KANE REILLY, OF VIRGINIA, TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

The PRESIDING OFFICER. The clerk will report the next nomination.

The assistant legislative clerk read the nomination of William Kane Reilly, of Virginia, to be Administrator of the Environmental Protection Agency.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. BURDICK. Mr. President, the job of Administrator of the Environmental Protection Agency is one of the most important—and one of the toughest—jobs in Washington.

On a daily basis, the Administrator and his staff are called upon to protect the public's health and to be the environmental conscience of our Nation. They are asked to tread through minefields of competing factions—environmental, economic, and personal—to resolve difficult environmental problems which adversely affect our quality of life. And, all too often, while taking considered action in the public interest, they are put upon by one group or another for failing to act on a special agenda. As chairman of the Committee on Environmental and Public Works, I have publicly stated my priorities for the work of the committee during the 101st Congress. Clean air legislation will be our clear legislative priority.

We must also consider reauthorization of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. We may fine tune the hazardous waste title, but we must emphasize solid waste issues.

The Nation is rapidly running out of landfill capacity. However, we must couple our work with pollution prevention or waste reduction legislation to minimize the possibility of solid or hazardous waste pollution in the future. I expect my committee and the Senate will address ground water legislation, picking up where we left off last year with our cooperative research bill. This congressional proposal should help guide the Nation's ground water policy.

I also believe that the Congress should consider, and pass, legislation elevating EPA to Cabinet status given the extraordinary national and global environmental issues of our time.

Global warming and stratospheric ozone problems affect the very existence of life on Earth. These issues, too, must be addressed, but from an international perspective they will be more effectively addressed by a Cabinet-level EPA.

This agenda for the Committee on Environment and Public Works is ambitious. For the sake of humankind, it is necessary. It is subject to pitfalls, arguments, finger pointing, and adversarial relations among and between all those interested parties with a stake in the outcome of such legislation. We cannot hope to achieve national and international environmental improvements without the help of the administration, and especially its administrator of the Environmental Protection Agency. To his credit, President Bush has nominated a man who has made conservation and environmental protection his life's work.

William K. Reilly has been the president of the Conservation Foundation for over 15 years, and the World Wildlife Fund for over 3 years. Bill Reilly has the respect of environmental leaders, business leaders and political leaders not solely from the United States, but throughout the world as well. He is a consensus seeker. An environmental advocate with a strong, reasonable, if quiet, approach.

He has a vision for our environmental future which he eloquently elucidated before my committee. He has promised to work cooperatively, and to consult with the Congress. He has said he will vigorously enforce our environmental statutes.

And I have the feeling that, the road ahead being long, circuitous, and difficult, Bill Reilly may be just the traveling companion we need right now. That translates to high expectations of him.

I recommended him for Senate consideration without reservation and I wish him well as he begins this very difficult job.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I rise in support of the nomination of William Reilly to be the Administrator of the Environmental Protection Agency.

I would like to state at the outset of my remarks that the President could not have made a better choice than Mr. Reilly to head the EPA.

As the first conservationist to head EPA, Mr. Reilly brings indepth knowledge and a special understanding to the myriad of problems threatening our environment. He has served as president of the Conservation Fund and the World Wildlife Fund, two top-notch organizations that have made enormous contributions in the areas of environmental protection and wildlife conservation—not just here at home, but around the world.

His work at the Council on Environmental Quality and the Urban Policy Center give him expertise in the areas protecting our public lands and providing open spaces in our crowded urban areas.

Two days ago, the Committee on Environment and Public Works held its confirmation hearing on Mr. Reilly, and the members were very impressed with Mr. Reilly's views on what he should do in that agency.

When asked about the reauthorization of the Clean Air Act, Mr. Reilly stated he would be mounting a major effort to get that law reauthorized. Mind you, we have not heard that before from the administration. As the chairman said, it is a provision that would result in substantial reductions in acid rain by the end of the century.

Regarding the greenhouse effect, Mr. Reilly recognized it as a very serious problem and agreed that it should be addressed here at home as well as in the international arena. What is more, he stated that last year's decision by the Department of Transportation to relax the average fuel economy standards—that puts more carbon dioxide in the air and aggravates the greenhouse effect—was a move in the wrong direction.

That was a wrong move on the part of those who did it, in his judgment. He also said he would work to strengthen the Montreal protocols which deal with CFC's that are emitted in our Nation and around the world, and the reduction, thereto. These, as you know, are greenhouse gases.

In the area of enforcement, which is extremely important, since we can pass all the laws we want, but if they are not enforced, we are not getting to first base, he testified that he will aggressively enforce our laws.

This year, we will hopefully reauthorize the Resource Conservation

and Recovery Act and concentrate our efforts on waste mineralization and recycling. Mr. Reilly testified that those efforts would be high on his priority list.

Even though Bill Ruckelshaus and Lee Thomas did an excellent job in restoring EPA's credibility, unquestionably the last 8 years at that agency have been difficult ones, and I believe that Mr. Reilly will be a strong, fresh breeze in that organization.

President Bush is to be complimented on this nomination. I think it sends a splendid signal everywhere that the President is serious about environmental protection. He talked about this in his campaign speeches, and he shows that it is more than rhetoric; it was not campaign or rhetoric. He meant it.

Despite the very great challenges that lie ahead—solving the acid rain problem; for example, dealing with climate changes, reducing the billions of tons of waste we generate—I am optimistic about the future of our environment. Mr. Reilly has a tough job, that is for sure, and sometimes it is going to be highly frustrating for him. He is a strong conservationist; he is a conscientious builder. In my book, that is all a plus, since anyone who has been involved in environmental protection knows that you need to develop strong support in order to win approval for these programs. We have seen it here where for 8 years on the floor of the Congress, we have not been able to get a clean air bill considered, never mind being passed.

I want Mr. Reilly to know that we wish him every success in his job, and that all of us—I speak for the Republicans, but I am sure our distinguished chairman would agree with me—will work with Mr. Reilly at every turn to help make our land and our air and water clean and safe. So it is a pleasure to join in this support of Mr. Reilly's nomination.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Is there a time limitation?

The PRESIDING OFFICER. The time is equally divided 15 minutes on each side.

Mr. CHAFEE. How much time remains?

The PRESIDING OFFICER. The Senator from North Dakota has 11 minutes. The Senator from Rhode Island has 9 minutes.

Mr. BURDICK. I yield 5 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana, Mr. BAUCUS, is recognized.

Mr. BAUCUS. Mr. President, I thank the Chair and the Senator from North Dakota, the chairman of the Environment and Public Works Committee. Mr. President, I very much support the nomination of William Reilly, to be Administrator of the Environmental Protection Agency. I am encouraged by his nomination. I think it will be a signal of a break from the past, certainly given some previous Administrators we have had, although I think the most recent has been a fairly good Administrator. What counts is not Mr. Reilly's intentions, which I believe are very good. What counts are obviously deeds. Mr. Reilly has a lot of deeds ahead of him if he is to be a very successful and effective Administrator of the Environmental Protection Agency.

His job will be tough partly because the past administration had lost sight of the need for environmental protection. In fact, things have been so bad in the not too distant past that the EPA was ridiculed in comic strips, in the Doonesbury comic strip.

There is another reason. Environmental policy is entering a new and more complex stage. What used to be local problems are now problems of national proportion and international proportion. For example, deforestation as far away as the tropics of South America may be affecting our own Nation's climate. And nitrogen oxides, which are poorly controlled, are threatening the Earth's upper atmosphere.

If these new problems are not enough, Mr. Reilly must visit problems we thought we had solved. Auto emissions controls for example, which we hoped would clean our city's air, have proven to be simply inadequate. And pollutants supposedly disposed of we are finding are not disposed of. They are in the ground poisoning our drinking water or floating in our oceans.

We know these and other examples all too well. My point is not to cite a laundry list of examples, but to suggest that the need for a strong environmental leader has never been greater.

Mr. Reilly, as EPA Administrator, must lead the Nation in protecting the environment. EPA needs to once again be known as the Environmental Protection Agency, not the environmental accommodation agency or any other stranger titles we could come up with. He must be the head of the Environmental Protection Agency.

In my opinion, Mr. Reilly must be a strong advocate for the environment. There are certainly other departments, other administrators, who will be advocating their points of views. He must enforce the environmental laws and, like a tough cop, he must find violators, take away their licenses and put them in jail.

When he disagrees with our laws, he must ask Congress to change them. That is, he must enforce the laws, whatever the laws are. He cannot exercise his own discretion and decide not to enforce the law.

If, in fact, he tries valiantly within the administration to advocate a point of view which in his conscience he knows is best to protect the environment and those views are ignored by the administration, I think he has no choice but to inform the Congress if need be, to change the law, or, he should resign. I think it is a matter of conscience.

Mr. Reilly, if he is not able to in good conscience effect changes needed to protect the environment he deems appropriate, must step aside so that the world knows, so this Congress knows, and changes can be made.

Mr. President, in conclusion, I urge Mr. Reilly good luck. He will need good luck. As I said and others have said, in many ways he is the most important person, not only in America, but in the world. He has on his shoulders the load to bear of figuring out ways to improve not only our Nation's environment, but our global environment. I wish him Godspeed. I thank the Chair and I thank the Senator from North Dakota.

Mr. CHAFEE. I yield 5 minutes to the distinguished Senator from Idaho.

Mr. SYMMS. I thank the distinguished Senator from Rhode Island and my colleagues on the committee.

Mr. President, during the last week or two since President Bush named Bill Reilly to head the Environmental Protection Agency, I have had an opportunity to speak with him and seriously study his writings that have appeared in over 17 publications and his statements from the times he has testified before Congress. Bill Reilly is no stranger to this town or to the environmental movement in this country. My review of Mr. Reilly's career has led me to conclusions which I would like to share with my colleagues.

First, I have no doubt in my mind that Bill Reilly will do his best to fully enforce the law. Second, I happen to believe that some of our current environmental statutes have their flaws, flaws which result in costly and needless burdens on our industries and our ability to work and compete and be competitive in the world markets.

I have had several occasions to discuss these flaws with the previous EPA Administrator, Lee Thomas. In several of those discussions we often took solace in the fact that if a law is bad, the best way to get rid of it is to enforce it. If we fully enforce some of our environmental laws it will lead to the massive shutdown of nearly 25 percent of all service stations in this country. The inconvenience and costs this will bring to millions of Americans is a good reason to question some of the rigid statutes that Congress has previously passed.

I think that Bill Reilly will make an effort to get rid of some of these rigid, inflexible, inappropriate statutes that

are on the books. These regulations go beyond common sense in trying to regulate out the last scintilla, part per trillion of some product from our air or water.

There is no question, Mr. President, that Bill Reilly and I have some very clear differences of opinion on a number of issues. Perhaps the greatest concern to me is our very different views with respect to private property and the rights inherent in it.

Recent Supreme Court rulings in this area have reaffirmed the rights of property owners against the whims of Government. While Bill Reilly may have taken a different position on those cases, I believe from my conversations with him that he would carry out these mandates and the Attorney General's guidelines that preceded them. Mr. Reilly is a very astute and persistent environmental advocate. I think that Senator BAUCUS makes a good point, the EPA Administrator should be an advocate of the environment. Many will advocate only industry and business; what is needed is a balance between concerns for the environment and big business.

So, having made these observations and looking at the overall Bush administration as it is coming to town—and we all have hopes and aspirations for its success—I ask myself: Which would help the most, voting for him or against him? And I am convinced the best course of action is to support this nomination. I may not agree with him on everything, but I am convinced that he has the opportunity to develop a good, sound, commonsense consensus that allows us to enjoy economic growth with great concern for the protection of the environment for future generations as well as our own.

I wish Mr. Reilly every success. I look forward to working with the administration in many of these areas and hope that they can build on what I think has been a very credible job done by Lee Thomas in the past administration of the Environmental Protection Agency.

Mr. President, I yield the floor.

Mr. CHAFEE. Mr. President, I yield 3 minutes to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. THURMOND] is recognized for 3 minutes.

Mr. THURMOND. Mr. President, I rise today in support of President Bush's nomination of Mr. William Reilly to be Administrator of the Environmental Protection Agency. His education, background as a lawyer, and his lifelong dedication to the preservation of the environment well qualify him for this position.

Graduating from Yale University in 1962, Mr. Reilly continued his education and obtained a law degree from Harvard University in 1965, and a masters in urban planning from Columbia University in 1971.

Mr. Reilly practiced law in Chicago with the firm of Ross & Hardies prior to becoming associate director of the Urban Policy Center and the National Urban Coalition in Washington, DC, from 1969 to 1970. From 1973 to the present, Mr. Reilly has served ably as president of the Conservation Foundation, a division of the World Wildlife Fund. In 1985, Mr. Reilly was named president of the World Wildlife Fund. As president of the Conservation Foundation, Mr. Reilly directed international comparative land use projects for business and environmental purposes.

In terms of Government experience, Mr. Reilly has topnotch credentials. He served as a senior staff member of the President's Council on Environmental Quality from 1970 to 1972. He was also executive director of the Task Force on Land Use and Urban Growth from 1972 to 1973. In 1978, he served as workshop chairman of the White House Conference on Balanced Growth and Economic Development.

In addition to this tremendous amount of career experience, Mr. Reilly has also devoted a great deal of time sitting on several boards of trustees for environmental groups and as a member of many of these organizations.

Clearly, Mr. Reilly's education, experience, and dedication to the preservation of the environment are of the highest level of excellence.

I feel confident that, as Administrator of the Environmental Protection Agency, Mr. Reilly will serve honorably and capably, and be reasonable in his decisions. I urge my colleagues to act expeditiously to confirm the nomination of Mr. Reilly.

The PRESIDING OFFICER. All time of the Senator from Rhode Island has expired. The Senator from North Dakota has 6 minutes remaining.

Mr. BURDICK. Mr. President, I yield 5 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey, Mr. LAUTENBERG, is recognized for 5 minutes.

Mr. LAUTENBERG. Mr. President, I rise to support the nomination of Bill Reilly to become the next Administrator of the Environmental Protection Agency.

It is clear from my meeting with him and his performance at the Environment Committee's confirmation hearing that Bill Reilly has the experience and commitment to the environment that bodes well for EPA in the years ahead. We need the kind of advocate for the environment he has committed himself to be.

That is all the more important because the welfare of our Nation's citizens is determined more directly by EPA than by any other Federal agency. We face no greater challenge over the next few years than in restoring the integrity of our environment. Bill Reilly understands that we need urgent action.

And these problems affect not just U.S. citizens, but citizens across the Earth. Destruction of rain forests in South America, air pollution in Europe, use of CFC's in Japan, extinction of species in Africa, and wasteful energy practices in the United States affect citizens everywhere. Bill Reilly has pledged to make these international environmental issues a priority.

The commitment and experience he brings to the job also is important because of the legacy he will inherit. We need only ask, is the environment better off today than it was 8 years ago?

The beaches say no. Sewage has stained our oceans and syringes and blood-filled vials invaded our coasts. The EPA had the power to act, to end sludge dumping and to track medical waste, but it failed to do so. The Congress had to pass laws. It had to override a Clean Water Act veto, and to fight for funds to meet its mandate.

Is the environment better off? The countryside—scarred by 1,100 toxic waste sites—says no. In 8 years, only 19 sites have been taken off the cleanup list. Deadlines have been missed. Enforcement is weak. There is waste and there is inefficiency. And EPA has done little to stop the generation of waste before it is produced.

Is the environment better off? The budget says no. We have enacted tough new laws in the last 8 years—the Superfund amendments, Right to Know, radon protection, RCRA, and the Clean Water Act. Yet the last Reagan budget has not moved much beyond where we were in fiscal year 1981.

Bill Reilly inherits an environmental legacy of fouled beaches, seeping toxic wastes, acidified lakes, and unbreathable air. He inherits an EPA which has been gentler and kinder to polluters. And he inherits a legacy of neglect and mismanagement. As the GAO and OTA recently confirmed in separate reports, the Superfund program is running late and wasting resources as it goes.

Bill Reilly has committed to stemming this tidal wave of mismanagement and neglect. He is committed to immediately review mismanagement in the Superfund program and find ways to speed up Superfund cleanups, address improper medical waste disposal, aggressively enforce our laws, work to reduce the generation of wastes, propose legislation to strengthen the Clean Air Act, and work with the Congress to address indoor air and ground water contamination.

He also inherits an atmosphere between the Congress and the administration that has been polluted with ill-will. We hope that the new breeze the President mentioned in his inaugural will clear the air in our relationship. Bill Reilly's nomination is a positive sign. Bill Reilly has committed to improving this relationship and working constructively with the Congress.

Regardless of whom we supported in the election, regardless of where we stand on other issues, we must all be environmentalists now. That is why I sincerely hope that 4 years from now we can honestly say the environment is better off than it was in 1989.

Given the legacy he inherits, Bill Reilly has an inenviable task. But it is one that I am committed to working with him on, and one we must not fail to achieve. And I believe that Bill Reilly has the experience and commitment for the job. I urge my colleagues to join me in supporting the confirmation of Bill Reilly as the next Administrator of EPA.

Mr. DOLE. Mr. President, I am pleased to vote today for William K. Reilly to be the new Administrator at the Environmental Protection Agency.

Throughout the Presidential campaign, George Bush made a clear and consistent commitment to environmental issues. He promised a new look at some old problems—problems that concern all of us. That is why President Bush selected Bill Reilly for this tough job.

He has the credentials the new team at the White House was looking for, and—just as important—he has expressed his willingness to work with Congress to build a consensus on our environmental challenges.

Let's face it, there are no easy answers to acid rain, or clean air, or toxic waste. The issues flip-flop from State to State, region to region, East to West, and North to South.

No doubt about it, there will be disagreements because the very valid concerns of farmers and ranchers; industrialists and environmentalists; and Federal and State interests must be balanced—no one group can have it all their way.

As Senate Republican leader, I am committed to working with Mr. Reilly. I am committed to seeing action on clean air, reductions in emissions from acid rain, reviewing the entire Superfund system, taking a fresh look at toxic waste disposal and ocean dumping, and stopping any further loss of our valuable wetlands.

On this last front, I am pleased that some of President Bush's key supporters—Governor Tom Kean of New Jersey, and Carroll Campbell of South Carolina, to name two—have made tremendous progress toward a national consensus on the wetlands issue. I salute them for their efforts.

There's plenty of work to do on the environmental front, and I believe that William K. Reilly can—and will—provide the leadership America needs.

Mr. HELMS. Mr. President, many of our colleagues have voiced strong support for the nomination of Mr. William Reilly to be the next Administrator of the Environmental Protection Agency. I regret to say that I am unable to be as enthusiastic.

I have no doubt that Mr. Reilly is a fine person, dedicated to a clean, healthy America. There is not one member of this body who does not share those same goals. I am concerned about Mr. Reilly's past ambivalence regarding constitutional principles which protect the American people from the power of big government.

Mr. President, in his testimony before the Senate Committee on Environment and Public Works, Mr. Reilly said that the environmental enforcement efforts of the EPA "must respect due process and the rights of property." He committed himself to the constitutional guarantees that protect the rights of "all our citizens including those whose activities are subject to regulation."

Mr. President, those assurances are comforting. But they must be viewed in the context of views that Mr. Reilly has previously expressed.

Mr. President, the fifth amendment states that no person shall be deprived of property without due process of law nor will any private property be taken for public use without just compensation. But as late as 1985, Mr. Reilly wrote a book in which he took the position that when it comes to competition between Federal lands and property owners whose land is next to Federal holdings, mainstream attitudes about property rights must change.

Mr. Reilly also took the position that private property which adjoins Federal parks and wilderness areas must—repeat: must—be made part of the park system and, further, that use by the owner should be limited to accommodate the needs of the park.

In other words, as I understand Mr. Reilly's positions, the Federal Government shouldn't have to buy land which adjoins Federal parks and wilderness areas. Congress should be able merely to declare it part of the park system and prevent the owner from using it as he sees fit.

Mr. President, Mr. Reilly's recent writings are not the only place we find this different notion of property rights. When he served on the Council on Environmental Quality in the 1970's, he was a forceful advocate of land use restrictions at the expense of state sovereignty and personal liberty. The January 14, 1989, edition of Human Events chronicles Mr. Reilly's tenure in the Nixon administration. I ask unanimous consent that a copy of that article be placed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HELMS. Mr. President, I have expressed my concerns with the hope that Mr. Reilly will take them to heart. I hope he now has moderated his positions, and that he has assured President Bush that he no longer holds the views he expressed previously. Because of his assurances to the Environment Committee that he will indeed respect the private property rights of individuals, I will vote to confirm his nomination. I do hope that I have not been misled, and I want to give him the benefit of the doubt.

EXHIBIT 1

ENVIRONMENTAL ACTIVIST TO HEAD EPA—PROPERTY RIGHTS ENDANGERED?

President-elect Bush's selection of William K. Reilly to head the Environmental Protection Agency has aroused concern among conservatives especially in the Western states, of a possible return to the heavy-handed regulatory approach to environmental issues characteristic of the pre-Reagan years.

Giving rise to these fears is that Reilly, who has been president of the Conservation Foundation since 1973 and president of the World Wildlife Fund—U.S. since it became affiliated with the Conservation Foundation in 1985, is the first head of an environmental group ever picked as EPA administrator.

Indeed, except for a brief stint with a Chicago law firm in 1965, the year he finished Harvard Law School, and two years in the Army ending in 1967, Reilly has spent his entire career in the environmental movement.

Reilly, who holds a master's degree in urban planning from Columbia University, was a key staff member for the President's Council on Environmental Quality (CEQ) from 1970 to '72. He then served as executive director of a 12-member land-use task force, chaired by Laurance S. Rockefeller, before taking the helm at the Conservation Foundation.

While conservatives would like to see a shift at EPA toward heavier reliance on market-oriented solutions to environmental problems, together with a return of the primary responsibility for such issues to the state governments, Reilly's background suggests to many that he may push the Bush Administration toward more and stricter regulatory standards in ways that may threaten competing concerns, such as federalism and private property rights.

As a senior CEQ staff member during the Nixon Administration, Reilly, together with another colleague, drafted a major federal land-use bill that, if enacted, would have inflicted a tremendous blow to the traditional American concept of private land ownership.

The Reilly-shaped measure, which passed the Senate in 1973, but died in the House a year later, would have authorized the federal government to distribute grants to the states for use in the development of statewide zoning programs. Supporters said such zoning was necessary to preserve the country's environment and provide for balanced economic development. They also maintained that the bill was a voluntary grant-

in-aid program intended merely to encourage the states to develop their own zoning plans, not an attempt by the federal government to impose a federal plan on the states.

But, as then-Sen. Paul J. Fanning (R-Ariz.) noted, the measure told the states they would get millions of dollars in federal aid simply by setting up a land-use planning scheme under a "process" approved by Washington. The catch was that the so-called process entailed so many specific provisions that were subject to federal approval that, instead of carrying out their own zoning plans, the states would have soon found themselves acting as mere agents for the federal government.

Perhaps the greatest opening toward federal control was a provision giving the Interior Department the power to ensure that the states restrict the use of all "areas of critical environmental concern which are of more than statewide significance." So broadly did the bill define what was meant by those "critical" areas, opponents charged, that almost any land could be considered subject to federally dictated zoning restrictions.

Included in the measure's definition of environmentally "critical" areas, for example, were all geographic areas whose development might "substantially impair the historic, cultural, scientific, or esthetic values or natural systems or process within fragile or historic lands."

What particularly worried opponents of the federal controls supported by Reilly was the danger that such land-use restrictions would erode constitutionally guaranteed property rights. As Fanin and two other senators pointed out in a minority report, "the 5th and 14th Amendments to the Constitution of the United States provide that 'private property' shall not 'be taken for public use, without just compensation.'"

The critical issue, however, is how far the use of the property can be restricted without compensating the property owner for diminution of value.

It is conceivable, for instance, that a state government, in restricting the development of a piece of property so as to preserve it as a habitat for wildlife, all in accordance with federal demands, might vastly reduce that property's value to its owner. Yet nothing in the federal land-use bill guaranteed that owners would be compensated for such losses. On the contrary, the bill specified that none of the grant money to the states could be used for that purpose.

Thanks to an outcry by conservatives, Reilly's federal land-use measure was killed in the House in 1974. But Reilly, as evidenced by more recent publications put out by the Conservation Foundation, remains committed to approaches that would put restrictions on the use of private land.

Reilly, for instance, has been beating the drums for a concept known as "greenline parks"—the notion that privately owned land adjacent to federal or state parks could be declared part of the park system and its use restricted to conform with park purposes.

In the introduction to a 1985 book published by the Conservation Foundation entitled National Parks for a New Generation, he argued that the "accommodation of permanently nonfederal lands within park boundaries is critical for further expansion of the system." Given existing budgetary restraints, he added, "greenline parks appear to represent the most important opportunity to extend the park system on a significant scale."

In the same book, Reilly complained that the "tradition of park stewardship has stood as a notable exception to the mainstream of our national attitudes toward land. In the mainstream, the country has cherished the right of citizens to exercise dominion over land they own, subject perhaps to modest limitations, often grudgingly imposed, to protect resources or accommodate the exigencies of urban life."

But the "mainstream" view of property rights must change, said Reilly.

"[I]f parks are to be protected for use and enjoyment of future generations of Americans, the tradition of park stewardship must gradually be extended beyond park boundaries, to domains where mainstream attitudes about private property and freedom of action still prevail today."

Reilly and the Conservation Foundation have been generally critical of the Reagan Administration's deregulatory approach. In the Foundation's 1982 State of the Environment report, for example, the Administration was taken to task not only for its efforts to reduce red tape in areas related to the environment but also for its efforts along the same lines at such agencies as the Consumer Product Safety Commission and the Occupational Safety and Health Administration.

Yet, as disquieting to conservatives as some aspects of Reilly's record may be, most observers agree that, compared with many environmentalists, his record, and those of the organizations he heads, is relatively moderate and sensible.

Reilly is seen as a mediator who has sought to get diverse interests, such as representatives of business, government, and the environmental movement, to work together in the spirit of compromise.

Though Reilly is intensely concerned about a wide range of environmental issues—including clean air, protection of surface and ground water quality, and preservation of wetlands and other wildlife habitat—it is also evident from his writings that, unlike many environmentalists, he is not wholly oblivious of competing costs and needs.

For that reason, spokesmen for some of the militant environmental groups, while publicly greeting Reilly's nomination with enthusiasm, are privately griping that he is not aggressive enough for their tastes. As the representative of one such group groused to Human Events:

"The Conservation Foundation which he headed for a long time and which recently merged with the World Wildlife Fund is not really an advocacy organization. . . . He [Reilly] hasn't been honed by fighting for environmentally protective policies. I think he's basically made his reputation more as a mediator between environmental interests on the one hand and industry interests on the other."

In the meantime, Rob Rivett, chief of the environmental law section of the conservative, California-based Pacific Legal Foundation, termed the Reilly selection "a pretty good appointment."

Although PLF hasn't had any direct dealings with Reilly, said Rivett, "the Conservation Foundation is an organization we do respect. The Conservation Foundation, of course, is not what we call an extremist environmental organization. From that standpoint, they've taken more of a mainline, moderate environmental position where they recognize other considerations as well as just exalting environmental considerations over everything else. . . .

"What Bush has done here is to really follow through on his commitment to the environment. At the same time he's shown that he's going to be making sure that other important considerations, fundamental needs, are going to be met as well, not just environmental issues."

But other conservatives, including some in the Reagan Administration, insist that Reilly's apparent reasonableness is more a matter of style than substance. As a result, they are hoping that Sen. Steve Symms (R.-Idaho) and other members of the Environment and Public Works Committee, which has jurisdiction over his nomination, will question Reilly closely about his attitudes toward regulation in general, paying particular attention to his views on private property and federalism.

Mr. SPECTER. I am pleased to express my support for William Kane Reilly, Esq., as Administrator of the U.S. Environmental Protection Agency. I compliment the President on selecting a career conservationist, who is well-equipped to address the environmental concerns in our country and the world which are of tremendous priority.

Mr. Reilly is well-qualified for the position as EPA Administrator as reflected in his impressive list of accomplishments and experiences. Mr. Reilly served as president of the Conservation Fund since 1973 and became president of the World Wildlife Fund in October 1985, when the foundation joined the fund in a formal affiliation. The World Wildlife Fund, a private organization, has supported over 1,300 projects in over 100 countries, including programs in Latin America, Africa, and Asia. These programs help protect endangered wildlife and habitat, including tropical forests.

During Mr. Reilly's 15-year presidency, the Conservation Foundation supported numerous programs regarding park and forest policy, environmental dispute resolution, control of water toxic substances, urban conservation and energy.

Under Mr. Reilly's leadership, I understand that the Conservation Foundation developed an impressive interdisciplinary staff of scientists, lawyers, economists, political scientists, urban planners, engineers, business experts, and writers. Prior to joining the foundation, Mr. Reilly served as executive director of the Task Force on Land Use and Urban Growth, as associate director of the Urban Policy Center, a captain of the U.S. Army in Europe, and he also practiced law in Chicago.

This position as the Administrator of the Environmental Protection Agency is especially critical in many of the Nation's environmental matters, including cleanup of toxic waste sites, enforcement of the Superfund laws, ensuring the quality of our air and water, as well as representing the United States in the international arena on the growing problems of acid rain, global warming, and depletion of

the ozone layer. I am confident that Mr. Reilly will be an effective leader in these important areas.

I support the nomination of Mr. Reilly to this post. If confirmed by the Senate, as I am sure he will be, I have every confidence that he will perform the new duties with exceptional skills, as he has in the other positions he has held in the past.

Mr. MITCHELL. Mr. President, I rise in support of the nomination of Mr. William Reilly to be Administrator of the Environmental Protection Agency.

President Bush has called for a fresh start in dealing with many of our pressing national issues. A fresh start is especially needed in the area of environmental policy.

The President made a commitment during the campaign to "appoint the finest, most qualified individuals in the land to serve in my Environmental Protection Agency." He has taken an important first step in fulfilling that pledge with the nomination of Bill Reilly to be Administrator of the EPA.

As a candidate for President, Mr. Bush outlined an ambitious agenda to improve environmental protection, which Mr. Reilly will be expected to carry out if he is confirmed as Administrator. Mr. Bush has said, for instance, that:

> The time for action, on clean air and for acid rain, is now. [Oct. 14, 1988, University of California, San Diego]

And that:

> "No net loss of wetlands" should be our national goal. [Aug. 31, 1988, Lake Erie Metropark, MI]

Mr. Reilly will face not only the challenges of carrying out these policies, but also carrying out the commitments that have been made by the President with respect to toxic waste, ground water protection, and protection of our coastal waters.

In implementing this agenda, Mr. Bush has stated that Mr. Reilly and his other appointees at the EPA, "will have my support. They will have my ear. They will have my confidence."

If confirmed, Mr. Reilly also will have my support. We will need to work together to reduce the pollution from which we all suffer. In that regard, I want to take this opportunity to urge that the administration make a greater effort in several areas.

First, the Agency and the administration must reverse the basic policy of opposing every major environmental law developed by Congress. Over the past 8 years, EPA has opposed the Clean Air Act, Superfund, RCRA, the Safe Drinking Water Act and the Clean Water Act. The President vetoed the Clean Water Act amendments twice and opposed acid rain control legislation at every opportunity. I sincerely hope that we can establish a more cooperative and constructive relationship in the future.

Second, the next EPA Administrator must reverse the dramatic underfunding of environmental programs over the past decade. The EPA 1989 budget for core operating programs has the purchasing power that it did in 1975 while responsibilities have increased.

The bottom line is that the Agency is not effectively implementing many of its core programs and has inconsistently implemented new programs passed by Congress in the past decade.

The next Administrator must give higher priority to convincing President Bush, OMB, and other administration officials of the need to fully fund environmental programs. He must make this case to Congress in a compelling way. And, he must work to identify and develop new sources of funding.

Finally, the next Administrator must work with Congress to rebuild the Agency's capacity for research and development, to more effectively identify and address emerging environmental and human health problems, and to build an institutional foundation for addressing environmental problems on a global scale.

Even the preliminary evidence we have concerning global environmental problems, such as climate change, ocean pollution, and declines in biological diversity and endangered species, tells us we have just scratched the surface of these problems. Future generations may well judge our efforts largely on whether we were alert to the emergence of global pollution problems and whether we were successful in responding to these problems.

I will do everything I can to help Mr. Reilly address these pressing problems. Thank you, Mr. President.

Mr. DOMENICI. Mr. President, I will be brief. We are about to vote on the nomination of William K. Reilly for the position of Administrator of the Environmental Protection Agency.

I have met with Mr. Reilly and have studied statements he has made, and I believe he will ably guide the Agency. He takes over as head of the Environmental Protection Agency at a difficult time. The Congress has been struggling with reauthorization of the Clean Air Act for the past 8 years and will be looking to Mr. Reilly for the guidance that will bring about final resolution of that issue.

He comes on-board at a time when the Superfund Program faces grave challenges. He has promised to initiate an internal Agency review of that program and to offer recommendations on how to make the program work more effectively to meet our goals of improving the environment and using the money wisely.

Mr. Reilly takes over the helm at the time when new environmental problems come to the forefront, such as global warming and indoor air pollution.

The task ahead of Mr. Reilly is a difficult one. However, his years in the environmental community and as head of the respected Conservation Foundation prepare him for the challenges ahead.

I respect his past successes in working with diverse groups to solve difficult problems. I will vote enthusiastically for his confirmation and look forward to working with him to address the many important environmental challenges ahead.

Mr. GRAHAM. Mr. President, for more than 15 years, William Reilly has been a friend and a colleague of mine. Our shared interest in conservation dates to my days as a State Senator in Florida; it continued during my tenure as Governor during which time I served on the Conservation Foundation's board of directors. Today it remains a bond we fully share.

Bill Reilly's leadership and effective advocacy helped shape many of the environmental initiatives in Florida, of which I am most proud. Since then, he has contributed enormously to our collective understanding of major environmental problems in this country and internationally.

Bill is a leader who searches for innovative ideas and feels at home with a variety of people often representing diverse points of view. His goal is to forge creative solutions to complex environmental problems. This has been the hallmark of the foundation's work in Florida, and I expect it to be a measure of Bill's time at EPA.

I first came to know and work with Bill when he was executive director of the Task Force on Land Use and Urban Growth, in an effort to confront a wave of unprecedented growth in the early 1970's. That work and Bill's direct involvement helped bring about a number of far-reaching improvements in the way we Floridians managed our resources.

Our ties continued when he was tapped to head the Conservation Foundation. The foundation helped the citizens of Sanibel Island formulate a comprehensive development plan based on protecting the unique natural resources and the natural systems of this world famous island. The foundation's ground breaking plan applied scientific principles to wise land use management.

Bill's leadership helped Sanibel Island accommodate growth while protecting the resources and assets that lend it distinction. By working with diverse interests and pursuing scientific consensus on needed steps, the Conservation Foundation's work on Sanibel has endured. It has served as a model for other communities in Florida and elsewhere.

Bill Reilly has been with us at other crucial times on behalf of Florida's environment. When I sought to establish

the Save Our Everglades Program to help restore this magnificant natural area to the way it looked and functioned at the turn of the century, I called on Bill. He helped galvanize support from other conservation leaders in Washington and provided key staff work in the initial phase of our effort.

Bill's consensus approach also helped play a major role in shaping a habitat conservation plan for endangered species on North Key Largo threatened by impending development. His staff worked with government officials, landowners, and environmentalists in designing a process to ensure that endangered species were protected while the legitimate interests of landowners were accommodated to the extent permissible under the law.

I also had the pleasure of serving on the board of directors of the Conservation Foundation during the late 1970's and to witness first-hand Bill's leadership. I saw someone committed to a better environment. I saw someone filled with integrity, with vision, with concern for the legitimate interests of all affected parties.

Mr. President, President Bush has made an astute choice for EPA Administrator. The responsibilities before this Agency are formidable—the consequences of inaction or the wrong choices immense. I am confident that Bill can help us steer a wise course through the many competing demands on our environment.

I urge your support for his nomination. I and many others on both sides of the aisle look forward to his energetic leadership at EPA and to working with him to improve the environment. Thank you, Mr. President.

Mr. REID. Mr. President, I rise in strong support of the nomination of Mr. William Kane Reilly to be the Administrator of the U.S. Environmental Protection Agency. As one reviews Mr. Reilly's credentials, it becomes readily apparent that he is eminently qualified to serve at the helm of our Nation's foremost environmental agency.

For 15 years, Mr. Reilly has served as president of the Conservation Foundation, an independent environmental research and communications organization. Since 1985, he has also been president of the World Wildlife Fund. Prior to joining the Conservation Foundation in 1973, Mr. Reilly was a senior staff member of the Council on Environmental Quality.

Cooperation and commitment by Government, conservationists, and industry are absolutely necessary if we are to resolve the many environmental challenges before us. It is also clear that the pollution problems confronting us are not confined to the geographical boundaries of the United States. Only serious efforts by the international community to address various environmental failings will result in success.

Mr. President, I believe Mr. Reilly's years of service in Government and with private, international organizations devoted to the environment will be of great benefit. He possesses the knowledge, the experience, and the resolve to tackle the global challenges before us. He is a pragmatist who values the art of compromise. I should point out that in testimony before the Environment and Public Works Committee, Mr. Reilly demonstrated that he is also an idealist. He noted that "nothing could be more important or rewarding than protecting this Earth and the magnificent life upon it." I look forward to working with Bill Reilly.

Mr. WARNER. Mr. President, I rise to support the confirmation of William K. Reilly, President Bush's nominee to be Administrator of the U.S. Environmental Protection Agency.

This past Tuesday it was my privilege to introduce Bill Reilly to my fellow members of the Environment and Public Works Committee. This morning it was a pleasure to cast my vote in committee in support of his nomination.

I would like to take a moment to recap the statement I made about Mr. Reilly to the committee on Tuesday.

The position of EPA Administrator is among the most demanding in the Federal Government. The environmental challenges that confront our Nation are as fundamental as the air we breathe, the water we drink, and the land we live and work on. Decisions made by the EPA Administrator affect every city, every town, and every citizen in this country.

We in Congress are truly fortunate that Mr. Reilly is the President's nominee to head this important Agency. And we in Virginia are especially proud of him.

Mr. Reilly has rightfully been called a "world class" environmentalist. It is a title few others can share, and it has been earned through years of leadership, vision, and accomplishment.

By training, Mr. Reilly is an attorney and an urban planner. He served at the Federal level during the earliest days of America's efforts to reverse our environmental decline as a senior staff member of the President's Council on Environmental Quality from 1970 to 1972. In 1973, he became president of the Conservation Foundation, one of the country's most respected environmental organizations.

For 15 years, Mr. Reilly has led the Conservation Foundation, building it into a thoughtful and effective organization for environmental progress. In 1985, he also became president of the World Wildlife Fund, an internationally respected organization dedicated to preserving the diversity of life around the globe.

I believe that because of his training, his career experiences, and his international stature, Mr. Reilly is well suited to carry out the responsibilities given him by the President. And his reputation as a thoughtful leader who solves problems through aggressive negotiation and consensus building wherever possible gives us all hope that the era of environmental confrontation and polarization are finally behind us.

I am very pleased to cast my vote in support of Bill Reilly's confirmation. I heartily endorse his nomination for he has proven himself to be a man of integrity, ability, and experience in the issues that will confront him at the EPA helm.

Mr. SIMPSON. Mr. President, as we review the administration's nominee for the position of EPA Administrator—we shall certainly miss Lee Thomas—who brought a remarkable degree of credibility to his job as Administrator in these recent years.

In reviewing Bill Reilly's résumé, statements and speeches it surely appears that Bill has a wealth of experience in certain environmental areas. He has been an advocate of the Conservation Foundation for 15 years. This has been a great deal of time to spend with one organization. It does strike me that Bill Reilly's experience may well be heavily focused on urban issues. While this is certainly good news for Senators with large population areas, it does give some of us from Western and Southern States some pause. Certainly, many of the extreme environmental problems we face today are a result of activities taking place in large urban areas—for instance, ozone nonattainment, compliance with the Clean Water Act, and hazardous waste disposal issues are primarily urban issues.

I trust that Bill Reilly and his staff will keep an open mind about environmental issues that have a distinctively Western or rural flavor. We often find in this committee that the Midwest and the West are simply different from the East and really do warrant special consideration.

I have been very interested in Bill Reilly's thoughts about what he would do to improve the environmental quality in the United States. The Conservation Foundation has acted as a consultant to the EPA over the years and has been involved in several important environmental issues. However, the consultants view is often different than the EPA Administrator's view and I know that Bill has already come to understand that difference.

I am somewhat disturbed to hear talk about a possible need for a lengthy, all-encompassing piece of environmental legislation that will take the place of the current media-by-media approach exemplified by the

Clean Air Act, the Clean Water Act, Superfund, and the Safe Drinking Water Act. It does not seem to me that the writing of an ever more convoluted and increasingly complex environmental statute is what we need to solve the Nation's environmental problems. Indeed, I doubt that anyone in the administration will find a readily mobilized constituency for any such massive restructuring. We ought to be more concerned about making our existing laws work better than about creating new ones. And we ought to remember that every new solution creates a new problem.

I was pleased to see that Mr. Reilly has noted the limited usefulness of air quality and other models. Models are helpful in giving us a general picture about environmental concerns, but they are certainly not a panacea for enlightened decisionmaking. I trust that same concern about models will be exercised as we begin consideration of the Clean Air Act reauthorization.

I have long been concerned about our inability to reauthorize the Clean Air Act. It has now been over 8 years since we have reauthorized this important piece of legislation. I look forward to working with President Bush, Bill Reilly, and Senator MITCHELL and others, on and off the committee, in developing a clean air compromise this year.

There is one other issue I would like to emphasize to Mr. Reilly today. That is the issue of the percentage reduction requirement, which was put into law in 1977 by the high sulfur coal interests whose sole interest was to gimmick the coal marketplace. I trust Mr. Reilly and his staff will certainly make an effort to learn about the percentage reduction requirement and the Clean Coal Technology Program, both of which are Federal programs geared solely to protect and enhance the high sulfur coal interests of this country. Until these issues are honestly addressed, it is unlikely that any clean air compromise is possible.

We have made great progress in the area of the environment in this country in recent years, but we have a great deal more to do. We need to accelerate the Superfund Program, deal with the acid rain issue, reduce urban ozone and chlorofluorocarbon use, and we need to look more closely at the biotechnology issue. I am looking forward to working with the Bush administration and Bill Reilly in order to find solutions to these important issues.

Mr. BURDICK. Mr. President, I yield back the remainder of my time, if I have any.

Mr. CHAFEE. Mr. President, I think our time has expired; has it not?

The PRESIDING OFFICER. The Senator is correct. All time has expired. The Chair notes the absence of a quorum, and the votes will occur on all four Cabinet appointments seriatim at 4:45.

In the meantime, the clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

DEPARTMENT OF THE INTERIOR

The PRESIDING OFFICER. The question now occurs on the confirmation of Mr. Manuel Lujan, Jr., to be Secretary of the Interior.

The question is, Will the Senate advise and consent to the nomination of Manuel Lujan, Jr., of New Mexico, to be Secretary of the Department of the Interior? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 7 Ex.]

YEAS—100

Adams	Garn	McConnell
Armstrong	Glenn	Metzenbaum
Baucus	Gore	Mikulski
Bentsen	Gorton	Mitchell
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grassley	Nickles
Boren	Harkin	Nunn
Boschwitz	Hatch	Packwood
Bradley	Hatfield	Pell
Breaux	Heflin	Pressler
Bryan	Heinz	Pryor
Bumpers	Helms	Reid
Burdick	Hollings	Riegle
Burns	Humphrey	Robb
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kennedy	Sasser
Cranston	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Lieberman	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	Wilson
Exon	Matsunaga	Wirth
Ford	McCain	
Fowler	McClure	

So the nomination was confirmed.

The PRESIDING OFFICER. The Chair advises all Senators that there will be three more votes on nominations. Each vote will be 15 minutes, and the votes will occur seriatim.

COUNCIL OF ECONOMIC ADVISERS

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Michael J. Boskin to be a member of the Council of Economic Advisers? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 8 Ex.]

YEAS—100

Adams	Garn	McConnell
Armstrong	Glenn	Metzenbaum
Baucus	Gore	Mikulski
Bentsen	Gorton	Mitchell
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grassley	Nickles
Boren	Harkin	Nunn
Boschwitz	Hatch	Packwood
Bradley	Hatfield	Pell
Breaux	Heflin	Pressler
Bryan	Heinz	Pryor
Bumpers	Helms	Reid
Burdick	Hollings	Riegle
Burns	Humphrey	Robb
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kennedy	Sasser
Cranston	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Lieberman	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	Wilson
Exon	Matsunaga	Wirth
Ford	McCain	
Fowler	McClure	

So the nomination was confirmed.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The PRESIDENT pro tempore. The question now occurs on the nomination of Mr. Jack Kemp. The question is, Will the Senate advise and consent to the nomination of Jack Kemp, of New York, to be Secretary of Housing and Urban Development. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 9 Ex.]

YEAS—100

Adams	Conrad	Grassley
Armstrong	Cranston	Harkin
Baucus	D'Amato	Hatch
Bentsen	Danforth	Hatfield
Biden	Daschle	Heflin
Bingaman	DeConcini	Heinz
Bond	Dixon	Helms
Boren	Dodd	Hollings
Boschwitz	Dole	Humphrey
Bradley	Domenici	Inouye
Breaux	Durenberger	Jeffords
Bryan	Exon	Johnston
Bumpers	Ford	Kassebaum
Burdick	Fowler	Kasten
Burns	Garn	Kennedy
Byrd	Glenn	Kerrey
Chafee	Gore	Kerry
Coats	Gorton	Kohl
Cochran	Graham	Lautenberg
Cohen	Gramm	Leahy

Levin	Nickles	Sasser
Lieberman	Nunn	Shelby
Lott	Packwood	Simon
Lugar	Pell	Simpson
Mack	Pressler	Specter
Matsunaga	Pryor	Stevens
McCain	Reid	Symms
McClure	Riegle	Thurmond
McConnell	Robb	Wallop
Metzenbaum	Rockefeller	Warner
Mikulski	Roth	Wilson
Mitchell	Rudman	Wirth
Moynihan	Sanford	
Murkowski	Sarbanes	

So the nomination was confirmed.

ENVIRONMENTAL PROTECTION AGENCY

The PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of Mr. William Kane Reilly to be Administrator of the Environmental Protection Agency? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 10 Ex.]

YEAS—100

Adams	Garn	McConnell
Armstrong	Glenn	Metzenbaum
Baucus	Gore	Mikulski
Bentsen	Gorton	Mitchell
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grassley	Nickles
Boren	Harkin	Nunn
Boschwitz	Hatch	Packwood
Bradley	Hatfield	Pell
Breaux	Heflin	Pressler
Bryan	Heinz	Pryor
Bumpers	Helms	Reid
Burdick	Hollings	Riegle
Burns	Humphrey	Robb
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kennedy	Sasser
Cranston	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Lieberman	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	Wilson
Exon	Matsunaga	Wirth
Ford	McCain	
Fowler	McClure	

So the nomination was confirmed.

The PRESIDENT pro tempore. On this question, does the Senate advise and consent to the nomination of William Kane Reilly to be Administrator of the Environmental Protection Agency, 100 Senators having voted in the affirmative, no Senators voting in the negative, the nomination is confirmed.

Under the order previously entered, the motion to reconsider en bloc is laid on the table en bloc. The President is immediately notified of the confirmation of the nominees and the Senate returns to legislative session.

LEGISLATIVE SESSION

The PRESIDENT pro tempore. The majority leader is recognized.

FEDERAL PAY RATE RECOMMENDATIONS

Mr. MITCHELL. Mr. President, I have consulted with the Republican leader on this request. I ask unanimous consent that the Senate proceed to the consideration of Senate Joint Resolution 7, Senator SANFORD's resolution disapproving the President's pay raise recommendations.

The PRESIDENT pro tempore. In accordance with the order previously entered, the Chair lays before the Senate the Senate Joint Resolution 7, which the clerk will read for the second time.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 7) disapproving the recommendations of the President relating to rates of pay of certain officers and employees of the Federal Government.

The Senate proceeded to consider the joint resolution.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, for the information of Senators, many of whom have asked me about the schedule for this evening, I intend shortly to yield to Senator SANFORD, the author of the joint resolution now before the Senate, who will make brief introductory remarks. I then intend to seek recognition to make a statement of my own, following which I understand the distinguished Republican leader would like to make a statement. Anyone else who wishes to do so, of course, is free to seek recognition to make their statements.

It is my understanding that shortly thereafter the distinguished Senator from South Dakota, the author of what will be a substitute amendment for the Sanford joint resolution, will seek recognition and make a brief statement. Under the unanimous-consent agreement 2 hours have been allocated maximum for the joint resolution and 2 hours maximum for the amendment.

If all of the time is used, then the vote will occur on Senator PRESSLER's amendment at approximately 10 p.m.

I understand that Senator PRESSLER has indicated he will use only a few minutes; Senator GRASSLEY the same. And if large numbers of Senators do not then wish to speak on this subject, it is possible to have the vote in a relatively short time from now.

Thereafter, we will proceed in accordance with the unanimous-consent agreement to consideration of a resolution which Senator DOLE and I will jointly submit dealing with the subject of honoraria. A maximum of 1 hour has been allocated on that. I intend to speak for just a few minutes. I believe Senator DOLE intends to use about the same amount of time.

It is possible, therefore, for the benefits of Senators, that we could complete action this evening on both the pending disapproval resolution and the resolution regarding honoraria in a relatively short period of time, far less than the maximum 5 hours allocated under the unanimous-consent agreement or permitted under the unanimous-consent agreement.

That is merely informational for Senators, and the exact timing will depend, of course, upon how much debate ensues.

Mr. PRESSLER. If my friend will yield, that is my intention. If there are questions on the technicalities of our amendment, I of course would have to spend more time answering. But I intend to talk for about 5 or 6 minutes.

Mr. MITCHELL. I thank the Senator. I thank the Chair.

Mr. MURKOWSKI. I wonder if I may make an inquiry for clarification of the leader. Will there be one rollcall vote on the Pressler substitute?

Mr. MITCHELL. There could be as many as three, if there is a vote on a substitute, and then any Senator may insist that we proceed as scheduled to a vote on the underlying resolution as amended by the substitute—and then a third vote on the resolution to be introduced by Senator DOLE and I. After the vote on Senator PRESSLER's resolution, which I anticipate will be approved by a very large margin, I will then seek to determine the will of the Senate with respect to a vote on the underlying resolution as amended.

Mr. MURKOWSKI. I thank the majority leader.

The PRESIDING OFFICER. The time is under the control of the two leaders or their designees.

Who yields time?

Mr. MITCHELL. Mr. President, I yield to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. Mr. President, I will take a moment to say a word in support of Senate Joint Resolution 7 which is a joint resolution to disapprove the pay raise recommended by the quadrennial commission and the President.

I will be very brief. I think people have made up their minds on this. I hope we can move with dispatch.

Our Nation is in the——

The PRESIDING OFFICER. Will the Senator suspend? There are too many conversations going on in the Chamber. Staff will please be seated and Senators refrain from talking.

The Senator is recognized.

Mr. SANFORD. Mr. President, our Nation is in the midst of budget deficit crisis which will only be remedied if Government exercises a great deal of

fiscal responsibility. The proposed 51-percent pay raise for Congressmen and top Federal officials can only be considered fiscal irresponsibility.

The American people have stated their position very clearly. I have no doubt that, at some future date, Americans will support an increase in pay for Congress and the President. But that increase should be commensurate with cost-of-living increases.

I see room for reform of this process which determines the salaries of Federal officials. There exists an important need to unlink congessional and executive pay from that of nonelected officials and civil servants.

Research and development efforts made by Government scientists enable our country to grow and become stronger. Our Government deserves the best scientists and researchers the country has to offer. It is imperative that we have sufficient funds to attract quality people to these posts.

I have previously suggested that we give block grants to Federal scientific endeavors and institutions, so that they might determine what amount of compensation will attract the brightest minds to conduct research for our Nation.

Unfortunately, this pay raise issue has generated a lot of acrimony, acrimony between and within political parties and more tragically acrimony between the American people and their elected officials.

Mr. President, I suggest we take a fresh look at this issue. The intense debate surrounding the pay proposal has generated more than just rhetorical exuberance. It has also produced some good ideas about the pay issue.

I hope that we can put our differences aside long enough to have a serious and productive debate, and fashion a solution to this politically explosive issue.

The proposal before us now, however, is not that solution.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, of all the problems with which Members of Congress must deal, none is more contentious than the question of compensation. It has been that way for 200 years.

The First Congress approved a constitutional amendment requiring an election to intervene before a pay raise for Congress could take effect. The States rejected it.

In 1816, the first attempt to raise congressional pay was repealed because of the clamor it caused.

All subsequent compensation laws have been equally condemned, regardless of the circumstances surrounding them.

We have never had a satisfactory method for setting compensation for high Government officials. We still do not.

Our society believes, and practices its belief, that money is an important and appropriate incentive for persons in virtually every area of activity. Public service is one of the exceptions.

Americans do not want government service limited only to the wealthy. But they also do not want government to be a means of enrichment for those who are not wealthy.

Most Americans do not believe that high salaries are in themselves undesirable. But most Americans do believe that high salaries for public servants are undesirable.

That is the public attitude. We must acknowledge and respect it. We must also recognize that the pay of high Government officials has not kept pace with the cost of living. It is now effectively a third lower than it was 20 years ago.

Despite that, the American people oppose this proposed pay raise, just as they have opposed every such pay raise in our Nation's history. If contemporary public opinion were the sole determinant, the pay of Members of Congress today would be the same as it was in 1789.

The American people are especially angry about this proposed pay raise because of the large percentage increase at one time and because of the procedure by which it is being considered.

We must listen to, understand, and act on the concerns of the people.

It is not surprising that the size of the pay raise has earned it overwhelming disapproval. Very few Americans see their pay checks rise by 50 percent at one time. Most of them receive some form of merit or cost-of-living increase every year or so that protects their purchasing power against the rise in the cost of livng.

But the salaries of high Government officials have not kept pace with the cost of living. These salaries today purchase about a third less than they purchased 20 years ago.

Instead of getting a small annual increase, as do most Americans, Members of Congress, Federal judges, and high officials in the executive branch go for years with no increase at all, followed by an intense controversy as a one-time catchup effort is made.

So it is not surprising that to people who get a modest pay raise each year, if at all, a 50-percent increase at one time seems enormous. That is the price we are paying for not having accepted annual cost-of-living increases.

The Presidential Commission which initially recommended these increases to President Reagan did not compare Government service salaries with salaries in private enterprise.

Clearly, in the private sector, an executive who controls billions of dollars of assets is paid hundreds of thousands of dollars. Just five Federal officials, including the President, earn more than $100,000.

Private sector executive salaries average $229,000 for the lower paid tier of corporate senior executives and $594,000 for the higher paid tier of such executives. But the Commission recognized that careers in Government derive their incentives from more than money.

Comparisons were therefore made with persons in nonprofit organizations, such as universities, hospitals, and other institutions where the profit motive and its large monetary rewards are absent. Even in those comparative circumstances, the Commission found that some university presidents, hospital administrators, city managers, police chiefs, school superintendents, and similar persons are paid substantially more than persons in the highest levels of the Federal Government.

It found, for example, that the Director of the National Institutes of Health has been unable to hire a senior research scientist for 10 years.

It heard of one case in which 10 persons approached about appointment to the Federal judiciary rejected the opportunity before the 11th was persuaded to accept.

It is not that nobody will take these jobs. Clearly, somebody will take every one of them. The question is whether we want first-rate judges, highly qualified scientists, experienced researchers.

There are powerful incentives other than money in public service, just as there are in the nonprofit sector. They help make up for lower pay. But incentives cannot entirely substitute for pay. Medical researchers, VA physicians, Federal judges all have to educate their children. Like every other American, they want to give their children more than they had themselves.

Yet those who accept nomination to the Federal bench, for instance, now experience, on average, an immediate salary loss of 62 percent. Some persons coming into the executive branch from the private sector experience salary losses many times greater.

Of course, those of us in public service freely choose to be there. We run for office voluntarily. We serve voluntarily.

As a result of the voluntary nature of our service, indeed the eagerness with which most of us sought our offices, some say we should never seek or accept compensation higher than it was when we entered office. Put bluntly, they say we knew what the pay was when we ran.

But carried to its logical conclusion, this argument ultimately would preclude all but the independently

wealthy from ever serving. Wholly apart from the interest of any individual, I do not believe that outcome to be in the interest of the Nation.

The Constitution requires Members of Congress to be paid "out of the Treasury of the United States." It says the President shall receive a compensation that may not be raised or reduced during a term of office, but only following the next election. And it says that judges shall receive a compensation which shall not be diminished during their tenure.

These instructions are simple. But they have always been difficult to carry out. One obvious reason is that few people have the opportunity to determine their own pay.

It was this self-evident conflict of interest which led to the creation of the Presidential Commission.

The idea was that Members of Congress should not set their own pay levels. It was intended that an independent commission would make the judgment instead.

The requirement that the President review that recommendation was designed to make the one Government official who cannot himself receive a pay raise be the judge of whether others in Government should get one.

Until President Reagan totally endorsed this Commission's recommendation, all but the first Commission's recommendations had been modified by successive Presidents, and always downward.

Of seven recommendations for pay raises four were not adopted, three were passed, and each was for an amount less than recommended by the Commission.

As so often happens, a law intended to solve a problem simply made it worse. Instead of eliminating the conflict of interest problem, the Commission procedure has focused attention on it. Instead of public confidence being enhanced, it has been further undermined.

There were apparently sound reasons for the creation and operation of the Commission, and for the President's role in the process.

But that does not change the fact that it now gives too many Americans the impression that there is something wrong with it.

A better, fairer, and more rational system would be to permit annual cost-of-living adjsutments to take effect for high Government officials, judges, and Members of Congress when Governmentwide cost-of-living adjustments are made.

In this decade, cost-of-living adjustments for Fedreal workers have been in the range of 3 to 4 percent. It was zero in 1986. If the cost-of-living increases had been accepted since 1969, we wouldn't be facing this problem today, because the salaries of high officials would not have lost a third of their purchasing power over the past 20 years.

From 1969 to 1988, the Consumer Price Index rose 225 percent. The salaries of high Government officials did not keep pace with that increase. By contrast, the pay levels of Americans have risen slightly more than the Consumer Price Index, so that, on average, Americans effectively earn 1½ percent more today than in 1969.

One obvious deficiency in the current system is the public mistrust it has created. Another is that it effectively limits our choices. Of course, that was one of the reasons it was created in the first place. But that has backfired.

We now must vote up or down on a proposal that we had no say in forming and which we effectively cannot alter under the Commission procedure alone.

That is a lousy position to be in, especially for those of us who believe that some increase is warranted if honoraria are barred, but who think the proposed increase is too large, especially if it is received all at once.

I favor a comprehensive approach which includes:

First, enactment of a tough ethics bill which covers Members of Congress;

Second, enactment of a campaign finance reform bill; and

Third, enactment of a bill prohibiting Members of Congress from receiving honoraria and, to replace the income lost through the prohibition on honoraria, an increase in compensation.

I was under the impression, indeed, I hoped, that President Reagan would modify the recommendations of the Commission. A smaller increase could be justified.

Earlier today, the Speaker announced his intention to present to the House next week a proposal to ban honoraria and increase pay by 30 percent rather than the 50 percent recommended by the President.

That creates an alternative to the proposal now before us. As I have said publicly many times, although I believe the 50-percent increase is too large, and will, therefore, oppose it, I also believe that honoraria should be banned and our compensation increased to offset the loss of honoraria income.

It is important now, as we struggle with our consciences and our personal and political futures, that we consider how we can better and more fairly handle this matter in the future.

I suggest these alternatives for consideration by my colleagues:

First, as I have already suggested, the pay of those subject to the President's recommendations should be adjusted when there is a Governmentwide cost of living adjustment.

If that had happened over the past 20 years, we would not be in the position we are in now.

Second, any increase in pay other than a Governmentwide cost-of-living adjustment should take effect only after an affirmative vote of approval by both Houses of Congress.

Whatever the practical arguments for the current system, it has heightened public mistrust of Government, and it has unfairly focused public criticism on the Speaker of the House. The burden which should be borne by all 535 Members of Congress is, instead, being borne by just one. That is unfair to JIM WRIGHT. It will be just as unfair to whoever holds that office after him. It should not happen again.

Third, any increase in pay other than a Governmentwide cost-of-living adjustment should take effect in the Congress following the one in which it is approved. The practice which now applies only to the President's salary should apply to all others involved. An election should intervene between a vote on a pay raise and its taking effect.

This is a controversial issue. Members of Congress are caught in a vise between editorial writers and reporters, who want a ban on honoraria, and voters, who are against any pay raise.

As I noted earlier, the large amount of the proposed increase and the manner in which it is being considered have intensified that opposition.

It is obvious that the Senate will today reject this proposal. I hope we will also soon reject the system which produced it and replace both with something better.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair inquires as to who yields time.

Mr. DOLE. Mr. President, I yield myself whatever time I may consume. I will not take long.

The PRESIDING OFFICER. The Republican leader has the floor.

Mr. DOLE. Mr. President, I associate myself with the remarks of the distinguished majority leader.

I have been through a number of pay raise votes. I cannot recall any time that anyone was for it, and I think, as the majority leader indicated, it is probably almost a miracle we are not still getting $6 a day.

There was a pay raise in 1816 from $6 a day to $1,500 a session. This passed. There was such a public outcry that it was repealed the next year. I do not think they had a pay raise then for several years after that.

So it is a very sensitive issue, a very sensitive issue.

I do not know the best way. I recall Senator Baker from Tennessee, and Senator Long from Louisiana, suggesting to make maybe a constitutional change or we amend the Constitution and then anything we do by statute we

can undo by statute, and by a constitutional amendment you would have a commission and they would determine the pay.

I am not certain what the State legislatures would think of that. Maybe they would not want to get into that.

But I think, in line with that, after the 1816 vote the political reaction caused a swift retreat, and the measure was repealed the next year. The public outcry was vividly described by Lewis Condict of New Jersey, a Member of the House, when he said:

> The tranquility of the public mind at that season [in 1816] was highly favorable for the views of the demagogues of faction and noise. A universal calm pervaded every section. Party animosity had subsided. Political distinction had nearly ceased. The Federal co-partnership was dissolved. The Hartford Convention had dispersed. Bonaparte in St. Helena. No embargo. No war. Newspaper editors were in danger of starvation, and for want of other prey, they pounced upon the compensation law, and, like Peter's brown loaf, it has served them for beef and mutton, custard, and plum pudding. It was standing dish for months, and was served up in every possible shape, boiled and roasted, stewed and fricassed. Devoured by the demagogues of faction, it has been reissued from their pestiferous jaws at the trippling houses and dram shops, highly seasoned with falsehood and misrepresentation. And this is called "public sentiment", and "public opinion". This is "instruction from our constituents", which the Representative is bound to obey.

That may or may not be accurate. That was only one Member's view.

But I do think there should be a pay raise. I think if we did 50 percent, 51 percent, that was never going to be explained. There is no way you can explain that, as the majority leader pointed out. Nobody gets a 50 or 51 percent pay increase.

And so now the issue is shifted: if you vote against this are you going to take the money?

Very frankly, I do not see anything wrong with the present system. I do not believe that the limit on honoraria we are entitled to make is going to corrupt anyone in this body, and I hope not, and most everyone in this body does a lot of speaking they would not have to do and they give most of their speaking fees to charitable organizations, whether it be disabled or voluntary groups or nonprofit groups.

So I do not really see anything wrong with the honoraria. Neither do the people in my State see much wrong with that.

But that, in accordance with some, at least, raises the possibility of some influence. I know Members who will not accept honoraria but take PAC money from the same group, and I do not see any distinction except you get more from the PAC. You get $2,000 for a speech or $5,000 or $10,000 from the same organization for political action funds.

So I share the majority leader's view, and this is going to be the pay raise or at least the resolution of disapproval, as amended by Senator PRESSLER, Senator GRASSLEY, and others, will prevail with probably a large margin.

I do not know what will happen. The House will have a vote next week under suspension, I understand, where those who do not really have a choice are either going to vote for a 50-percent raise or a 30-percent raise and if those who are against the raise vote for anything, it is going to be misinterpreted.

So the effort by the Speaker to reduce it from 50 percent to 30 percent could well fail, because you are still going to be charged at home with voting for a 30-percent increase.

So I do not know what will happen.

But, in any event, it is possible we could go to conference; they would send something over here and we could be on this for months. As I understand it, as we will get into later—if, in fact, the pay raise is in effect during all that time, honoraria is banned, as it should be. We have made that agreement. And I am going to submit that resolution with the majority leader.

But I want the record to reflect that this is not an easy choice. I watched on C-SPAN the other night a couple of hours of hearings. I wish to commend Lloyd Cutler, as everyone else did, as they said they disagreed with him. It was a very brilliant presentation he made. But I am not certain how many of my constituents were listening that evening; probably not too many.

If Lloyd Cutler could talk to each of them, each of our constituents, it would make it much easier, because he pointed out time after time, as the majority leader just mentioned, had we not in 1969 and since that time rejected the cost-of-living increases we would not be here today. I hope we will get back on that schedule somehow and accept what other Federal employees accept, and have enough courage, enough of us, to stand up and table anybody who wants to take that away from the Congress.

But there is another problem. If we are not willing to raise our pay, should we punish the executive branch—some would say punish—and the judicial branch? As Mr. Cutler pointed out, we are coequal branches. Why should we receive less?

Well, we do not want to raise our pay. It is not as difficult for us to vote for an increase for members of the judiciary and for top senior officials in the Government, whether they be at NIH or whether they be in the Cabinet or whether they be four-star generals. Four-star generals now can only receive the pay of a two-star general. They have not had increases for a long time because we put a cap on it, that they cannot receive more than Members of Congress.

Is that fair to that four-star general or three-star general or even many two-star generals who have worked very hard to achieve the status that they have? Now they cannot get a pay increase because Members of Congress put a cap on it. They cannot be paid more than we are.

I know that Senator STEVENS talked in the hearings about decoupling—let us go ahead and vote for the increase for the executive and the judicial and not have any increase for Members of Congress—but I think it has been decided not to offer that amendment at this time. But that is something we are going to have to face up to.

So I would just conclude by suggesting that it is politically sensitive. It seems to me that—and I am not a prophet—we are probably going to be having a number of votes this year. I would hope that we could have some resolution.

I wish to thank my colleagues, as I did earlier today, for coming together with just one or two amendments instead of 12 or 13. We know what the issue is, as the Senator from North Carolina pointed out, it will be refined some by the Senator from South Dakota's amendment, and then we have a clear issue to vote upon.

But I want the record to reflect, as the majority leader has indicated, that we are entitled to an increase in pay. It should not be incumbent upon the Speaker to take all the heat. He has taken a lot. But I think—I do not know what will happen—if I had to guess I would guess this maybe is going to go on for several months and we may have a pay raise one day and not a pay raise the next day. But if that is the will of the Congress, it will happen. But if that does happen, I hope we can maybe separate the executive branch. The judicial branch is going to be excepted anyway because they are going to get a pay raise. They are the only ones who got it made, the judges. And I have great respect for judges. They do not pay one cent into their retirement. They have a lifetime appointment. They do not run for office. They do not need any buttons. They just get paid forever, and some get paid for not working. Now they may want to change that.

But they are going to get a raise. The judicial branch is the one branch that is going to get a raise. And they probably deserve it. But if they deserve it, maybe the executive branch and the legislative branch deserve it, too.

So, hopefully, when it is all said and done, either next week or next month or next year, we will have some parity and we will have some equality, because I do not believe that judges

ought to be having a bigger increase than the executive branch or even the legislative branch. But that is going to happen. We cannot do anything about that because of the Constitution, as was pointed out by the majority leader.

So I want to support the majority leader's efforts where I can and support his statement that a pay increase is past due.

Mr. CONRAD. Mr. President, I rise to support Senate Joint Resolution 7, Senator SANFORD's resolution to disapprove the pay raise recommendation submitted by President Reagan in his fiscal year 1990 budget. I believe the approval of such increases undermines the credibility of our Government just when we need to show real leadership to reduce the Federal deficit, which severely threatens our economic security.

Within the past 6 years, our national debt has tripled. The trade deficit has grown sixfold. The United States is now the world's largest debtor nation. We will need the help of every American to address these problems, and put our Nation back on the road to economic security and health. We cannot ask our people to tighten their belts, while in the same breath we adopt a 50-percent pay increase.

The people of my State and those of many other States have been hit hard by the downturn in the agriculture and energy industries. My constituents have made major sacrifices over the last several years, and they'll have to make many more. I believe it is unfair to ask for 50 percent pay increases for Members of Congress and other high-paid governmental officials when our constituents cannot expect raises.

I have received nearly a thousand letters on this issue from my constituents, and I agree with what they have to say. My constituents point out that we have not been able to control the Federal budget deficit, and yet we consider rewarding ourselves for our good work. The irony does not escape them. It should not escape us.

I urge my colleagues to join me in voting for this joint resolution to disapprove the recommended pay raise.

Mr. HARKIN. Mr. President, I rise in opposition to former President Reagan's recommendation calling for a 50-percent congressional pay raise.

The Members of this body are well aware of the public outcry against the raise.

I too am outraged.

This pay raise is too high, it is coming at the wrong time, and it is being handled in the wrong way.

The first thing I think rankles the American public is the amount of this raise.

The Quadrennial Commission recommendation is to set congressional pay at $135,000.

Two years ago, President Reagan was presented with almost the same pay increase and he chose to recommend a lower amount.

This year, with his party safely entrenched in the White House for another 4 years, Mr. Reagan decided to approve the whole kit and caboodle.

It turns out it also was a pretty sweet deal for the outgoing President.

Federal law states that former Presidents will receive annual pensions equal to the salaries of Cabinet Secretaries. So when Mr. Reagan approved a 56 percent raise for Cabinet Secretaries—from $99,500 to $155,000—he also gave himself a 56-percent pay raise, for the rest of his life.

There is nothing like giving yourself a generous going away gift.

Somehow I find it ironic that the President who came in pledging to save taxpayers' dollars left office by feathering his own nest.

This hefty retirement package for Mr. Reagan gives new meaning to the phrase "Win one for the Gipper."

I remember when I first came to Congress in 1974, Senators and Representatives made $42,500. It seemed like a lot then, certaintly enough, yet it was less than just the raise that is being proposed today.

Senators and Representatives now make $89,500, which puts them at a higher income than 99 percent of all Americans.

That ought to be more than enough.

The average American family gets by on about a fourth of that.

The minimum wage hasn't gone up in this country since 1981—the workers who have to get by on $3.35 an hour or 6,700 a year surely deserve a raise before we do.

Sure, we would all like a raise.

And perhaps if what we were considering was a cost-of-living increase for Congress, that might be another story.

Perhaps even this Senator might consider voting for a modest increase of that size, provided some changes are made in the way the raise goes into effect—about which I will have more to say in a moment.

But frankly, after coming off of 8 years of Reaganomics, in which the gap between the rich and the poor grew wider and wider, I do not think now is the time to start worrying about the folks at the top. Now is the time to do something to raise the incomes at the bottom.

We ought to be doing something to help the young families in this country who cannot afford to buy their first homes.

The homeless need something better than street grates to warm their bodies at night. What are we doing to help them?

There are young people in my home State of Iowa who are being forced to leave their families and friends and move thousands of miles away just to find jobs. We ought to be investing in their futures, in their hometowns, so they can finds jobs they can afford to support a family on and live where they want to.

We have farmers who have lost their land, who could buy back that land if they could just get affordable credit—and young farmers who would like to get started, but cannot.

And now the administration is telling us we cannot afford to provide school lunches for children anymore.

The deficit has got us in such desperate straights that this administration is trying to balance the budget by taking quarters away from kids.

President Reagan sent up a budget that calls for sacrifices from virtually every American.

It includes:

Cuts in Medicare for our senior citizens.

Cuts in 24 education programs, at a time when we desperately need to invest in education.

Cuts in nutrition programs for our children.

Cuts in military readiness for our Armed Services, and cuts in pensions and hard-earned benefits for our veterans.

Cuts in rural development for our struggling small towns.

Now I am not saying some of these cuts are not necessary.

We all have to tighten our belts if we are going to get this deficit down.

But I have always believed you should not ask other people to do something you would not be willing to do yourself.

If this administration and this Congress are serious about budget cutting, let's start with ourselves.

As I told my colleagues in the Senate Democratic caucus, it is unconsionable that Congress could even consider raising salaries when we are asking the rest of America to cut back and make sacrifices.

So, it should not be any mystery why the vast majority of the American people oppose this pay raise.

Our mandate is to govern, to serve the people, not to serve ourselves.

But there is another thing that sticks in people's craw just as much about this pay raise—and that is the unaccountable way it is being railroad through Congress without allowing a vote.

America is a representative democracy. Fundamental to this system is the understanding, the implicit pact, made between the governed and their governors, that decisions will be made in an open and accountable manner.

Leadership is about making decisions and then standing by those decisions once they are made.

Day in and day out, we are asked to vote on the important issues of our time. We do it openly, above board, be-

cause we are not acting for ourselves, we are acting on behalf of the voters who sent us to Washington.

Imagine a system where Representatives and Senators cast their votes in secret, behind closed doors. Then on election day, they went back to their constituents and said: "You'll just have to take my word for it. I've been taking care of your business while I've been in Washington."

How could the voters determine whether they had been represented well or not? They would have no way of knowing, because they would not have the information they need to make an educated decision.

By and large, and thankfully, Congress does not act in this way—we do cast our votes openly and we are accountable for our actions.

But the pay raise is the one notable exception to this rule.

However, if Congress seeks to restore the public's trust, there is an answer.

That answer lies in the legislation I first introduced in 1976 and have reintroduced in similar measures in 1979, 1981, 1982, and 1987.

It is a proposal first drafted by James Madison as 1 of 12 proposed amendments to the U.S. Constitution.

The second article read as follows:

> No law varying the compensation for the services of the Senators and Representatives shall take effect until an election of Representatives shall have intervened.

Madison recognized that there is an inherent conflict of interest, or at least the appearance of a conflict of interest, that arises when sitting Members of Congress vote to increase the pay they themselves will receive during their term of office.

On June 8, 1789, during the first session of the First Congress, Madison said on the floor of the House of Representatives:

> There is a seeming impropriety in leaving any set of men without control to put their hand into the public coffers, to take out money to put in their pockets; there is a seeming indecorum in such power which leads me to propose a change.

Well, 10 of those original 12 amendments were adopted and became our Bill of Rights.

The pay raise amendment was one of two amendments rejected by the States. Six States approved the pay raise amendment; four States did not: New Jersey, New Hampshire, New York, and Rhode Island.

Historian agree that those States did not object to the pay raise amendment being included in the Constitution; they just did not think it ought to be included in the Bill of Rights.

Another bone of contention at that time was whether the Federal Government or the States themselves ought to establish the salaries of Members of Congress.

However, since no deadline was established for ratification, in the intervening years an increasing number of States have voted to ratify the Madison amendment.

In 1873, Virginia voted to ratify. In 1978, Wyoming did. In 1983, Maine. In 1984, Colorado. In 1985, South Dakota, New Hampshire, Arizona, Tennessee, and Oklahoma. In 1986, New Mexico, Indiana, and Utah. In 1987, Arkansas, Montana, Connecticut, and Wisconsin. In 1988, Georgia, West Virginia, and most recently on July 6, 1988, Louisiana. All told, 25 States have now ratified the Madison amendment—18 of them in the last 11 years.

I would also just note that New Jersey and New York have since seen the light and their State constitutions now contain a similar provision. In fact, there are now 31 States with constitutions or statutory provisions delaying the effective date of State legislators' salary increases until after the convening of a new legislature.

The Federal Government ought to follow their wise examples. Certainly, the public outrage that has accompanied every attempt by Congress to raise its own pay in recent years proves that James Madison's amendment is still urgent unfinished business.

Though 25 States have now ratified, there is some legal question whether or not the Madison amendment is still valid after all these years.

Since the first 12 proposed amendments, a tradition has arisen to allow 7 years for final ratification.

To remove any question, I reintroduced the Madison proposal as a constitutional amendment in 1976—and I will reintroduce this constitutional amendment today. I will work to enact into law and into our Constitution Madison's wise proposal, along with the requirement that every pay raise be approved on an up-or-down vote by both Houses of Congress.

I have worked with many of my colleagues on both sides of the aisle to pass this legislation during the 14 years I have been in Congress. Unfortunately, we have not met with success.

Once again, it appears a raise will go into effect without a rollcall vote in the House and without the approval of the people.

I will vote against this proposal when it comes before the Senate. However, given the seeming inevitability of this pay raise slipping through, I will do more than cast a symbolic vote in opposition.

I will put my money where my mouth is by abiding by the proposals I have authored and not take any pay raise until after my constituents have had a chance to vote in an intervening election.

I will do as I have done in the past and not take the pay raise even if it is approved. I will return the check to the Federal Treasury.

Now, I know there are those who argue that the pay raise is justified if honoraria are banned. But honoraria are a separate issue and a separate problem.

Now, the whole system of honoraria has gotten out of hand. Speaking before any group and receiving an honorarium creates the appearance of a conflict of interest than further undermines the trust of the American people.

I expect there will be a vote to ban honoraria, and if so, I will vote for such a ban.

But the issue of honoraria should be not be allowed to cloud how Congress deals with pay raises.

In the coming days, I will work to convince my colleagues to face this issue squarely and be held accountable.

The American people are not being misled. They can see very clearly what is going on, and they do not like what they see.

The issue here is not salaries. It is that Congress has been elected to serve but has acted in a way that is only self-serving.

If this pay raise goes into effect over my objections, I will not be a party to it.

As I said in 1977, I believe no Member of Congress should be able to raise his or her own salary until an election has intervened. The final decision should not rest with those who will get the extra money. That decision should be made by the people who pay the bill, the American taxpayers.

So again, Mr. President, I hope we can defeat this raise. Already we have spent far too much time on this issue that only takes time away from the real issues that face the American people.

This country faces challenges that have grown more urgent from the policies of neglect of the Reagan administration.

Let us deal with this pay raise openly and honestly. Let us once and for all reform the system that produced this misguided pay raise.

And let us get back to the peoples' business and do the job we were elected to do. Thank you, Mr. President.

Mrs. KASSEBAUM. Mr. President, I rise today in strong opposition to the proposed pay increase for Members of Congress and other top Federal officials.

As we are all aware, the pay raise proposal released last month by President Reagan recommends that congressional salaries be increased by more than 50 percent, from $89,500 to $135,000 a year. Unless both the Senate and the House vote to stop it before February 8, the pay recommendation will go into effect automatically. Not surprisingly, this proposal has

touched off an avalanche of protest in recent weeks, both here in Congress and across the country.

In the wake of this outcry, it now appears that House Speaker JIM WRIGHT may be moving away from his earlier position in strong support of a 50-percent raise. Although he apparently still intends to delay a House vote long enough to allow the raise to go into effect, the Speaker indicated just yesterday that he may then support an effort to scale back the increase from 50 to 30 percent.

Although 30 percent is clearly better than 50 percent, I firmly believe that any increase is inappropriate at a time when many worthwhile Government programs are undergoing necessary budget cutbacks. Over the past several years, we in Congress have asked the American people to endure significant cuts in programs ranging from Medicare to student aid to environmental protection. And regrettably, additional cutbacks lie ahead as we strive to eliminate our budget deficit of more than $150 billion. Just last month, the President submitted a budget to Congress which recommends, among other things, that Medicare payments be cut by some $3.2 billion next year and that farm subsidies be curtailed by $2 billion in 1990.

Mr. President, how, in good conscience, can we demand such sacrifice of our constituents even as we approve a substantial pay raise for ourselves? Proponents of the raise may be right that the salary increase would add little to the budget deficit, but they lose sight of the fact that it is certain to tarnish the credibility of our deficit-reduction efforts, as well as of Congress itself. In deficit reduction, as in all else, Congress cannot expect to lead effectively unless it leads by example.

Advocates of the pay raise are fond of pointing out that congressional salaries lag far behind pay for comparable work in the private sector. While this is certainly true, I do not believe that comparisons should be made between those of us serving the public interest and those who pursue careers in private industry. None of us entered government to get rich. Rather, we came to Washington to represent the interests of our constituents—most of whom earn quite a bit less than we do.

Considering that the average wage earner in my home State of Kansas makes about $18,500 a year, it is certainly no surprise to me that public opinion is running against the pay raise by a margin of more than seven to one.

Nearly as objectionable to me as the raise itself is the roundabout, "backdoor" way in which it is being implemented. As we all know, the President's 50-percent pay proposal before us today will go into effect automatically unless both the Senate and the House pass resolutions disapproving it before midnight February 7. We in the Senate are about to vote on just such a resolution, but we do so comfortable in the knowledge that the House is likely to take no action until after the raise has become law.

Mr. President, this legislative sleight-of-hand is not about to fool anyone, least of all the American people. Speaker WRIGHT's plan to reduce the size of the pay raise after it has gone into effect may yet succeed—but the fact remains that the raise itself will have been achieved without the House ever having voted on it.

Over the years, I have repeatedly cosponsored legislation to require that both Houses of Congress vote openly on any and all pay raises—and I am proud to do so again this year. As I see it, we in Congress have a basic obligation to assume public responsibility for the actions we take—regardless of how sensitive or controversial those actions may be.

No doubt realizing that a large pay increase would be a bitter political pill to swallow, proponents of the raise have sought to link it to legislation forbidding Members of Congress from accepting speaking fees, or honoraria, from special interest groups. Though I disapprove of the way the proposed honoraria ban is being used to help make a pay hike more palatable to voters, I strongly support such a ban as a much-needed reform in its own right.

Under current congressional rules, Senators may take home an amount equal to 40 percent of their salary in speaking fees, while House Members are allowed to accept 30 percent. At first glance, this practice may appear to be little more than an innocent way for Senators and Representatives to supplement their incomes. However, when corporations, associations, and various special interest groups are paying more than $9.6 million annually to Members of Congress, a host of troubling questions arises. Regardless of whether or not Members of Congress do, in fact, allow their votes and policy decisions to be influenced by honoraria they receive, the very appearance of a conflict of interest is reason enough to abolish this practice.

Mr. President, I urge all of my colleagues—both in the House and the Senate—to oppose any congressional pay raise recommendations and to support an end to honoraria. We in Congress are constantly encouraging fiscal restraint, and when push comes to shove, we must follow through. If deficit reduction is to be successful, sacrifice cannot be selective.

AMENDMENT NO. 2

(Purpose: Disapproving the recommendations of the President relating to rates of pay of certain officers and employees of the Federal Government, and for other purposes)

Mr. PRESSLER. Mr. President, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER], for himself, Mr. GRASSLEY, Mr. DECONCINI, Mr. HELMS, Mr. HUMPHREY, Mr. EXON, Mr. BURDICK, Mr. KASTEN, Mr. COHEN, Mrs. KASSEBAUM, and Mr. BOND, proposes an amendment numbered 2.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the substitute 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:

SECTION 1. DISAPPROVAL OF PRESIDENTIAL RECOMMENDATIONS FOR CONGRESSIONAL PAY INCREASE.

The recommendations of the President relating to rates of pay for offices and positions within the purview of section 225(f) of the Federal Salary Act of 1967, as included (pursuant to section 225(h) of such Act) in the budget transmitted to the Congress for fiscal year 1990, are disapproved.

SEC. 2. EFFECTIVE DATE PROVISIONS AND RECORDED VOTES ON CONGRESSIONAL PAY INCREASES.

(a) EFFECTIVE DATE PROVISIONS.—(1) Subject to paragraph (2), if the date of the enactment of this resolution is on or after February 8, 1989, the rates of pay for all offices and positions increased by the recommendations described in the first section shall be the rate of pay in effect for each such office and position before such recommendations took effect.

(2)(A) The provisions of paragraph (1) shall not be applied to reduce the rate of pay of any office or position which was increased during the period of February 8, 1989, through the date of the enactment of this resolution by reason other than the recommendations described in the first section.

(B) The provisions of the first section and this section shall not apply to reduce the rate of pay of any judge or justice appointed pursuant to article III of the Constitution of the United States.

(b) AMENDMENT TO FEDERAL SALARY ACT OF 1967.—Section 225(i) of the Federal Salary Act of 1967 (2 U.S.C. 359) is amended to read as follows:

"(i) EFFECTIVE DATE OF PRESIDENTIAL RECOMMENDATIONS; CONGRESSIONAL VOTE ON INCREASES IN CONGRESSIONAL RATES OF PAY.—(1)(A) Except for the recommendations relating to Members of Congress (which shall be subject to the provisions of paragraph (2)), the recommendations of the President which are transmitted to the Congress pursuant to subsection (h) of this section shall be effective as provided in subparagraph (B) of this paragraph, unless any such recommendation is disapproved by a joint resolution agreed to by the Congress not later than the last day of the 30-day period which

begins on the date on which such recommendations are transmitted to the Congress.

"(B) The effective date of the rate or rates of pay which take effect for an office or position under subparagraph (A) of this paragraph shall be the first day of the first pay period which begins for such office or position after the end of the 30-day period described in subparagraph (A).

"(2)(A) The recommendations of the President relating to the rates of pay of Members of Congress which are transmitted to the Congress under subsection (h) of this section shall become effective only after the enactment of a joint resolution as provided under subparagraph (B).

"(B) The joint resolution described under subparagraph (A) shall—

"(i) relate only to the issue of such recommendation to increase the rates of pay of Members of Congress; and

"(ii) be passed by recorded vote to reflect the vote of each Member of Congress thereon.

"(C) For purposes of this paragraph the term "Members of Congress" includes all positions described under section 225(f)(A), except for the Vice President of the United States.".

(c) CONGRESSIONAL VOTE TO INCREASE CONGRESSIONAL RATES OF PAY WITH INCREASES IN THE GENERAL SCHEDULE.—Section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended to read as follows:

"(2)(A) Any increase in the rates of pay of Members of Congress which corresponds to an increase in the rates of pay in the General Schedule under section 5305 of title 5, United States Code, in any fiscal year shall become effective only after enactment of a joint resolution as provided under subparagraph (B).

"(B) The joint resolution described under subparagraph (A) shall—

"(i) relate only to the issue of the increase in the rates of pay of Members of Congress; and

"(ii) be passed by recorded vote to reflect the vote of each Member of Congress thereon.

"(C) If a joint resolution is enacted as provided under subparagraphs (A) and (B), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which such joint resolution is enacted, each annual rate of pay of Members of Congress shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the percentage of such annual rate which corresponds to the overall average percentage (as set in the report transmitted to the Congress under section 5305) of the adjustment in the rates of pay under the General Schedule.".

(d) CONGRESSIONAL VOTE ON ANY INCREASE IN THE RATES OF PAY OF MEMBERS OF CONGRESS.—(1) Notwithstanding any other provision of law, any increase in the rates of pay of Members of Congress shall become effective only after the enactment of a joint resolution as provided in paragraph (2).

(2) The joint resolution described under paragraph (1) shall—

(A) relate only to the issue of the increase in the rates of pay of Members of Congress; and

(B) be passed by recorded vote to reflect the vote of each Member of Congress thereon.

Mr. PRESSLER. Mr. President, the reason we find ourselves in the situation we are in tonight is because of the method that has been used to move salary increases forward. Most of the American people strongly disagree with the automatic pay raise concept which allows a pay raise to go forward without a recorded vote. I think that the American people might well feel that if we could balance the budget there may be times when a pay raise is appropriate. But they feel very strongly that there should be a rollcall vote.

This particular amendment that I have sent to the desk was worked out and cosponsored by some 30 Senators in terms of the resolution which is identical to it. It has been endorsed by the National Taxpayers Union and by Public Citizen. It was worked out over a period of time. Senator GRASSLEY did a great deal of work on this. He and his staff are to be commended.

This represents the collective thinking of many Members of the Senate, Democratic and Republican. In fact, the number of Democratic cosponsors are equal to the number of Republican cosponsors.

It is a resolution of disapproval, first of all, but it goes two steps further to correct the back door methods by which congressional raises are allowed.

Let me explain this piece of legislation. It has three main parts.

The first part is a simple resolution disapproving the current pay raise recommended by the quadrennial commission and proposed by the President.

The second part directs that if the House should allow the current raise proposal to go forward, it still has the ability to return the raise and return to current pay levels—if they are really serious about rejecting the raise. It could be subject to a discharge petition in the House or action by the House if the House wished, thereby giving House Members the ability to reject the raise even if they do not meet the February 7 deadline. They should have no excuse.

The third part of this amendment provides that in the future there must be a vote in the House and Senate regarding congressional pay raises. That would clear up the controversy that has surrounded this pay raise in the sense that Congress would be accountable. This is the permanent fix to the shameless back door approach used today.

Let me state my basic philosophy on this issue. I support the resolution of disapproval because I strongly believe, because of the size of the deficit, this is not the time for a pay raise—particularly a 50-percent pay raise. I have spoken out on that issue very strongly.

Also, we have heard a lot about high salaries. In my home State of South Dakota a head nurse makes between $24,000 and $28,000. That head nurse is in charge of supervising other nurses who are in charge of large numbers of patients. That head nurse makes life-or-death decisions. People in those positions make between $24,000 and $28,000. And we have thousands more who make much less. It's hard to justify a $45,000 raise for ourselves when we refuse to raise the minimum wage.

So, looking to Washington, looking at the situation, this sounds like a very, very big pay raise. Indeed, it is a pay raise that is larger than that nurse's salary, and over double the entire salary of thousands of wage earners in my State. It just isn't right.

Also I might point out that in my State of South Dakota we have people lined up to be Federal judges. We have people who are anxious for Federal jobs and the pay and benefits that go with them. So I don't place great stock in the recruiting argument. We could argue this issue circuitously, but I'm ready for a vote.

I shall be putting additional material into the RECORD to discuss these matters.

I strongly believe that a pay raise is not in order at this time. But I also believe that the method that we use here, the automatic Quadrennial Commission procedure is basically part of the reason that Congress is so disrespected around the country. Increasingly this Congress is delegating to commissions things that it should do itself. It passes off the responsibility and hides behind commissions and administrative recommendations.

What if the Supreme Court were to appoint a commission to decide a controversial case and say, "If we do not vote on it, it will go forward automatically"? There would be an outcry in the country.

So here we have a case where the method we are using has caused many of our citizens to be angry. That is why this legislation contains section 3, which supplements the resolution of disapproval. Section 1 disapproves. Section 2 is a backup disapproval which can subsequently rescind the increase if the House fails to act by February 7. Section 3 is the permanent fix to the back door procedure, requiring public rollcall votes on future pay raises.

This legislation was cosponsored in a resolution form by 30 Members of this body, Democrats and Republicans. This amendment contains the identical language. It is the language that has been agreed upon by a variety of Senators. Many had other things that they wanted to offer. But they stepped aside in favor of this amendment because they felt it was the most comprehensive, because it allowed Senators to vote, not only for a resolution of disapproval, but also for

reform in the basic system. That is what we are trying to do.

So, Mr. President, in conclusion, let me say that this Congress is a new Congress. It is the ninth Congress that I am serving in. I think it would be a great mistake for us to start this Congress with a 50-percent pay raise. That would be wrong, in view of the deficit and other problems in the country that must be dealt with.

Also, I think it would be wrong for us to do this without a vote in both Chambers. That rubs the American people wrong, and it should.

This substitute amendment deals with the problem. It places the Senate squarely on record as being for the resolution of disapproval, and also being for reform in the system. I hope the House follows suit.

I want to commend Senator GRASSLEY and the other Senators who worked together to pull this package together. Mr. President, I have additional materials to submit for the RECORD: Letters from the National Taxpayers Union, public citizen, an article from the Washington Post, and my prepared remarks. I ask unanimous consent that they appear in the RECORD at this point, but in view of the number of speakers who wish to speak, I shall conclude my formal remarks at this point.

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

NATIONAL TAXPAYERS UNION,
Washington, DC, January 30, 1989.

Hon. LARRY PRESSLER,
United States Senate, Washington, DC.

DEAR SENATOR PRESSLER: On behalf of the 150,000 members of the National Taxpayers Union and millions of citizens around the country, THANK YOU for taking a leadership role in fighting the 50 percent congressional pay raise. We fully support and endorse the bipartisan Congressional Salary Accountability Act, S.J. Res. 6.

We look forward to continuing our work with you and the other courageous senators who have sponsored this important legislation.

Sincerely,

DAVID KEATING,
Executive Vice President.

PUBLIC CITIZEN,
February 1, 1989.

DEAR SENATOR: Only one piece of proposed legislation will actually disapprove the fifty-one percent raise and prevent future imbroglios over congressional pay. Public Citizen, the national consumer and environmental advocacy organization, strongly urges you to cosponsor and support S.J. Res. 6 and 20, which is expected to come up for a vote tomorrow.

Recent weeks have seen a firestorm of public opposition to the proposed fifty-one percent pay raise for Congress, federal judges and senior executives. Survey after survey shows more than eighty percent of the public opposed to the raise. This opposition rests on a solid factual base: Congress already earns more than 98 percent of the public; congressional salaries have kept pace with inflation since the early 1960s; and neither judges nor legislators are leaving in great number, despite the unsupported assertions of pay raise advocates. Moreover, public ire is fueled by the pay-setting process itself, under which President Reagan's proposal becomes law if Congress merely avoids a vote.

This huge salary increase for government officials will surely invite much higher salaries for millions of government employees, huge pension cost increases, windfalls (elaborated at the hearings yesterday by Sen. Levin), and emulation at the state and local level and among government contractors. Its true cost will certainly exceed the $300 million base cost for top executives, judges and members of Congress and the senior executive service. This is a multibillion dollar inflation kick which a government ridden by deficits and debt can ill afford.

The Salary Accountability Act, proposed by Senators Larry Pressler, Charles Grassley, Dennis DeConcini and a bipartisan group of thirty cosponsors, addresses these justifiable public concerns. First, it contains a resolution of disapproval for the pay raise. Second, it rolls back congressional and executive pay to current levels if the February 7 deadline passes. Thus, under this section, if this bill passes the Senate, the House can ratify it at any time and send it to the President's desk—thus repealing the pay raise. Finally, the legislation reforms the way Congress sets its pay for the future by requiring a roll-call vote.

This resolution affects the entire salary increase package, including judges and executive officials. Competent candidates for high government office are attracted not primarily by salaries over $90,000 (a more than living wage), but by inspired and effective policies and dedicated leadership. Further, many of these are political appointees tapped primarily for ideological reasons. In addition, comparisons with the salaries of state and local public servants (governors, attorney general, administrators, etc.), as well as prior salaries of incoming Members of Congress, reveal that very few earn over $90,000. Even private attorneys, with whom judges and lawmakers are compared, fare worse; according to the American Bar Association, the median salary for attorneys in the United States in 1987 was $65,995 (and the average was $101,455).

Without doubt, Congress should address concerns expressed about the need to fill a few, highly specialized positions in executive agencies. However, lawmakers should thoroughly evaluate personnel recruitment, civil service hiring policies, and the role of government contracting (whereby private contractors lure officials with higher salaries, funded by the government)—before precipitously paying different amounts to separate branches of the government. In the end, it belies reality to suggest that the 5,000 top level government jobs cannot be filled from among the about 200 million talented citizens of this country, 98 percent of whom earn less than $89,500.

At a time of impending austerity for many in need, Congress should show leadership by example by rejecting the raise. Only legislation that stops the salary increase and reforms future processes will effectively accomplish this task. A plain resolution of disapproval, which would lose all effect after next week, simply fails to heed the wishes of the overwhelming majority of the American people. It is far better to resolve this issue now than to face a building drive for a rollback in coming months. We urge you to support the Pressler-Grassley-DeConcini bill, as the only effective and sensible way to disapprove the raise and improve the process.

Sincerely,

JOAN CLAYBROOK,
President.

[From the Washington Post, Feb. 2, 1989]

PAY BOOST MAY PUSH UP LIVING COSTS

(By Jerry Knight)

The proposed 50 percent pay raise for members of Congress, federal judges and top government officials would pump hundreds of millions of dollars a year into the already roaring Washington economy, sending out ripples that economists say could lead to higher pay and higher prices throughout the region.

Though the raises for members of Congress are the most controversial provision of the bill, it is the higher pay for others on government payrolls—from federal judges to senior government executives—that would have the greatest economic impact, economists said.

"It has very major implications for the economy," said Phillip Dearborn, vice president of the Greater Washington Research Center, a private regional think tank. "There has always been a keying of the salary structure of the Washington area to the federal government."

As a result, he said, private companies eventually will have to raise their pay as well.

Dearborn and other economists also predicted that the sharp increases in pay would lead to stronger demand—and thus higher prices—for furniture, clothing, new cars and especially houses.

"Our cost of living will go up," agreed Stephen Fuller, chairman of urban and regional planning at George Washington University. "We'll see it primarily in housing costs, we'll see it in food costs," he said, noting that Washington already is one of the most expensive places to live.

"I feel very strongly that it is going to set off an inflationary spiral," said Hamid Naz, an economist and former Montgomery County planning official who has studied the regional economy for more than 30 years.

The economists agreed that every $1 of federal spending generates another $3 of additional economic activity as it percolates through the local economy.

The Office of Personnel Management has said the proposed pay package will add about $300 million a year to the federal payroll. Some of the money will wind up in the pockets of federal judges and other officials around the country, but most will be spent in the Washington area.

The boost in payrolls doesn't stop with the 2,498 elected and appointed officials covered directly by the bill. Thousands of other workers whose salaries are linked directly or indirectly to it also will be affected.

The White House already has decided that some 10,000 senior career government executives will get raises of from 16.5 percent to 50 percent if the congressional pay raises go into effect.

Many of the 19,000 congressional staff members also would be in line for raises, because salaries for top jobs on Capitol Hill have long been linked to the pay of members of Congress. Top aides frequently earn 80 percent or 90 percent of what their bosses make, congressional sources said.

In addition, several hundred government consultants—no one knows how many—by

law are paid at the same rate as top members of the Senior Executive Service and will get raises automatically if the SES pay increases go into effect. The consultants are paid at a daily rate equivalent to the top SES scale—now about $80,000 a year and scheduled to increase to $120,000.

The proposed raises at the top of the federal pay scale would come on the heels of increases granted to more than 500,000 government workers and retirees this year.

Last month there was a 4.1 percent raise for about 350,000 whitecollar workers, 19,000 skilled-crafts workers and 65,000 military personnel stationed in the Washington area.

Roughly one-third of the white-collar workers also moved up a step in the federal pay grade system and picked up another 3 percent raise. And an estimated 100,000 federal retirees living here also got a 4 percent increase in their pensions in January.

Accurate figures on how much those increases and the ones still pending will add to local payrolls are not yet available, but economists estimate that the total would be in the $1 billion range. The total federal payroll now stands at about $14 billion a year.

Economists said the most immediate impact of the wage escalation may be felt at the bottom of the pay scale, where there already is a shortage of workers.

"It's going to tighten up the market for fast food, bank tellers, hospital service workers, and retail," said David Eisenberg, president of Peoples Drug Stores.

Eisenberg, a leader of the Greater Washington Board of Trade, said there is growing concern in the business community that "the Washington economy could be pricing itself out of the market" and no longer will be able to lure the big corporations whose emigration has fueled growth for the past decade.

Drugstore and supermarket sales should not increase much as a result of any of the raises, he said, but upscale retailers' will.

"Automobile sales, jewelry, furs, restaurant meals, things like that will all feel the effect," agreed Dearborn. "Surely it means a lot of people will be able to afford bigger mortgage payments."

Naz said giving 50 percent raises to government workers who already earn $75,000 a year "is just going to raise their consumption. Some of it will be channeled into savings, but a lot of it is just going to be consumed."

At that end of the scale, much of the raise will go into buying more expensive houses, he said.

"What really worries me is the expectation of inflation," said Naz. "The government sector is the leading sector, the leading sector is what sets inflationary expectations."

Naz said a similar jump in federal pay in the early 1970s set off a round of inflation, and the effect could be even greater this time because the local economy is becoming more service oriented, with a greater share of spending going for wages.

He said local governments will be among the first to feel the effect of federal pay raises because unionized workers expect to keep pace with their federal counterparts.

PAY RAISES SHOULD BE DEFEATED

Mr. PRESSLER. Mr. President, I along with Senators GRASSLEY, REID, HELMS, MCCAIN, DECONCINI, SIMON, HUMPHREY, BOREN, BURDICK, THURMOND, HEFLIN, KASTEN, KASSEBAUM, HARKIN, BOND, BRYAN, DOMENICI, COATS, BOSCHWITZ, LEVIN, SHELBY, NICKLES, DASCHLE, CONRAD, COHEN, GORE, EXON, SPECTER, BAUCUS, and KERREY of Nebraska, have introduced a proposal to not only disapprove these pay raises, but also rescind the pay raises upon enactment of our resolution, regardless of whether it passes after the 30-day deadline. Additionally, it would require a recorded vote of all future congressional pay raises. I want to thank my fellow colleagues on both sides of the aisle for their assistance and support.

The leaders in the House have announced that they do not plan to permit a vote on this issue before the 30-day deadline. Therefore, the second provision is the key component of our Senate resolution. It would rescind the pay raises even after the February deadline. Thus, it would keep this issue alive well after February 7. It would give the American people time to put sufficient pressure on the House leadership to produce a meaningful vote on this issue in the House.

Automatic congressional pay increases are bad public policy. The American people deserve a forthright, candid, up-or-down vote on congressional pay. This resolution ensures that the House will have a chance to vote to rescind the pay raises and would do away permanently with automatic congressional salary increases.

I believe that our three-part proposal is the best legislative vehicle to put pressure on the House to vote. Because the House does not plan to vote on this issue before February 8, a vote in the Senate on a resolution to simply disapprove the pay raises would be meaningless. Our proposal includes a provision to rescind the pay raises. Thus, a vote after February 7 will count. So this time, even a vote after the deadline will have teeth—in contrast to the meaningless vote by the Houses of Representatives the last time Congress sneaked through a pay raise.

Many already believe, with justifiable skepticism, that the pay raises will go forward. From past years, they have seen that a simple resolution to disapprove an increase before the 30-day deadline has little chance for success. If the Senate is sincere in its efforts to defeat these pay raises, it should vote on and approve our resolution.

The PRESIDING OFFICER (Mr. KOHL). Who yields time?

Mr. GRAMM. Mr. President, I ask the distinguished majority leader to yield me 10 minutes.

Mr. MITCHELL. I yield 10 minutes off the joint resolution to the Senator from Texas.

Mr. GRAMM. Mr. President, I thank the distinguished majority leader. I will try not to take the whole 10 minutes although over the past 10 years, I have seen that often when people say that, they end up asking for more time.

Like most Members of Congress I hate to debate and vote on pay raises. It is the one issue that I always feel uncomfortable with because no matter what you say or how you vote, in a sense you feel like a hypocrite.

How many of our fellow citizens would like to vote against giving themselves a pay raise? Who works on behalf of their own interest or the public's interest that does not believe that they do a good job? And I can certainly say, having had the privilege of working in the Congress now for 10 years, that there are a lot of Members of this body and of the House of Representatives that perform services that are worth a lot more than $89,000 a year to the American people.

There may be people who are worth less but the plain truth is, Mr. President, that the issue here, as I see it, is one of credibility in a very difficult year. And I wanted to try to say briefly why I intend to vote against the pay raise and vote for the resolution of disapproval.

This is going to be a tough year because under a law that we adopted—70 Members of the Congress voted for the Gramm-Rudman-Hollings balanced budget law—this year we have to reduce the deficit to $100 billion. That means reducing the deficit by about $50 billion and limiting the overall growth in Federal spending to about 3 percent.

That is going to mean that, beginning next week when the President sets forth his budget message, if we are going to meet those targets, reduce the deficit, keep the economic recovery going, we are going to have to tell one special interest group after another: No.

Now, Mr. President, if we begin today by telling ourselves yes on a 50-percent pay increase, we are going to lose the credibility that I believe is critical to do the job we have to do on the budget.

Every time we say to a special interest group that we have to deny you an increase, or take money away from your program to fund a higher priority program, that special interest group will say to the Congress: Well, if these priorities are so tough to set, if the budget is so tight, why did you take a 50-percent pay increase?

Mr. President, I am convinced that if we say yes to this pay increase, that we will not have the political courage to say no to the groups that will have to hear the word "no" from us to meet the deficit reduction target, to move toward a balanced budget, and to sustain a recovery that has created 19 million new jobs.

So, it is not a question of merit. It is not a question of whether the pay

raise is deserved or not deserved. It goes back to leadership by example. It is an old adage that I first heard from my grandmother, I assume everybody in this body has heard it, and that is: Practice what you preach. And, since this year we are going to have to preach fiscal austerity, since this year we are going to have to tell so many other groups no, I think if we begin by telling ourselves no that we are going to have a lot more credibility. By practicing what we preach, our sermon is going to ring truer in terms of our effort to control Federal spending and to balance the budget.

So, it is not that I believe, as some have said, that no pay raise is deserved or that Members of Congress are paid enough. I think one could debate those issues endlessly. I intend to vote no because we have to lead by example. We have to practice what we preach. And I do not think we can do the job that is far more important to America than this issue if we do not begin by saying no.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PRESSLER. I yield to the Senator from Nebraska, but first a housekeeping matter. I forgot to ask for the yeas and nays on this amendment. I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. PRESSLER. I yield as much time to the Senator from Iowa as he wishes.

The PRESIDING OFFICER. The Senator from Iowa is recognized. Mr. GRASSLEY.

Mr. GRASSLEY. Mr. President, I thank Senator PRESSLER for yielding me time. I also thank him for his leadership in the area of this legislation.

Mr. President, I have to set something straight. There are conditions under which I would vote for a pay raise. There appears to be legitimate doubt whether those of us who oppose this pay raise would ever vote for one. I want to assure the Members of this body who have doubts about whether or not I would ever vote for a pay raise, that I would vote for a pay raise when we get the budget balanced. I will support a raise for Congress after we have closed the books on that period of time in which there hasn't been a surplus in a budget. I will vote for a raise after we have been able to show the people of this country that we can run the Federal Government in a businesslike manner, the same way that the mom-and-pop stores and the family farms have to be run. Not only can we then show that we are entitled to a pay raise, but I think we will have none of the problems that the Senator from Texas just talked about. Then we will have credibility on budget issues.

Also, I think that the majority leader and the Republican leader have raised points that we should discuss. Their question is whether or not we would ever have a pay raise if it was not approved through the back door. The answer to that is obvious. Not only would there be pay raises in the future, but there have been pay raises in the past. The present method has been on the books only since 1967.

We do not have to wring our hands and suggest that this body is not equipped to deal with the issues of its own pay. In my State, like most States, legislative pay for State law makers has been increased appropriately over the last 150 years.

Legislative pay has been raised because those legislative bodies have voted for those pay raises. There is no procedure, like the one we have in Congress, in my State for increasing pay. Yet pay of legislators are periodically increased. It is openly debated and openly voted up or down. Obviously, if it was increased, it is because there was a majority in the legislature who wanted to increase it.

We need to understand that this body and the other body have had the intestinal fortitude to vote for massive pay increases in the past. Since Senator DOLE has been a Member of Congress, there has been a 33-percent pay increase. In 1965, pay was increased from $22,500 to $30,000. Congress voted itself an 80-percent pay increase, simply by voting it up or down, when the pay was increased from $12,500 to $22,500, in 1955. Congress voted for a 25-percent pay increase when the pay was increased from $10,000 to $12,500 in 1947.

There are many other instances which I am not going to detail. But the pay of this body has been increased with a recorded vote. Although it may have been a tough decision at the particular time, that tough decision was made. A big bite of the bullet was taken by a majority of the House and Senate in those years the same way that other tough issues are decided in this body. That is, by open debate. It might be a little tougher on the pay raise issue. But I suggest that without a pay commission, such as the Quadrennial Commission, we could build public support if a pay raise is needed, just like we do on every other controversial issue. That is to introduce a bill and build public support for it.

The former chairman of the Federal Reserve System, Paul Volker, is devoting a great deal of his time in private life to a matter just like this. Through a commission, he is building public support for pay increases. His efforts are directed not only for public officials, but also for civil servants generally.

So I suggest to my colleagues, do not wring your hands. In particular, the leaders of the majority and minority parties should not wring their hands about whether Congress can deal with this issue. History shows that it has been handled in the way that it should be handled.

There really is not anything new on the issues of pay raises. It has all been said before. As I said to the Committee on Governmental Affairs the other day, why say any more if it has all been said?

The reason why is because each time this issue comes up, it is new and fresh in our constituents' minds. If we are not speaking up on whether we are for the raise or against it, our constituents' minds. If we are not speaking up on whether we are for the raise or against it, our constituency generally assumes the worst.

Once again, I am speaking out on this issue. I want my constituents to know how I feel about it.

I want to commend Senator PRESSLER for his leadership to restore accountability to the congressional pay process. His dedication on this matter has been steadfast for many years. His efforts are especially commendable since congressional pay is not typically an issue that increases one's popularity in this body or the other body. I am not saying we should endeavor for an increase in popularity, but it is human nature to want to be liked. This is not a way to become liked.

I have said in the past that bringing up the pay raise issue is about as welcome in a legislative body as a skunk is at a Sunday school picnic.

I would also like to thank Senators HELMS, HUMPHREY, MCCAIN, and DECONCINI. Their leadership and contributions to this matter have been valuable. Their combined forces and diligence have kept this issue pertinent, not only in the Congress, but also with the folks back home. The significance of this issue is further emphasized by the 30 people who have joined on this bill. That is pretty evenly divided—16 Democrats, 14 Republicans.

Such broad bipartisan support reveals that, tough controversial, the legislation is critical.

Finally, if I may continue, I would also like to compliment the leadership with this issue in the other body. A Congressman from my State of Iowa Congressman TOM TAUKE has been taking the lead with this issue. I doubt that without his leadership and that of 40 other Members helping him, that we would have any hope of having a corresponding vote on this matter in the other body. Such a vote is necessary to give the Senate's vote genuine meaning.

I urge the Senate to reject the pay raise. I believe the Senate should take

the lead in rejecting the raise. In particular, the Senate should take the lead with legislation that gives substance to the anti-pay-raise talk. That legislation is this amendment that is now before us. It includes the vital provision of rolling back the raise for members of the executive and legislative branches of government after next Tuesday's deadline.

Obviously, I would prefer to simply reject the pay raise. Such a vote, however, would be meaningless since the House is in recess. Its Members will not have an opportunity to reject the pay raise in a timely manner. We know that the pay raise will go into effect regardless of the vote of rejection by the Senate. That is, of course, unless the leader of that other body, the Speaker, feels compelled to honor the wishes of the majority of the Members of this body and calls them back into session for a vote on Monday or Tuesday. Unfortunately, the Speaker's intentions call for a vote a week from now, after the pay raise has gone into effect.

This situation raises some very basic questions. How is it that we have a law which allows something to go into effect despite the fact that 85 percent of the American people oppose it, despite the fact that 270 Members of the House of Representatives say they oppose it, and despite the fact that the Senate has consistently voted to reject it?

I wonder how that can happen in the Congress, which is known worldwide for being a truly representative body in a debating society.

Obviously, the only meaningful vote the Senate can take today must be to roll back that 51-percent salary increase. From that standpoint, Mr. President, I suggest that we do that. I also suggest that we go beyond that and change the procedure. By adopting this resolution, we have an opportunity to provide a more accountable process for making changes in salaries for Members of Congress.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. Who yields time? The Republican leader.

Mr. DOLE. Mr. President, I want to make an inquiry. We have to make a judgment here fairly soon whether we are going to vote by 7:30 or will it be 10:30. I would like to ask that on this side the Senator from South Carolina have 3 minutes, the Senator from Indiana 3 minutes, the junior Senator from Alaska 3 minutes, the senior Senator from Alaska 10 minutes, the Senator from New Mexico 2 minutes, the Senator from North Carolina 3 minutes, Senator HELMS, and the Senator from New Hampshire, Senator HUMPHREY, 10 minutes. I know of no further request for time on this side.

Mr. PRESSLER. I would like to give a 2-minute summary.

Mr. DOLE. At 10:30?

Mr. PRESSLER. I have consumed only about 3 or 4 minutes of my time.

Mr. DOLE. Two additional minutes to the Senator from South Dakota.

Mr. MITCHELL. Mr. President, if the Senator will yield, the Senator from Alabama has requested 2 minutes, and earlier today the Senator from Arizona, Mr. DECONCINI, requested 10 minutes, but we have not been able to reach him recently to determine whether he still wishes to do that. So what does the time add up to on that side?

Mr. DOLE. Thirty-six minutes, which would get us finished about 25 after.

Mr. MITCHELL. I am just advised that Senator DECONCINI is prepared not to use that time, so with the exception of Senator HELFIN, with 2 minutes, there will be no other requests that I know of on this side. That would make it a total of 38 minutes, or at 7:30.

Then I will ask unanimous consent that the Senate vote on the Pressler amendment——

Mr. PRESSLER. Is Senator WILSON on that list?

Mr. DOLE. Two minutes.

Mr. MITCHELL. I now have an additional request of Senator DODD for 5 minutes. Is there a request of Senator WILSON?

Mr. DOLE. Three minutes. The Senator from New Mexico now wants another minute.

Mr. MITCHELL. I think, if I might suggest to the minority leader, we should permit the next couple of speakers to go ahead, and ask if anyone else wants time to let us know and then we will go ahead and try to set a time certain.

Mr. STEVENS. Mr. President, reserving the right to object—I do not know whether I am going to object or not—how much does that mean the proponents have had and how much time opponents have had on this matter, if we add up all what we just said?

Mr. MITCHELL. Almost all of the time will have been used by proponents of this measure and the opponents will have had none or very little time.

Mr. STEVENS. Mr. President, it sounds to me as if the only person in the body who wants to support the Quadrennial Commission and two Presidents of the United States, this Senator from Alaska, is going to end up with 10 minutes on the issue.

My good friend from Connecticut will take a trip with me again. All right.

Mr. MITCHELL. Does the Senator wish more time to express his views? I do not want to foreclose anyone.

Mr. STEVENS. I do not want it to look like I am trying to delay this vote at all, but I do want the Members who are all rushing to join the attack to be reasonable.

Mr. MITCHELL. I will then, Mr. President, propound the unanimous-consent request that the vote on the Pressler amendment to the Sanford resolution be held at 7:45 p.m., which is 50 minutes from now and which should permit ample time for all of those who expressed an intention to speak to do so.

Mr. HUMPHREY. Mr. President, reserving the right to object, I can see, as can anyone who has been in this situation before, a very sticky situation developing. If Senators take more time than they thought they were going to, then some of us are not going to get a chance to speak before the magic hour.

Mr. DOLE. We have that locked into the request.

Mr. HUMPHREY. That was not part of the request.

Mr. DOLE. It was earlier.

Mr. HUMPHREY. Pardon me. I missed that. What about things like parliamentary inquiries and other things that could delay things? How much time is built in beyond the known requested time?

Mr. DOLE. We are voting on the Senator's resolution.

Mr. HUMPHREY. If there is only 5 minutes' margin built in, I would urge that we increase that to 10 minutes. It is not my intent to delay this. I might use less than 10 minutes, but I want to say what I have to say.

Mr. MITCHELL. Mr. President, I just want to make it clear and repeat, there is no intention to prevent anyone from speaking who wishes to do so for as long as they wish to speak within the constraints of the existing unanimous-consent agreement.

I want to make that very clear. We are trying to accommodate a lot of Senators. We offered the Senator from New Hampshire 10 minutes as part of this agreement. If he wishes to object to this agreement, he has the perfect right to do so, and we will simply proceed and try to accommodate all of the other Senators as best we can. But I do not want any impression to be left here that any effort is being made to prevent any Senator, whatever his or her view, from expressing that view fully and thoroughly within the limits of the agreement which now exists.

Now, on that basis I will restate the unanimous-consent request, and I emphasize any Senator who has an objection to it, do so. The only reason for this request is to accommodate several Senators who have asked that we attempt to schedule this vote at a time certain as promptly as possible.

Mr. President, I now ask unanimous consent that the vote on the Pressler amendment to the Sanford resolution occur at 7:55 p.m., and that between

now and then the following Senators be permitted to speak for the times stated: Senator HEFLIN for 2 minutes, Senator DODD for 5 minutes, Senator THURMOND for 3 minutes, Senator COATS for 3 minutes, Senator HUMPHREY for 10 minutes, Senator MURKOWSKI for 3 minutes, Senator STEVENS for 10 minutes, Senator HELMS for 3 minutes, Senator WILSON for 3 minutes.

Mr. PRESSLER. And Senator PRESSLER for 2 minutes.

Mr. MITCHELL. Senator PRESSLER for 2 minutes.

Mr. DOMENICI. The list does not have me on it.

Mr. MITCHELL. Senator DOMENICI for 2 minutes.

Mr. DOLE. Three.

Mr. MITCHELL. Senator DOMENICI for 3 minutes.

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

Mr. MITCHELL. I thank the Chair. I thank the distinguished Republican leader.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. Mr. President, recently, there has been a great deal of talk about the proposed pay raise and not much congressional action. This vote will provide us with an opportunity to block the raise and send a message to the American people.

We must act now to reject the proposal based on the recommendations of the Quadrennial Commission on executive, legislative, and judicial salaries. As Members of Congress, we would be callous to let this pay raise go into effect. With the justified concern over the massive Federal deficit of $150 billion per year, we cannot expect the American people to accept a 50 percent pay raise for their Senators and Congressmen. Our first priority should be to bring the Federal deficit under control. I have worked toward a balanced budget my entire time here in the U.S. Senate. In my judgment, this raise will only increase the budget deficit. It is entirely inappropriate in this time of fiscal helter skelter to allow this salary raise to go into effect.

Mr. President, I am glad that, today, we will have a rollcall vote on this matter, rather than merely receiving the raise without a vote. In my judgment, we must vote down the pay raise proposed by the Commission. To give ourselves a pay raise at a time when we are trying to reduce deficits is inconsistent, and certainly sends a wrong message to the American people.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HUMPHREY and Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, a great deal has been said about this controversial issue in the last 2 weeks. I have not heard a great deal of discussion about the constitutional aspect, and that is the aspect which I wish to address now.

The Founding Fathers had a very keen understanding of human nature, Mr. President, and designed into our system of government a system of checks and balances to rein in human nature. The Founders made accountability a central feature of our Government. It is one of the checks and balances. We in Congress are certainly very big on accountability. We regularly haul up before our committees men and women from the executive branch and make them account to us for their actions. And that is as it should be because we are charged with oversight responsibility. And who oversees us? Who oversees the Congress? The answer to that, of course, is the voters, and so accountability is important.

It is the glue that holds our system together. What is most unfortunate of all in the pay raise controversy, is that Congress has devised a system under which pay raises are automatic, if we can avoid a vote before the deadline. It is a perfect system for evading accountability. We get the dough and leave no footprints for the voters to follow at election time.

I must admit that there is a certain evil genius about the scheme. But I emphasize the word "evil" because not only does it destroy accountability in an important area, it also destroys whatever shred of respect remains for this institution among Congress and the American people. And even worse, this scheme undermines respect for the Constitution.

The words of article 1, section 6 of the Constitution could not be clearer: To vote it, "the Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States."

The Constitution does not say how we are to pay the Civil Service. But it is certainly very explicit on how we are to set the pay for Members of Congress, and that is by passage of a law. This provision was controversial from the start. Some critics at the time the Constitution was under consideration felt that provision gave Members of Congress a license to steal but the author of that provision, Governor Morris of Pennsylvania, insisted to the worrywarts:

> [There] could be no reason to fear that they would overpay themselves.

Meaning, of course, that there could be no reason to fear greed on the part of Members, since pay raises could be secured only by enacting law, a law could only be enacted if a majority of those in both Houses voted for it, and the citizens could hold Members accountable at the next election.

So Governor Morris calmed the fears of the time by ensuring to everyone that this check and balance would hold in check, hold in rein human nature.

Likewise in the debates at the ratifying conventions within States, the record of the debate makes clear that the intent of the ascertainment clause was to provide that kind of a check. At the Virginia Convention, Patrick Henry, that old cynic and worrywart, worried that giving Members discretion over their own pay was foolhardy.

> Mr. HENRY. The pay of the Members is, by the Constitution, to be fixed by themselves, without limitation or restraint * * *.

Mr. Madison, James Madison, stood up and said, "Don't worry, Patrick."

He said:

> This is a power which cannot be abused without rousing universal attention and indignation * * *.
>
> Should the general Congress annex wages disproportionate to their service, or repugnant to the sense of the community, they would be universally execrated.
>
> The certainty of incurring the general detestation of the people will prevent abuse.

Similarly, a colloquy during the Massachusetts Ratifying Convention makes clear the deliberate intention of the framers with regard to congressional pay:

> Dr. TAYLOR. Mr. President, it was hitherto being customary for the gentlemen of Congress to be paid by the several State legislatures out of the State Treasury. As no state has hitherto failed paying its delegates, why should we leave the good old path?
>
> Hon. Mr. Sedgwick hoped gentlemen would consider that the Federal officers of Government would be responsible for their conduct; and, as they would regard their reputations, will not assess exorbitant wages.
>
> Can a man, he ask, who has the least respect for the good opinion of his fellow-countrymen, go home to his constituents, after having robbed them by voting himself an exorbitant salary? * * * Therefore, concluded the honorable gentleman, if left to themselves to provide for their own payment, as long as they wish for the good opinion of mankind, they will assess no more than they really deserve, as a compensation for their services.

Mr. President, the intent of the Founders is quite clear and very important. It has not gotten enough attention so far. They meant for us to raise our pay through enactment of law, and by affirmative votes in each House just the way we enact other laws.

For nearly two centuries, Congress upheld the intent of the framers. But in 1967, Congress created the Quadrennial Commission and that's where we began to get into trouble. The Post Office and Civil Service Committee, a predecessor of today's Governmental Affairs Committee warned in its report at the time:

The committee is unanimously opposed to any legislative proposal which would vest in the executive branch the authority to establish, affirmatively or negatively, the salaries of Members of Congress.

What we pay ourselves is a constitutional responsibility vested in us and to be exercised by us. To shirk that positive duty by handing the responsibility to the President, a salary commission, or any other person or group, and then allowing his or their recommendations to take effect is an abdication of constitutuional responsibility * * *.

It is worth noting that the provision had an inauspicious birth: It was inserted in the massive fiscal year 1986 continuing resolution—Public Law 99-190—without hearings in committee, floor debate, or record vote in either House.

Unfortunately, the Congress disregarded that sage wisdom, that wise observation.

The most recent change in the basic system of 1967 was made in 1985.

Indeed, the printed version of the Appropriations Committee report was not available on the day the committee amendment was adopted on the floor by unanimous consent.

So much for the history. The point is that now we have the uproar of the automatic pay raise of 1987 still ringing in our ears and ringing even louder the uproar in 1989 over the new pending pay raise.

Clearly the law must be changed. Clearly it violates the intent of the Constitution. The law must be changed to restore accountability, and that is the purpose of the Pressler-Grassley amendment. I command Senator PRESSLER, Senator GRASSLEY, and the others who have worked. It has not been a whole lot fun, I suspect. But they have done yeomen work.

This is not the end. The Senate, we hope and expect, will adopt the amendment and pass this joint resolution. We hope the House will act on it but we are not terribly optimistic in light of recent events.

So it may well be necessary to offer this or very similar legislation to other legislative matter which comes before the Senate in the coming months on which the House will have to act sooner or later.

So we hope it will be sooner. We hope it will be sooner. We have had enough agony over this issue. It is time to deal with it forthrightly. That is why I urge my colleagues to vote in support of the Pressler amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. LIEBERMAN). Who seeks recognition?

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana.

Mr. COATS. Mr. President, on December 15, 1988, the President's Commission on Executive, Legislative, and Judicial Salaries recommended major adjustments in Federal salaries, including a pay increase to $135,000 for Members of Congress, a boost of over 50 percent above the current salary level of $89,500 a year. Under current law these recommendations take effect automatically within 30 days from the date the President's budget was transmitted to Congress, unless disapproved by both Houses in separate resolutions.

Mr. President, we are here this evening because the Senate leadership has scheduled and guaranteed a vote on this issue in this Chamber. That is proper. I think we ought to do that. We will do that. I have already indicated publicly my opposition to the pay raise and indicated that I will vote against it. In my opinion it would be inappropriate for me, particularly as an appointed Senator, to accept any raise. I have also indicated that if the raise does go into effect I will distribute that raise to charity.

I further indicated that I would refuse any honoraria for speeches until such time as that issue of acceptance of honoraria is either restricted or prohibited, and until that is finally settled.

I am therefore pleased that tonight we will finally dispose of both of these questions.

The immediate question, as we all know, is whether the House of Representatives will also be given an opportunity to vote on the pay raise since it takes the action of both Houses to disapprove the recommended increases.

The real problem, however, in addition to the debate over whether or not we ought to have a pay raise—and there have been many statements as to why we should not at this particular time, and I agree with those—is the process by which we in Congress handle Federal salary matters generally and congressional pay increases in particular.

I have no doubt that my colleagues have heard as much from their constituents about this issue as I have from the people of Indiana. Since I entered the Senate a few weeks ago my office has been deluged by letters, postcards, and phone calls from Hoosiers who are very upset by this whole matter. Not only are they virtually unanimous in their opposition to any boost in congressional salaries, but they are all demanding that the issue be voted on in both Houses. They are outraged that a pay raise could go into effect without a recorded vote. In fact, of all those letters to my office, I only recall one that is in favor of a pay increase, and the handwriting looks a lot like my wife's. She will not admit it, but we are having the handwriting analyzed.

Mr. President, I share the anger and frustration of my Hoosier constituents over this issue. That is why I introduced S. 153, the Congressional Pay Reform Act of 1989, and why I am pleased to cosponsor the Senate resolution of disapproval and the pending substitute before us.

Congressional salary adjustments are a perpetual source of controversy and embarrassment. There should be a better, more effective way of dealing openly and equitably with this issue. I believe that the Congressional Pay Reform Act and the Pressler substitute to Senate Joint Resolution 7 will provide the kind of reforms we need to avoid future public condemnation of the way we handle Federal pay increases.

My bill, S. 153, would institute the following three basic reforms in the way salary increases are considered:

First, any congressional pay adjustments would be deferred until an election has intervened and the next Congress is seated, thereby preventing Members from voting for a pay raise which would go into effect during their current term of office. That prevents Members from voting themselves a pay raise and gives the public a chance to ratify or reject their Member's vote on the basis of how that Member voted.

By the way, this particular reform was first recommended by our Founding Fathers in the First Congress 200 years ago and was included in one of the proposed first 12 amendments to the Constitution.

Second, recorded votes would be required in both Houses of Congress under my bill. It gives, again, the public a chance to know how their representatives in Congress voted on that particular issue. This reform would enable the public to know how their elected representatives stood on the issue. It would dispel the popular perception that pay raises are pushed through by anonymous voice vote or obtained through artifice and deception. This reform is also included in the Pressler substitute we are now considering.

Finally, congressional pay adjustments would be considered independently of other appropriation measures. This would end the practice of combining Senate and House pay increases with agency appropriations and with increases for Federal judges or other Federal employees.

An identical bill was introduced in the House of Representatives by Congressman TOM TAUKE of Iowa.

Mr. President, it is time we instituted reforms in the way we handle—or try to avoid dealing with—congressional salary increases. We must show our willingness and ability to deal frankly and honestly with this question of congressional pay. We have an opportunity now to act on this matter by supporting the Pressler substitute resolution. This will go a long way to restore public trust and confidence in the Congress and faith in the process

by which we address controversial issues.

Mr. DOMENICI. Mr. President, I oppose the pay raise, and I shall vote for the resolution of disapproval. A pay raise at this time is wrong, purely and simply wrong.

Congress cannot, and must not, allow a 50-percent pay raise to take effect when the American people are looking to us for leadership on fiscal issues. This is not the time for such an increase. Nor is this the way to obtain any increase.

Should this pay raise go through, I will not accept it. I will return it to the Department of the Treasury, or I will donate it to charity.

When President Bush took the oath of office on January 20, Americans were reminded that 200 years had passed since George Washington was sworn in as our Nation's first President.

But the inauguration represented another anniversary. One hundred and fifteen years earlier, on January 20, 1874, congressional annual pay was reduced from $7,500 to $5,000. It's not often that Congress votes to reduce its salary.

And today we are gathered to debate whether to accept a proposed raise of 50 percent, from $89,500 to $135,000.

For the first 179 years of this Republic, Senators and Congressmen determined their salaries with votes on those salaries. This was changed when the Quadrennial Commission on Executive, Legislative and Judicial Salaries was established in 1967 to recommend salary levels to the President of the United States.

The Quadrennial Commission has made recommendations to the President on six occasions, including the recommendation made late last year. The President's subsequent recommendation to Congress takes effect automatically unless voted down within 30 days after the recommendation is received. Past recommendations for an increase have been approved on three occasions, with Congress rejecting increases twice.

To be fully accountable to the American voter—as we must be—I believe that Congress should be required to take a rollcall vote on any congressional pay raise. The President's pay recommendations should not take effect without such a vote.

I am honored to be a sponsor of legislation offered by my good friend from Iowa [Mr. GRASSLEY]. His bill, S. 299, requires that no congressional pay increases recommended by the President take effect until approved by a joint resolution of the Congress.

I have also cosponsored Senate Joint Resolution 6, offered by my friend from South Dakota [Mr. PRESSLER], to disapprove the salary increase. I will also be a cosponsor of an amendment offered today by Senator PRESSLER.

I am prepared to vote against the pay raise for Members of Congress. I urge my colleagues to join me in this position.

Mr. President, I think at this point in my Senate career I have only one truly outstanding record. It is probably a record for all the history of the Senate. I had more children in college at one time than any Senator in the history of this Republic. I had five in undergraduate school and two in law school. They are all out now. Two are left. The twins are in college and the rest are finished.

I make that point because some of us are not rich. Some of us are poor; some of us have a lot of personal responsibility at home; some do not. Frequently, that becomes the issue. I do not think that is the issue tonight. Clearly, it was difficult for my wife and me on past salaries with that kind of responsibility. But, frankly, tonight the issue of merit, need, what is right, is paled by this pay raise being too big. Fifty percent is an affront to the American people. Whether it is called catchup or whatever, you just cannot expect our people, in the orderly way that they are expected to run their lives, to expect that this is fair to them and justified to us. It is not. They do not believe it, and they are right.

Second, you cannot expect them, with that kind of pay raise, to believe that we should get that without declaring ourselves. Perhaps some system would work whereby it is automatic, but when you get to this point, with this kind of increase, I think the people are right. We are not being responsible as to the amount. It is too big.

You cannot expect our people in a democracy to let us do that without being accountable for it and voting yes or no. That is why it must fail in the Senate and why something like the amendment that is pending before us will be adopted and should be adopted.

We should not expect the American people to go behind this and reason with us, as some believe. It is unreasonable to expect them to accept this raise, and we cannot tonight expect it. I am not saying it is justified. That, in and of itself, in our system, says it is not justified; it is not justified tonight, this year, and we should not do it. I will not do it.

I am going to vote against it. I think we should not let it go into effect.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. HELMS. Mr. President, let me say again what I have said many times in the past couple of weeks. One of the most compelling issues in this matter is the sinking respect that the American people have for one of the most important institutions the world has ever known, one-third of the tripartite system of the U.S. Government—that is to say, Congress. The people do not understand it, and there is no reason why they should, because I do not understand how this system developed. I do not understand how they have arrived at the 51-percent increase. Do not ask the average man on the street. He makes only a fraction of what Senators make right now, let alone with a 51-percent increase.

No wonder this issue is controversial. Think of the way it happened. Think of the way it developed. Congress created a system under which Members of Congress and Federal workers and judges can get an automatic pay increase without a vote. They can hide it. Of course, it is not up so that when the people complain, a Member of Congress can assert that he or she had nothing whatsoever to do with that pay increase and would never have voted for such a thing.

Let us call it what it is. This is a legislative game of cop-out and robbery. Senator GRASSLEY and Senator HUMPHREY, this Senator, and others, feel that Congress should vote on the issue. That is what we are saying. For openers, we ought to vote down this proposition entirely and say, "Start over again and next time do it right," if you are going to do it at all.

I commend the majority and minority leaders for bringing this issue to the Senate floor, at least.

Unfortunately, Mr. President, I do not know exactly what is going to happen over in the House; I do not think they know yet. But the announcement has been made that the House will not vote until after February 7, if at all. Consequently, our amendment provides that if the resolution is passed after the deadline, midnight of February 7, the resolution will take effect retroactively, except for Federal judges.

Let me address the issue of pay for Federal judges. I have heard many, many times that Federal judges should be left out of this disapproval resolution, that they deserve more pay, that they are dropping out. But I do not know of anybody who is dropping out. Every time there is even a hint of a vacancy in the Federal bench in North Carolina, I am deluged with campaigns from patriots who are willing to serve. They want these judgeships, and they think the pay is enough. The bottom line is, Mr. President, that there is not a Member of the Senate, not a Member of the House of Representatives, not a member of the executive branch, not a Federal judge, who did not know what the compensation was when they sought election or otherwise sought

appointment to the post they now have.

Mr. President, Congress was given the constitutional responsibility to control the Nation's purse strings. We must not continue to allow Congress to shirk that responsibility. If Members of Congress are willing to vote themselves a pay raise, fine. I will not vote with them, but they certainly have the right to do so. It is unconscionable, however, that we can tolerate a system under which Senators and other Federal workers can receive a hefty pay raise without even one vote on it in Congress.

Consequently, the final provision of our amendment will also provide that future pay raise recommendations for Members of Congress will not take effect unless both Houses of Congress pass a joint resolution approving the pay increase, This will require Members of Congress to vote on whether they receive a pay increase.

Mr. President, I yield back any time I have remaining.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the Senator from South Dakota.

Mr. PRESSLER. Mr. President, in the brief time allocated to me, I want to pay tribute to Senator GRASSLEY and Carol Olson for their work in getting the 29 cosponsors and helping with this legislation. Also, I want to thank Stan Bach of CRS for his help on parliamentary procedure. But I wish to especially thank Shelly Haahr of my own staff who has worked 14- and 16-hour days, 7 days a week, for 2 months on this legislation and its successful conclusion. She has done an outstanding job and I am very proud of her. She is a tireless, dedicated public servant who has earned my lasting respect and appreciation.

If a Senator is against the pay raise, this is the amendment to vote for, because it puts pressure on the House to act. Also, it includes judges' salaries. But the part 2, which calls for a rollback after the House acts, could not constitutionally apply to judges. But we want it to apply to everybody—executives, judges, and the administration—across the board.

There has been some misunderstanding that this does not include judges. It does, but if this bill were to pass the House and Senate, it would roll back every one's pay. But judges' pay cannot be rolled back under the Constitution.

That is to clarify that point.

So, Mr. President, to conclude, this particular piece of legislation has been worked out and cosponsored by 30 Senators, and it goes beyond disapproving the pay increase; it takes steps to correct the method permanently so we don't find outselves in this position in the future.

The PRESIDING OFFICER. Who seeks recognition?

Mr. STEVENS. Mr. President, I had agreed to go after some other Members of the Senate. I yield to my colleague from Alaska.

The PRESIDING OFFICER. The Chair recognizes the junior Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair and I thank my senior colleague. I apologize for being absent from the Chamber. I did not realize things were going to move quite as fast as they apparently are.

First of all, let me acknowledge the willingness of our majority leader to allow the appropriate amount of time to address this issue.

I think we would all agree that the pay raise question is a most difficult one for this body as evidenced by the enormous time that has been spent internally by the Congress and the media attention that this issue has generated nationally on the problem of Federal pay.

But I think it is fair to remind my colleagues that within this body we look to each other for leadership, those Senators whom we all recognize as experts in a particular field because of their committee assignments, their interests or their tenure. Perhaps in military preparedness, we turn to Senator JOHN WARNER or Senator SAM NUNN. On agricultural issues, we may turn to Senator LUGAR or Senator BOSCHWITZ. We refer budget questions to PETE DOMENICI. We depend on the President pro tempore from time to time for his knowledge of the intricacies of Senate procedure.

Mr. President, I submit that my colleague, the senior Senator from Alaska, is an expert, an expert on the issue that we debate here today. That expertise has been gained over many, many years that Senator TED STEVENS has spent in the Senate since coming into this body in 1968.

Since that time he has been a member of the committee with jurisdiction over the civil service, the Senate Governmental Affairs Committee. Through this service he is rather uniquely qualified to speak on the issue, and I think he has made that very clear in the discussions in the committee as well as recent discussions with such recognized individuals as Ralph Nader and others.

But I am not here, Mr. President, to speak on behalf of TED STEVENS; he can speak for himself, as we all know, and rather well. I am here to support and lend my voice in support of the position which he has communicated to this body. I certainly agree with him that we must adequately pay top level civil servants and the Federal judiciary, if we want to retain a cadre of highly qualified people. We are certainly left with little other choice.

Speaking individually, this is not a new cause for me. Since joining this body in 1980——

The PRESIDING OFFICER. The time allocated to the Senator from Alaska has expired.

Mr. MURKOWSKI. I ask unanimous consent for 2 additional minutes.

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

Mr. MURKOWSKI. I thank the Chair.

This is not a new cause for me. Since joining this body in 1980. I supported pay raises for public officials and proposals to ban the acceptance of honoraria. However, rather than simply cast my vote I want to come to the floor and make my intentions known and tell my colleague that I am not going to let him hang out there alone on a "political" vote. And that is what this is. You have seen it in the papers. Not too many people are excited about taking a vote on this, for political reasons. But we are voting on the recommendation from a commission that was established with the purpose of taking the "politics" out of the question of Federal pay.

Mr. President, personally I think the recommendation is too high. Twenty percent would be more palatable. But we can only vote on the question before us. I intend to vote for the recommendations of the bipartisan Commission on Executive, Legislative and Judicial Salaries. I am also going to vote for the termination of the honorarium process as we know it.

Mr. President, a ban on honorarium is a step toward restoring the faith and integrity in this institution by ensuring that we are paid only by those we are elected to serve, the American people, and not by the special interest groups who provide the honorariam that flowed into this Congress in the neighborhood of $10 million.

Mr. President, I wish our procedures permitted me to take separate votes on the issues of judges' salaries, civil service pay, and congressional pay. But the Commission's recommendation is not separated under the unanimous consent agreement we are operating under today. Left with only voting for the package before us, I shall support the bi-partisan Commission's recommendation.

One thing is certain: Under our current procedures, the pay raise issue will continue to generate political heat. Not even this vote today will end the debate on this issue this Congress. Who knows what the House will do? Perhaps we may even be voting on different salary levels next week.

What all this means, is that we need to take another look at how we address this issue. Let's try to find a way to let us vote on the merits of compensation—not on the politics.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the senior Senator from Alaska.

Mr. STEVENS. Mr. President, the issue before the Senate today is the acceptance or rejection of a resolution of disapproval regarding the President's recommendations on salaries for senior executives in the three branches of the Federal Government. But the narrowly defined procedural issue of the disposition of the resolution of disapproval is not, by any definition, the heart of the matter.

On the contrary, the issue is much larger. In fact, I would argue that the decision which we will make today will have a greater impact on the long-term course of our Government than almost any other single decision which we will make this Congress. For today, Mr. President, the Senate has a rare opportunity to reaffirm the value of public service in a democratic society. I urge my colleagues to carefully weigh the public policy issues which underlie the President's recommendation and urge that you not be swayed by the voices of political expediency.

Mr. President, there is an old adage which says that "America gets the quality of Government that it pays for". In 1989, we face the very real possibility that the Senate will again refuse to agree to the President's proposed salary increases. If adopted by the Congress, the inevitable result of this decision will be that the salary levels of senior Federal officials will continue to fall even farther behind the actual cost of living faced by those individuals and their families, [Chart No. 1]. As this graph shows quite clearly, since 1969, the cost of living, as measured by the Consumer Price Index for Wages, has risen by nearly 230 percent while the salary level set for Level II of the Executive Schedule has risen only 110 percent since 1975. In other words, the salary of a Level II executive has been cut in half since 1969, in terms of purchasing power.

A secondary result of this decision will be that in the next few years literally hundreds of middle and senior level Federal employees will call it quits without any prospect of a replacement coming forward to accept the open position. But that is not the full extent of the problem. For those individuals who remain in the senior levels of Federal service, the effects of inflation continue to rob them of the purchasing power which they enjoyed when they entered the Government. When measured in constant, inflation adjusted dollars, the current salaries of senior executives are 30 to 35 percent below what those same salaries were in 1969, [Chart No. 2]. This chart shows that, based upon statistics provided by the Office of Management and Budget, the value in 1969 of the salary provided to Federal employees at Level II of the Executive Schedule has been eroded by inflation by a factor of nearly 35 percent when measured in 1988 dollars.

Mr. President, if it isn't already, it must be made clear to America that we are facing a brain drain from Federal service of unprecedented magnitude, the consequences of which are truly frightening.

Numerous examples of the brain drain are included in the report of the Quadrennial Commission. For members of the Federal judiciary the problem is becoming especially acute. The judicial conference of the United States reports that in the 15 years from 1958 to 1973, only six judges resigned from the Federal bench. However, in the 15 years from 1974 to 1988, there have been 57 resignations. The judicial conference conducted exit interviews with 26 of the judges who resigned after 1978 and found that almost all of those 26 judges cited financial considerations as a principal factor in their decision to resign. Mr. President, what does it say about a Government which pays its Federal district court judges less than the salary which is earned by a first year graduate of Harvard, Yale, Chicago, or Michigan Law Schools who enters private practice?

As another example of the extent of this problem, the Senate should be aware that one of the greatest problems facing career civil servants is the issue of pay compression. By law, pay for General Schedule civil servants is limited to the level of compensation paid to Level Five of the Executive Schedule, which is now $75,500. At that rate of pay, all career civil servants in the grades of GS-17, step 6 and above are capped as to compensation. In the military, general officers above the rank of two stars are capped. What does that mean, Mr. President? It means that there is no hope of an increase in pay—one of the principal attributes of any job promotion—for any executive above GS-17, step 6 or any general officer in the military above two stars. At present, according to the Quadrennial. Commission report, this pay cap affects 1,044 individuals in the General Schedule and, according to the Department of Defense, 158 general officers in the Armed Forces of the United States.

As a practical consequence of this pay cap the senior management ranks of the civilian and military sectors of our Government are being thinned at an alarming rate. We are now losing the best minds and most able administrators in our Government. A graphic example of this brain drain is that since 1986, nearly one-quarter [24 percent] of the winners of the Presidential Rank Award for Distinguished Executive Service have left the Federal Government, 80 percent of whom have accepted higher paying jobs in private business. As my colleagues know, the Presidential Rank Award is the highest award offered to senior executives for excellence in management.

But the problem is not the retention of current Government managers alone. An equally striking problem faces senior managers who are given the responsibility of recruiting new talent for senior executive positions in the Federal Government. The magnitude of this recruitment problem is best illustrated by recent public testimony offered to the Quadrennial Commission. In his appearance before the President's Quadrennial Commission on November 10, 1988, Dr. Anthony Fauci (Fou-shee), former head of the National Cancer Institute and now head of the National Institutes of Health, testified that, for 10 years, NIH has not been able to recruit a single senior research scientist from the private or academic sectors to conduct clinical or basic biomedical research. Mr. President, by refusing to adequately compensate Federal employees, we are slowly, but inevitably, strangling the most productive and innovative areas of the Federal service. We are making a conscious decision to drive the best people from Government. Our grandchildren will hold us accountable.

The question is often asked, "what is an adequate salary level for senior managers in the Federal Government in 1989?" Comparisons with the compensation structure of private enterprise are often difficult to make. However, the Hay Group, a major employee benefits/compensation management consulting company, has done a recent study of the average salary for both higher paid and lower paid private sector corporate executives. As we can see from this chart [chart No. 3), the average salary level for higher paid executives in 1988 was $594,200, while the average salary level for lower paid executives was $229,800.

Comparisons with the salary levels of executives working for nonprofit organizations may be more valid. As this chart shows [Chart No. 4], the presidents of large, private universities earn, on average, $185,000; hospital administrators earn, on average, $160,000; presidents of large, public universities earn, on average, $125,000; and city managers of cities with populations in excess of 500,000 earn, on average, $110,000.

Three additional comparisons are illustrative of the point that I have been making on the inadequacy of current levels of Federal compensation. I would like to turn to comparisons of the level of pay for the New York City School Chief [Chart No. 5], the Los Angeles Police Chief [Chart No. 6], and the Los Angeles School Chief [Chart No. 7]. Each of these charts shows the growth of the level of com-

pensation for each of these individuals since 1969 and each chart has been overlaid with a graphed reference line which shows the increase in the compensation paid to Level II senior Federal executives over the same time period. The comparisons are striking, Mr. President.

In my view, Mr. President, the day-to-day responsibilities borne by senior Federal executives, Members of Congress, and Federal judicial appointees are on a par, by anyone's definition, with the occupations which are listed on the previous charts. Yet, each of the professions illustrated on the preceding charts earns far in excess of any senior Federal executive, Member of Congress, or district court judge [Chart No. 8]. This inequity must be corrected before we lose any additional senior executives from the Federal Government. If the correction is not made, senior managers and Federal judges will resign in ever growing numbers because the cost of living continues to rise and these individuals will decide that they must act to protect their families for the future. As this chart shows [Chart No. 9], increases in the cost of living continue while senior Federal salaries fail to keep pace. The average home price of a Washington, DC, area residence and the tuition costs for both private and public universities has far outpaced the rise in the Consumer Price Index, which is itself far greater than the rise in the rate of compensation for Level II of the Executive Schedule.

In testimony before the Quadrennial Commission and the Committee on Governmental Affairs, opponents of the President's recommendation made much of the fact that the pay increases recommended for the three branches of the Federal Government were far in excess of the average wage increases received by the typical American worker over the last few decades and that the President's proposed increases were completely unjustified when viewed in light of the wage increases which typical working men and women received for their labor in the fields and factories of America. These assertions intrigued me, Mr. President, and I asked the Congressional Research Service at the Library of Congress to review private sector pay gains for the last 80 years, back to the turn of the century. The result of the C.R.S. analysis is quite interesting. In fact, as this chart [Chart No. 10] demonstrates, the assertions of the opponents are untrue. Using the study entitled "Manpower in Economic Growth: The American Record Since 1800," which was prepared last year by the Department of Commerce, Bureau of Economic Analysis, and the Department of Labor, Bureau of Labor Statistics, the Congressional Research Service has found that between 1907 and 1987 the Consumer Price Index rose 1,122 percent. During the same 80-year period, the average earnings for full-time employees in America's agriculture sector rose 5,293 percent; the earnings for full-time employees in the manufacturing sector rose 4,307 percent; the earnings for full-time employees in the service sector rose 4,891 percent; and the earnings of full-time employees in the Government [Federal, State, and local] sector rose 3,459 percent. Mr. President, during that 80-year period, congressional pay rose 1,093 percent. In other words, Federal Judicial, Executive and congressional pay has dramatically fallen behind all other sectors of the American economy since 1907 and has not even kept pace with inflation.

These charts illustrate one essential truth: since 1907, while the Consumer Price Index has been rising by 1,122 percent, and since 1969, while the Consumer Price Index has been advancing by over 200 percent, while the cost of providing a college education and purchasing a house in the Washington, DC metropolitan area have more than tripled, and while the average wages of all comparable private sector workers have risen to more than keep pace with inflation, the compensation of senior Federal employees has actually fallen some 30-35 percent behind 1969 pay levels when measured in constant dollars. With the value of compensation actually falling for senior Federal employees, no one should be surprised by the decisions of increasing numbers of senior executives and managers to leave the Federal Government.

By driving the most productive and innovative minds from the senior levels of Government, we are leaving Federal service open to only two groups of individuals: the independently wealthy millionaire and the ideologically driven person for whom a particular cause is the motivating reason behind entering Federal service. I submit that such candidates for senior Federal positions have the two types of backgrounds which should cause the American people the greatest amount of concern because they represent two of the most clearly anti-democratic motivations. On the other hand, we have been successful as a democracy for the last two centuries largely because we have developed a citizen legislature and a civil service where public service and service to mankind have been the chief motivator. Mr. President, leaving Federal court appointments, congressional seats, and positions in Federal regulatory agencies exclusively to millionaires or self-described public interest advocates is not, in my view, in the best interests of our democracy.

For 200 years as a Nation, we have periodically addressed the issue of increasing the pay of Federal Government employees. For 200 years, Congress has wrestled with the issue of the adequacy of Federal salaries, including its own. For 200 years we have attempted to develop a system by which Federal pay can be raised without creating an issue which can be demogogued by those who appear to believe that any Federal wage increase, no matter its size, is unjustified. Having listened to the well-orchestrated criticism which followed the President's recommendation earlier this month, I must reluctantly conclude that our efforts may again come to naught. Political expediency appears to have won the day. This realization and its implication for America's future leaves me greatly concerned, Mr. President.

Over the years, the issue of increasing Federal pay has been met with a negativism rarely found in any other issue which comes before the Congress. Because of the difficulty facing Congress over this issue, we agreed to the Federal Salary Act in 1967 which created the Quadrennial Commission to recommend changes in the Federal salary structure to the President and then to the Congress. In 1985, the way in which these recommendations became law was changed by Congress in order that it would be consistent with the decision of the United States Supreme Court in *I.N.S.* v. *Chadha*, 462 U.S. 919 (1983), respecting the use of a one House veto by Congress.

Unfortunately, since 1969, the Quadrennial Commission approach has met with little more success than if the decision on raising Federal pay had been directly undertaken by Congress, as it was prior to 1967. In the 20 years since the first Quadrennial Commission recommendation in 1969, requests for salary increases have been sent up to Congress every 4 years and, more often than not, have been met with more outrage than acceptance. The single most noticeable result of this hostility has been that, when measured in constant dollars, the pay of senior managers in the Federal Government has fallen 35 percent below that of the level fixed for the same position in 1969. During the same 20-year period, the compensation levels for all private sector wage earners has slightly improved over inflation. [Chart No. 2]

Between 1970 and the end of 1987, the cost of living, as measured by the Consumer Price Index, rose at a rate of 204.5 percent. During the same period, letter carriers at the USPS have seen wage increases of 239.4 percent, Social Security beneficiaries have seen their entitlements raise 232.1 percent, military personal have seen their pay increase by 212.7 percent [excluding fringe benefits], private sector white collar workers have received wage increases [through 1986] of 196.5 percent, private sector

blue collar workers have received [through 1986] wage advances of 183.8 percent, and Federal retirees have had pension adjustments of 197.1 percent. On the other hand, since 1970, Mr. President, Federal civilian employees in the General Schedule have received pay increases totaling 132.6 percent while Members of Congress have received pay adjustments totaling only 109.6 percent.

In 1968, when I began my Senate service, I knew full well what the salary and conditions of employment were. I knew that I would be required to put in 80-hour weeks and to fly half-way around the globe to meet with my constituents. But I undertook the job without reservation because I thought that I could contribute something to the welfare of our State and the Nation. I made a commitment to the people of Alaska in 1968 to enforce the promises made to the people of Alaska by the Federal Government at the time of statehood. I told the people of Alaska that I would remain in the Senate for as long as it might take to fulfill all of those promises. Whether or not this pay increase becomes effective does not matter to me. I will remain here, the people of my State willing, to keep my pledge to Alaska, pay increase or not.

In closing let me say that I argue for the President's recommendation because it is supportable on the merits and because it is the right thing to do. My argument in favor of the recommendation looks to the future not to the past. I am very concerned about the future of our Government. The thought of a Congress, a judiciary, or an administration filled with either millionaires or ideological purists is very unsettling to me. But without reasonable and periodic pay increases, that is exactly the kind of Federal Government which will face our grandchildren in the next century.

Two hundred years ago, Thomas Jefferson envisioned a Federal Government made up of yeoman farmers and small businessmen, merchants and laborers, doctors, lawyers and skilled mechanics. Jefferson felt that each would bring to his Government the experiences of life beyond the confines of the Federal city. Such breadth of experience would keep the Congress, the courts, and the executive branch in touch with the concerns and interests of the people.

Today, we face the prospect that the Federal civilian service envisioned by Jefferson and in place for the last two centuries is no longer a reality. We have come to a fork in the road, Mr. President. One road leads off to a Government which provides inadequate compensation and relies on millionaires and ideologues who are motivated by self-interest to fill the ranks. The other road leads to a Government which provides adequate and periodically adjusted compensation and which, as a result, can recruit throughout society for the best and the brightest among its citizens. Keeping Federal salaries artificially and unrealistically low in 1989 will lead, without doubt, down the first road, Mr. President. Choosing that road is a mistake of the highest order and history will forever recall our shortsightedness.

I ask unanimous consent that my complete statement and attachments including the tabulation of increases and specific examples of jobs that remain unfilled in the executive branch of the Government, together with a legislative history of the changes in the provisions pertaining to the Quadrennial Commission be printed in the RECORD in full at this point.

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

Year	Consumer Price Index	CPI change from previous	Proposed increases for Members of Congress				Actual increases					
			Quadrennial Commission recommendations		Presidential recommendations						Members of Congress	
			Proposed salary	Percentage increase	Proposed salary	Percentage increase	Postal workers (percent)	Military (without fringe benefits, percent)	Judges (percent)	Civil servants (percent)	Actual increase	Actual salary
1970	38.8	5.7					8.0	8.1		6.0		$42,500
1971	40.5	4.4					6.3	20.4		6.0		42,500
1972	41.8	3.2					8.0	14.4		10.9		42,500
1973	44.4	6.2	$53,000	24.7	[1] $52,800	[1] 24.2	12.3	6.2		4.8		42,500
1974	49.3	11.0					12.5	5.5		5.5		42,500
1975	53.8	9.1					7.6	5.0		5.0		42,500
1976	56.9	5.8					8.1	3.6	4.8	4.8	5.0	44,600
1977	60.6	6.5	57,500	28.9	57,500	28.9	9.0	6.2	23.8	7.1	28.9	57,500
1978	65.2	7.6					7.0	5.5		5.5		57,500
1979	72.6	11.3					11.4	7.0	12.8	7.0	5.5	57,500
1980	82.4	13.5						11.5	11.7	9.1	9.1	60,663
1981	90.9	10.3	85,000	40.1	70,900	16.8	7.3	14.3	4.8	4.8		60,663
1982	96.5	6.2					4.9	4.0	4.0	4.0	15.0	60,663
1983	99.6	3.2					3.3					69,800
1984	103.9	4.3					4.6	4.0	4.0	4.0	4.0	72,600
1985	107.6	3.6					4.5	7.1	3.5	3.5	3.5	75,100
1986	109.6	2.0					3.4					75,100
1987	113.6	3.7	135,000	74.4	89,500	15.6	4.1	3.0	13.7	3.0	18.6	89,500
1988	118.5	4.1					3.8	2.0		2.0		89,500
Cumulative percentage increases from 1970 to 1988		218.0					247.2	238.1	122.3	146.4	110.5	

[1] Over a 3-yr periods.

ON VACANT POSITIONS IN THE GOVERNMENT

FOOD AND DRUG ADMINISTRATION

The position of Director of the Center for Drugs and Biologics is still vacant.

FDA is receiving turn-downs from candidates outside of the agency

An equivalent position in academia for a qualified clinical pharmacologist pays from $115,000 to $150,000 a year.

NATIONAL INSTITUTES OF HEALTH

There are currently over 100 vacant Senior Executive Service and Senior Scientific Service positions vacant at NIH.

NATIONAL INSTITUTES OF HEALTH

Since 1982, over 20 prominent senior scientists expressed interest in positions for which NIH was recruiting. All declined further consideration because they were currently earning salaries ranging from 20 to 263 percent more than NIH could pay.

NATIONAL INSTITUTES OF HEALTH

Over the last 10 years, NIH has suffered a net loss of 28% of its most senior research scientists.

All left NIH to accept positions in academic institutions, industry, and independent research laboratories at salary increases ranging from 50 to 300 percent.

NATIONAL INSTITUTES OF HEALTH

The chiefs of surgical branches in two NIH institutes left in 1985 and 1986 for salaries triple their Federal compensation.

One took a position at a large cancer center in the South and the other to an eastern medical school.

As of this time, those positions have not been filed on a permanent basis.

NATIONAL INSTITUTES OF HEALTH

Three SES positions in major programs in the National Cancer Institute have been vacant since 1984.

One position has been advertised three times, one advertised twice, and the other once.

In each instance, NIH could not offer sufficient salary to attract desirable candidates.

NATIONAL INSTITUTES OF HEALTH

Since 1982 on at least six occasions, top candidates for four different Institute Director positions have asked not to be considered further principally because NIH could not offer an adequate salary.

These candidates had already shown substantial interest in the position, filed applications, were interviewed, and had visited the campus.

The salary differentials range from $8,700 to $56,300, and in each instance the fringe benefits available from the Government were substantially less favorable.

NATIONAL INSTITUTES OF HEALTH

In 1985, a highly qualified candidate was identified for the position as head of a major program in the Office of the Director at NIH.

NIH offered the maximum salary at that time, $68,700, but the candidate's university salary was $105,000. He withdrew from consideration.

NATIONAL INSTITUTES OF HEALTH

The average compensation (base salary, recruitment and retention allowances) that NIH pays to SES physicians is $89,000.

This is half of the $179,000 average supplemented compensation paid to the chairmen of clinical science departments of American medical schools.

NATIONAL INSTITUTES OF HEALTH

Director and Associate Director positions at NIH remain unfilled for extensive periods. One recently-filled directorship (cancer research) was vacant for 2½ years and NIH spent $50,000 in advertising costs.

SECURITIES AND EXCHANGE COMMISSION

From December 1984 to November 1987, the SEC experienced a turnover rate of 40.4% of all executives.

Of the executives who left SEC, 79% were attorneys.

78% of the executive positions at SEC are filled by attorneys.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Most SES employees who retire or resign from NASA are attracted by high-level opportunities with corporations which offer significant increases in pay and benefits.

In the past 5 years, three retiring Center Directors accepted executive positions with private industries ranging in basic salary from $150,000 to $250,000.

A former Associate Administrator and top executive on the Space Shuttle Program left to join industry with compensation packages in excess of $100,000.

POSITIONS

DOD, Navy—Director, Navy Center for Applied Research and Artifical Intelligence; vacant from 1980 to 1988 (position went unfilled for two years, was cancelled and then re-established only after viable candidates were identified).

DOD, DARPA—Physical Scientist involved in classified land warfare research; previous incumbent hired by major university at double his government salary. His previous duties and responsibilities have been reassigned to other employees.

NASA—Director of Microgravity Programs; position has been vacant for over two years, with lack of qualified candidates attributed to insufficient salary. NASA has had to employ the President's Executive Exchange Program (which allows pay in excess of current limits) to obtain a qualified candidate to direct the program on a 12-month temporary basis.

[From Senate Report 99-210, December 6 (legislative day, December 2), 1985]

FURTHER CONTINUING APPROPRIATIONS, 1986—REPORT TO ACCOMPANY H.J. RES. 465

QUADRENNIAL PAY COMMISSION

The Committee recommends an amendment to the Federal Salary Act of 1967 which changes the statutory requirements for the Quadrennial Pay Commission. The Quadrennial Pay Commission meets every 4 years and decides salary recommendations for the Congress, high level officials in the executive branch, and the judiciary. The Commission has just completed its work this year and has issued a report that does not recommend any salary changes at this time. Rather, the report recommends a change in the process by which salary recommendations may be approved.

Current law requires that for the Commission's recommendations to be effective, the President must first present them to Congress for approval. The Department of Justice has determined that this process is constitutionally defective as a result of the *Chadha* decision. The recommended provision will resolve this constitutional defect by establishing a new procedure as recommended by the Commission to meet the requirements of the *Chadha* decision.

Essentially, the Commission will make its decision known to the President. The President will transmit either those recommendations or some alteration of those to the Congress. They will become effective 30 days after their transmission to Congress unless the Congress jointly disapproves of the recommendations.

The next Commission is scheduled to meet at the end of next year and must report to the President by December 15, 1986. The President must transmit the recommendations to Congress with the budget. The Congress will have 30 days to pass a joint resolution disapproving those recommendations.

The provision does not alter any existing salary levels or honorarium limitations for either the legislative, executive, or judicial branches.

[From House of Representatives Report 99-443, Dec. 16, 1985]

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986, AND FOR OTHER PURPOSES—CONFERENCE REPORT TO ACCOMPANY H.J. RES. 465

LEGISLATIVE BRANCH MISCELLANEOUS PROVISIONS

Amendment No. 114: Conforms the section number and amends the Federal Salary Act in accordance with the findings of the Department of Justice and the recommendations of the Quadrennial Commission, as proposed by the Senate.

[From House of Representatives Report 99-450, Dec. 19, 1985]

HOUSE JOINT RESOLUTION 465, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986—CONFERENCE REPORT TO ACCOMPANY H.J. RES. 465

Amendment No. 114: Conforms the section number and amends the Federal Salary Act in accordance with the findings of the Department of Justice and the recommendations of the Quadrennial Commission, as proposed by the Senate.

[From the Congressional Record, Dec. 5, 1985]

QUADRENNIAL PAY COMMISSION

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[From The Quiet Crisis—a Report by the 1984-85 Commission on Executive, Legislative, and Judicial Salaries]

THE UNCONSTITUTIONAL PROCESS

Meanwhile, the already battered system designed to permit the practical adjustment of Congressional and other salaries suffered a further blow. In 1983, the Supreme Court ruled in *INS* v. *Chadha* that under the Constitution, the so-called "legislative veto" is invalid. The Congressional lawmaking process, it ruled, must include the presentation of an act or resolution to the President for his signature or veto.

At the Commission's request, the Department of Justice considered the application of this decision to the Commission's procedures. The Department concluded that the process of Congressional approval set forth in the Quadrennial Commission statute is "a legislative veto device that is unconstitutional under the Court's rationale in *Chadha.*"

As a result, a key part of the process by which the Commission's work had been implemented now appears to be unlawful.

There is, therefore, no legal, practical machinery today for setting and adjusting salaries of these essential public servants—the Members of Congress, the federal judges, and the top level members of the executive branch. Congress must legislate any salary increases, and Congress consistently has been unwilling to do so for itself or for the

other two branches. The matter is at an impasse. There can be no movement until the process is shaped to conform both to the Constitution and to political reality.

[From an appendix to 1984-85 Report by the Commission on Executive, Legislative, and Judicial Salaries]

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGAL COUNSEL,
Washington, DC, March 29, 1985.

Mr. NICHOLAS F. BRADY,
Chairman, Commission on Executive, Legislative, and Judicial Salaries, Washington, DC.

DEAR MR. BRADY: The Attorney General has asked us to respond to your letter of February 8, 1985. In that letter, you raise a number of questions concerning the effect of the Supreme Court's decision in *INS* v. *Chadha*, 103 S. Ct. 2764 (1983), on the Postal Revenue and Federal Salary Act of 1967, Pub. L. No. 90-206, 81 Stat. 642, 2 U.S.C. §§ 351 et seq. ("Salary Act"). That statute provides for establishment every four years of the Commission on Executive, Legislative, and Judicial Salaries ("Commission"), with a mandate to review and recommend to the President appropriate salary levels for members of Congress, federal judges, Cabinet officers and other agency heads, and certain other officials in the Executive, Legislative and Judicial Branches. It contains a legislative veto device that authorized Congress to approve, by majority vote, salary recommendations made by the President, following his review of the Commission's findings and recommendations. See 2 U.S.C. § 359.

You have asked us to address the following questions in light of the holding in *Chadha* that legislative veto devices violate the presentment, bicameralism, and separation of powers requirements of the Constitution:

1. Would the Supreme Court's decision in *INS.* v. *Chadha* invalidate the statute under which the Commission operates?

2. Would the actions of the Commission, or the provisions establishing the Commission itself, survive invalidation of the statute on the ground that the legislative veto provision is severable from the remainder of the statute?

3. If the legislative veto provision is severable from the remainder of the statute and the remainder of the statute survives, what power does the President retain with respect to recommending or setting salaries?

4. Would a proposal which establishes the President's salary recommendations as law unless Congress rejects them by enacting a disapproving statute satisfy the requirements of *Chadha*?

For the reasons set forth below, we believe that the *Chadha* decision clearly invalidates the authority provided in § 359 for Congress to implement particular salary levels without passing legislation and submitting that legislation to the President for his signature or veto. However, we do not believe that the unconstitutionality of that provision affects the establishment and operations of the Commission, or the authority of the Commission and the President to make recommendations of appropriate salary levels. What *Chadha* does mean is that, once those recommendations have been made, they can be implemented only by enactment of legislation in accordance with the plenary legislative process required by Art. 1, § 7 of the Constitution.

Prior to passage of the Salary Act in 1967, the rates of pay for members of Congress, members of the federal judiciary, and most positions in the Executive Branch covered by the Executive Schedule [1] were sporadically adjusted by Congress through legislation. The Salary Act was intended to provide a more systematic method of adjustment in those salary levels. The Salary Act created a Commission on Executive, Legislative, and Judicial Salaries, to be established every four years. 2 U.S.C. § 351. The Commission is composed of nine members, three of whom are appointed by the President, two by the President of the Senate, two by the Speaker of the House, and two by the Chief Justice. Id. § 352. Its primary responsibility is to review the rates of pay of members of Congress, the federal judiciary, offices and positions covered by the Executive Schedule, and certain other related personnel, for the purpose of:

Determining and providing—

(i) the appropriate pay levels and relationships between and among the respective offices and positions covered by such review, and

(ii) the appropriate pay relationships between such offices and positions and the offices and positions subject to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and General Schedule pay rates.

Id. § 356. Not later than January 1 following the close of the fiscal year in which the review is conducted, the Commission is required to submit to the President a report of the results of its review and its recommendations as to appropriate salary levels. Id. § 357. Section § 358 provides that the President "shall include, in the budget next transmitted by him to the Congress . . . his recommendations with respect to the exact rates of pay which he deems advisable, for those offices and positions. . . ." Id. § 358.

Congressional review of the recommendations made by the President is provided in § 359. As amended in 1977, that section provides that:

(1) Within sixty calendar days of the submission of the President's recommendations to the Congress, each House shall conduct a separate vote on each of the recommendations of the President with respect to the offices and positions described . . ., and shall thereby approve or disapprove the recommendations of the President regarding each such subparagraph. Such votes shall be recorded so as to reflect the votes of each individual Member thereon. If both Houses approve by majority vote the recommendations pertaining to the offices and positions described . . . , the recommendations shall become effective for the offices and positions covered by such subparagraph at the beginning of the first pay period which begins after the thirtieth day following the approval of the recommendation by the second House to approve the recommendation.

(2) Any part of the recommendations of the President may, in accordance with express provisions of such recommendations, be made operative on a date later than the date on which such recommendations otherwise are to take effect.

2 U.S.C. § 359.

Thus, under the scheme set up by § 359, the President's recommendations as to appropriate salary levels for the covered positions would become effective upon "approval" by both Houses of Congress. The scheme does not contemplate that Congress's approval would take the form of a bill or joint resolution that would then be presented to the President for his signature or veto. In fact, the language of the section stating that each House, by majority vote, "shall *thereby* approve or disapprove the recommendations" (emphasis added), and the tying of the effective date of the new salaries to action by Congress, make clear that "approval" would be by resolutions that would not be presented to the President in accordance with the constitutional requirements for legislation.[2]

We believe that § 359 contains a legislative veto device that is unconstitutional under the Court's rationale in *Chadha*. Approval by Congress of revised salary levels is clearly "legislative action" that has "the purpose and effect of altering the legal rights, duties and relations of persons . . . outside the legislative branch," 103 S. Ct. at 2784. Congress can therefore act only in accordance with the "single, finely wrought and exhaustively considered, procedure" set forth in the Constitution for legislative action—passage by both Houses and submission of the legislation to the President. Id. Because § 359 purports to authorize Congress to enact salary levels without presentment to the President, it falls squarely within the Court's reasoning in *Chadha*.[3]

Given this conclusion, we must examine what is left of the statutory scheme. There are two interrelated questions involved in that analysis: (1) is the device severable from the remainder of the statute? and (2) if the device is severable, what authority remains in the Commission and the President?

To answer these questions, we look to the legislative history of the 1977 amendment to § 359. Prior to 1977, § 359 contained a one-House veto provision similar to the device at issue in *Chadha*. Under that section, the President's recommendations as to appropriate salary levels would become effective at the expiration of a sixty-day period, unless, inter alia, either House of Congress disapproved by resolution the recommended adjustment. 2 U.S.C. § 359 (1976).[4] Pursuant to

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[1] Congress established the Executive Schedule in 1964, as a higher-based pay system for upper-level management and policy-making positions in the federal service. Cabinet secretaries, heads and deputies of numerous specialized regulatory boards and commissions, and similar personnel, are classified under that Schedule. See 5 U.S.C. §§ 5311 et seq.

[2] Congressional practice is consistent with this interpretation. In 1981, the House and Senate adopted separate resolutions disapproving salary recommendations made by the President under the Salary Act. See H. Res. No. 109, 96th Cong., 1st Sess.; S. Res. No. 89, 96th Cong., 1st Sess.; S. Res. No. 91, 96th Cong., 1st Sess.; S. Res. No. 92, 96th Cong., 1st Sess.; note following 2 U.S.C. § 359.

[3] As we discuss below, Congress clearly intended that "recommendations" of the President have no legally binding effect absent congressional approval. Therefore, "disapproval" by Congress of those recommendations would only maintain the status quo, much as Congress's failure to enact any legislation proposed by the President would not alter any existing rights, duties, or obligations. The unconstitutionality of the congressional review mechanism in § 359 lies in the authority given Congress to approve recommendations, and thereby make the recommended levels legally binding, without complying with the constitutional requirement that legislation be presented to the President. Thus, although we use the term "legislative veto" to describe the generic category of devices that fall within *Chadha*, we recognize that the device in § 359 is not a "veto" in the usual sense of the word.

[4] The prior version of § 359 also provided that Congress could enact, by law, different pay rates for the covered offices and positions. 2 U.S.C. § 359 (1976).

this provision, salary recommendations made by the President in 1969 and 1977 went into effect, without congressional disapproval. See note following 2 U.S.C. § 359. Recommendations made in 1974 were disapproved by the Senate.[5]

The failure of Congress to act on the 1977 presidential recommendations engendered considerable public criticism, because the effect of Congress's silence was to allow increases in congressional salaries to go into effect without a record vote by the members of Congress. See, e.g., 123 Cong. Rec. 9662 (1977) (remarks of Sen. Bartlett). In response to this criticism, Congress amended § 359 to remove the one-House veto provision, and to substitute the current requirement that Congress vote separately on each salary recommendation to approve or disapprove the recommendation. The legislative history of this amendment makes clear that Congress intended to preclude the possibility that congressional salary increases could go into effect without affirmative congressional action.[6] Senator Bartlett, the sponsor of the amendment, stated during debate on the amendment that:

"The amendment which I now offer . . . would wipe out those provisions of law which allow for automatic or anonymous pay increases, without Members of Congress having to vote on them. It would provide that any recommendation of the Commission on Executive, Legislative, and Judicial Salaries would have to be approved by both Houses of Congress before it could go into effect. The 'back-door' pay increase feature of the present law would hence be eliminated."

123 Cong. Rec. at 9662. His comments were echoed by others in the debates. See, e.g., id. at 9663 (remarks of Sen. Allen) ("Under [the existing scheme], it is almost impossible to get an up or down vote on this issue, and if no action is taken, then the recommendations of the President would go into effect. Under the amendment . . . that is changed, and when the recommendations are made, it would require an affirmative vote of both Houses of Congress to accede to those changes, . . ."); id. at 10236 (remarks of Rep. Frenzel) ("I am advised that under the language of the Senate amendment . . . the increases cannot become effective absent a vote"); id. at 10238 (remarks of Rep. Ashbrook) ("The amendment . . . will insure that there will be no more backdoor congressional pay raises. Representatives of the people will have to show the people where they stand on future pay increases"). The amendment did not alter those portions of the statutory scheme that established the Commission, gave the Commission responsibility for review and recommendations, and provided for presidential recommendations on salary levels. Effectively, however, the amendment precludes a statutory interpretation that the President's recommendations have any binding legal effect in the absence of congressional action.

Thus, § 359 is slightly different from the typical legislative veto device, in which Congress delegates authority to the President or to another official in the Executive Branch to take certain actions, but retains a "veto" over particular actions. Here, the Salary Act contains no delegation to the President to make legally binding decisions as to revised salary levels for the covered offices and positions. The legislative history of the 1977 amendment to § 359 makes absolutely clear that the President's authority is limited to making nonbinding recommendations. The "string" that Congress reserved for itself was not the authority to disapprove particular presidential actions that otherwise would become law, but rather to approve presidential recommendations, and thereby make the recommendations legally binding, without compliance with the constitutionally mandated legislative process.

Consequently, the most typical, and difficult, severability question raised by legislative veto statutes—i.e., whether the President (or other Executive Branch officers) may continue to exercise substantive, legally binding authority delegated by Congress subject to the legislative veto device—is not presented by § 359. Nonetheless, § 359 is part of a larger statutory scheme that authorizes the establishment and operation of the Commission, and the making of salary recommendations according to a designated timetable. Therefore, we must address whether the unconstitutionality of the device contained in § 359 affects the remainder of the statutory scheme.

Applying the principles of severability articulated by the Court in *Chadha*, we conclude that the legislative veto device in § 359 does not affect the remainder of the statutory scheme that establishes the Commission and provides for salary recommendations to be made by the Commission and then by the President. In *Chadha*, the Court identified three inquiries that shape the analysis of severability. The first presents a question of legislative intent: would Congress have wished the remainder of the statute to continue in effect had it recognized that the provision was unconstitutional and therefore could not have been included in the statute? See *Dorchy* v. *Kansas*, 264 U.S. 286, 290 (1924). "Unless it is evident that the legislature would not have enacted those provisions which are within its power, independent of that which is not," the invalid portion should be severed and the remaining statutory authority continued. *INS* v. *Chadha*, 103 S. Ct. at 2774, quoting *Champlin Refining Co.* v. *Corporation Comm'n*, 286 U.S. 210, 234 (1932). Thus, unless there are clear indications that Congress would have intended authority provided by additional parts of the Salary Act to fall because of the invalidity of the legislative veto device, the invalid provision can be severed.

Here there is no indication in the legislative history that Congress would have wanted the entire statutory scheme to fall, if it had known the legislative veto device could have no effect. In fact, it would be somewhat anomalous to suggest that Congress would have been unwilling to authorize the Commission and the President even to make salary recommendations, absent the legislative veto device, when those recommendations could have no legally binding effect and therefore would not threaten congressional oversight and control. In addition, Congress's amendment of § 359 in 1977 did not purport to alter the remainder of the statutory scheme, which we believe is strong indication that Congress would have intended that scheme to remain in place, even absent the legislative veto device. See generally *Consumers Union of U.S., Inc.* v. *FTC*, 691 F.2d 575 (D.C. Cir. 1982), aff'd sub nom. *Process Gas Consumers Corp.* v. *Consumers Energy Council of America*, 103 S. Ct. 3556 (1983).

It is perhaps even more significant that the remainder of the statutory scheme meets the second criterion outlined in *Chadha*—that it be "fully operative as a law" without the legislative veto device. *INS.* v. *Chadha*, 103 S. Ct. at 2775, quoting *Champlin Refining Co.* v. *Corporation Comm'n*, 286 U.S. at 234. The severance of the legislative veto device would have very little effect on the operation of the remainder of the statute. The Commission would continue to review salary levels, based on the considerations outlined in the statute, and to make recommendations to the President. See 2 U.S.C. §§ 356, 357. Likewise, the President would continue to make recommendations to Congress as to what he believes the appropriate salary levels should be. Id. § 358. The only operational difference in the statute would be that Congress could enact those recommendations only through the plenary legislative process—i.e., by passage of a bill and presentment to the President—rather than by simple majority vote of each House. It would therefore do no violence to the statutory scheme or to the responsibilities of the Commission and the President to sever the legislative veto device.

The only factor enumerated in *Chadha* as relevant to the severability analysis that is not present here is a severability clause. In *Chadha*, the Court stated that a severability clause is strong evidence that Congress did not intend that the entire statute or any other part of it would fall simply because another provision is unconstitutional. 103 S. Ct. at 2774. The lack of such a clause does not change our conclusion here. The Supreme Court has stated that "the ultimate determination of severability will rarely turn on the presence or absence of such a clause." *United States* v. *Jackson*, 390 U.S. 570, 585 n.27 (1968). Indeed, although *Chadha* seemed to suggest that the presence of a severability would tilt the balance decidedly toward severability, the Supreme Court, several weeks after it decided *Chadha*, summarily affirmed a decision that a particular legislative veto provision in the Natural Gas Policy Act was severable, despite the absence of a severability clause. *Consumer Energy Council of America* v. *FERC*, 673 F.2d 425 (D.C. Cir. 1982), aff'd sub nom. *Process Gas Consumers Energy Group* v. *Consumer Energy Council of America*, 103 S. Ct. 3556 (1983). Given the strength of the case to be made under the first two factors outlined in *Chadha* (see discussion supra), we do not believe the absence of a severability clause changes our conclusion here.

Based on the foregoing, we believe your specific questions can be answered as follows:

(1) Would the Supreme Court's decision in *INS* v. *Chadha* invalidate the statute under which the Commission operates?

(2) Would the action of the Commission, or the provisions establishing the Commission itself, survive invalidation of the statute on the ground that the legislative veto provision is severable from the remainder of the statute?

These two questions both involve the severability of the legislative veto device from the remainder of the Salary Act. As discussed above, we believe the legislative veto device in § 359 is severable from the remainder of the statute, and that therefore the authority of the Commission and the Presi-

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[5] *See* S. Res. 293, 93rd Cong., 1st Sess., 120 Cong. Rec. 5508 (1974).

[6] The amendment was added to the Unemployment Compensation Act of 1977, Pub. L. No. 95-19, on the floor of the Senate. The only substantive legislative history of the amendment is contained in the floor debates. See 123 Cong. Rec. 9660-66, 10234-38 (1977).

dent with respect to review and recommendations on salary levels continues unaffected.

(3) If the legislative veto provision is severable from the remainder of the statute and the remainder of the statute survives, what power does the President retain with respect to recommending or setting salaries?

As we discussed, the legislative history of the 1977 amendment to § 359 makes clear that the President has the authority only to recommend new salary levels for covered individuals. In the absence of legislation passed by Congress and approved by the President, those recommendations can have no legal effect.

(4) Would a proposal which establishes the President's salary recommendations as law unless Congress rejects them by enacting a disapproving statute satisfy the requirements of *Chadha*?

We assume that what is intended by this question would be a statute that delegates to the President the authority to establish new salary levels for the covered individuals, based on certain criteria, but that would also give Congress a certain time period before those salaries take effect to enact legislation disapproving the new levels. Provided that such disapproval legislation would then be presented to the President for his signature or veto, in accordance with Art. 1, § 7 of the Constitution, such a scheme would satisfy the requirements of *Chadha*.

We trust this analysis will be helpful to you. Please advise us if we can be of further assistance.

Sincerely,

RALPH W. TARR,
Acting Assistant Attorney General,
Office of Legal Counsel.

Mr. STEVENS. Mr. President, because time is short and because my full statement will appear in the RECORD, I would like to take this time to use graphs to show my point of view concerning this Quadrennial Commission. It is my judgment that as a net result of the failure of Congress to be willing to accept the responsibility imposed by the Constitution and establish salaries for itself and for the Government as a whole, there has developed in our Federal Government a crisis of recruitment and retention. Mr. President, Congress has, since 1970 turned down on 11 occasions its own cost-of-living adjustment, and in doing so it has held down the pay raises that were due to the executive branch and to the military. Because our actions in salary increases are tied to the military, this 50 percent does not even bring those people back into comparability with the private sector.

Let me point out one of the charts I have just put into the RECORD—it is really a tabulation not a chart. This tabulation shows that in the period since 1970, postal workers have had a 247.2-percent increase, the military has had a 238-percent increase, judges have had a 122.3-percent increase, civil servants a 146.4-percent increase, and Members of Congress a 110.5-percent increase.

This chart shows that during the period of time since 1969, considering the salary for an executive level 2, which is the key salary in our executive service, we have had a total disparity between the increases for that salary level compared to the cost of living, as determined by the Consumer Price Index.

It has gotten to the point, Mr. President, considering the current salary of the level 2 executive, the salary established in 1969 for level 2 is now worth 35 percent less in purchasing power today.

We all know that housing in this area has gone up in the last few years more than our salary adjustments. We all know that in 1 year housing alone has increased 35 percent in this area.

Now, I would like to compare the salaries of executives in the private sector, even the lower level executives in the private sector, with the salary level for executive level 2, which is the same as the Member of Congress. By the way, this chart shows that there is a six times differential with the one-quarter of 1 percent of senior level executives in the private sector.

What does it really mean, Mr. President? It means that in the last 10 years, we have not been able to hire into Government to do AIDS research, cancer research, one single senior level research scientist. Not one has come in to the Government who could accept this level of salary.

On the contrary, as my statement points out, we have lost a whole series of people. There are currently 100 senior executive and senior scientific service positions vacant at the National Institutes of Health alone—at NIH alone.

By refusing to increase our own salaries, we hold down the salaries of many others in the executive branch. And what do we do? It ends up that agencies make grants to nonprofit corporations that hire those same researchers and they then do the same work for the Federal taxpayers at much more than it would have cost us if we would have been realistic about these salaries in the first place.

I do not think anyone has done as much work lately on this subject as Lloyd Cutler. It is a bipartisan issue, I assure you. Lloyd Cutler was President Carter's counsel. He has served two Republican Presidents now in trying to find a way out of this dilemma. And it is a dilemma. But I want to commend Mr. Cutler for his good efforts and sacrifice.

The dilemma facing us is illustrated by the following:

The New York City school chief, and the Los Angeles police chief show the level of salaries which are available to individuals outside the Federal Government.

But where is the career objective for someone who seeks to come from law enforcement to the FBI or come into our law enforcement agencies or come to the Congress? Unless they are extremely wealthy, they are not going to be able to do that.

Look at the comparison between the Members of Congress and city officials. We think perhaps people start in politics at the local level and then they go into county government and then they go to the State and then they are supposed to come here to Congress. But why should they leave to come to Washington, knowing the salaries which face Federal employees.

This chart shows our actual salary today. This shows the salary of the New York City mayor. This shows the salary of the New York City police chief. This shows the salary of the New York City school chief. This shows the current salaries of the Members of Congress, and this chart shows the salary of the major metropolitan police chiefs.

All I am telling you is that this recommendation is not out of line. This is not an increase of 50 percent. It simply is an attempt to bring us back into parity.

As I said yesterday at the Governmental Affairs Committee hearings, I am willing to take Congress out of this recommendation entirely. I think that is what we ought to do. If there is a dilemma here, exempt Congress entirely. Let us deal with the executive branch, let us deal with the judiciary and find some way sometime in the future to decide what Congress should be paid.

People said yesterday at our committee hearing that we were unfair, we were using a faulty comparison to the private sector. It is not. The Quadrennial Commission compared current Federal salaries to those in the nonprofit portion of the private sector.

This is the salary of a public university president; the private university president; the average home price in Washington, DC. This shows the Consumer Price Index. And look at the salary of a level II of the executive level. That is the amount we pay those scientists that want to come to NIH and the Cancer Institute. When this is the increase of the price of a home in Washington, how many people can afford to come in and work at NIH?

We are unrealistic, Mr. President, to think we can run a Government this way.

Yesterday one of the witnesses at the hearing on this issue Mr. Nader, tilted. He told me, "Well, you are wrong in your calculations because you have taken just the period since 1970. If you just go back a few years, maybe it would be different." It was not "maybe." He said it would be different. So we did that. We said to the Library of Congress, "Go back 80 years." And they went back to 1907 to look at the statistics on salary in-

creases for various sectors in the American economy.

In the last 80 years the agricultural sector of the United States has had a salary increase of 5,293 percent; the service sector, 4,891 percent; the manufacturing sector 4,307 percent. The Civil Service itself has gone up 3,459 percent. Congress has gone up only 1,903 percent.

There is our problem. The problem is that we will not pay ourselves what we are worth and as a result, we will not pay anyone else what they are worth.

America, someone said a long time ago, gets the government it pays for.

Now I have told the people of Alaska why I am arguing this issue. They know it. A lot of them object. But, as a practical matter, I believe that we must have increased competence in government. I do not think we can try to hire new people to do the top jobs in government based upon what we pay the lowest levels in the private sector. What we pay the lowest levels, the average levels of the private sector, will not attract to this government the quality people we need.

Mr. President, I know that my argument is not popular and I know that we have few supporters here for my point of view. I can only tell this Senate and anyone that is listening, that unless we make some changes in the way we compensate our Federal employees we are going to have worse fraud, worse abuse, more losses, less competence in government, and we will not be a free country long if this keeps up.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by Senator PRESSLER, Senator HELMS, Senator GRASSLEY, myself, and others to Senate Joint Resolution 7, a joint resolution which would disallow salary increases for Members of Congress, high level Federal officials, and Federal judges.

Today, our national debt exceeds $2.6 trillion. Last fiscal year alone, $155.1 billion was added to this already huge national debt. Stated simply, it is not the appropriate time for Members of Congress to vote ourselves a 51-percent pay raise.

After having served 34 years in the Senate, I am very much aware that Members of Congress have substantial responsibilities. All Members of this distinguished body are deeply committed to the States they serve and the people they represent. To be effective, long working hours, which separate us from our families, are expected. We make difficult decisions daily, and I am fully aware of arguments in support of these salary increases. However, we should not consider increasing our compensation until such time as we fulfill our responsibility to the American people to balance the Federal budget. At some future time when we have achieved that goal, it would be more appropriate to examine this issue.

With regard to balancing the budget, in 1984, I authored through the Senate a constitutional amendment to mandate a balanced budget but the House killed it. In 1986, I introduced it again and it received 66 of 67 votes needed for approval. In 1987, I introduced it again but the Judiciary Committee did not report it out. In 1989, I have introduced it again. We should first address this pressing problem before seeking a pay raise.

Not surprisingly, the overwhelming majority of the citizens of this country oppose these large pay increases. Of the many letters and calls I have received from my constitutents in South Carolina, very few have been in favor of this pay increase. They know that our economy is burdened by a huge national debt. They are legitimately concerned about the effects of the budget crisis on our economy. We should not ignore these concerns. To the contrary, our vote tonight to disallow the pay raise should set the standard for our future efforts to balance that Federal budget.

In closing, we are the leadership of this country. With our huge Federal debt, it is imperative that we set the example. The budget deficit cannot be reduced unless the Federal Government spends less. There is no magic formula to stop run-away spending. Spending less is the only way. The effort to reduce the budget deficit must begin at the top. We cannot ask the people of this country to set an example if we fail to do so ourselves. With this vote, let us send a clear, strong message to the American public that we, as leaders of this country, will initiate and continue the fight to balance the budget. Let us begin by refusing to spend more on ourselves and other high-level Government officials. I strongly urge my colleagues to vote in favor of this resolution of disapproval.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Connecticut.

Mr. DODD. I thank the Chair for that recognition.

Mr. President, first of all I want to commend the majority leader and the minority leader. This has not been an easy issue to deal with these last couple of weeks. It has dominated the headlines of newspapers across this country. It has been the subject of countless talk shows and television programs. Hardly a news program at any moment in the last several weeks has not led with or at least had some major portion of it devoted to this issue.

But I must say that the issue before us today is not the most difficult question the Congress will face this year. We are not talking about war and peace here. We are not talking about the homeless or the hungry or the sick. We are not authorizing an intricate new program for acid rain.

What we are dealing with, Mr. President, is a relatively straightforward question of fairness and honesty in the pay of our Nation's top public servants, including ourselves. It is an important question. And it is, I am afraid, an uncomfortable question for many of us here and in the other body.

We have all read the reams of news stories and editorials and letters from our States on the proposed pay raise. We have heard the talk shows and the phone calls from our constituents.

Some, Mr. President, amidst this avalanche of criticism that may be all out of proportion to the issue at hand, have chosen to remain silent. Some have preferred not even to vote, and I regret that. And some have adopted what I regard as a trickier position on this issue: expressing public outrage over this proposal while privately planning to accept whatever raise is ultimately approved.

In some quarters, and only in private, the feeling has been that we should "vote no and take the dough." I reject that hypocrisy.

I will say here publicly—and not for the first time—what I have said since the Quadrennial Commission's salary recommendations have been announced. Our current method of paying Members of Congress, with part of their salary provided by the Federal Government and part by a handful of special interest groups in the form of speaking fees, is an accident waiting to happen. It is a method I and many of my colleagues were elected into and did not create. It is a method with ample disclosure and accounting requirements. But it is, Mr. President, burdened by the potential of abuse.

Members of Congress, like all employees, should be paid by the people they work for: the taxpayers, not the interest groups. On that point, we all must be very clear. The issue in this debate ought to be a simple question: "Who pays Congress?"

Further, we must acknowledge the true current salary of Members of Congress. It is not alone the $89,500 we receive from the Treasury. That is an illusion. We settled that matter many years ago. It is a combination of what the Treasury pays us and what our rules allow us to earn in speaking fees: in the Senate, a de facto pay level of $125,300. In that context, Mr. President, the Quadrennial Commission's

recommendation is excessive. This is not the time for Congress to vote itself and other top Federal officials a substantial raise.

What I would favor, what I would prefer to vote on today, is a salary level that answers the question of who pays our salaries, holding Members harmless with a salary level of $125,300, the amount I and my colleagues here were entitled to earn in 1987, 1988, and could expect to earn in 1989.

I will support measures that come before the Senate in the coming days to lower this recommended pay level to that amount, and I will most certainly support a ban on honoraria that is coupled to a salary increase. And should the recommended level be enacted, regardless of the stated wishes of what I expect is a majority here and the wishes of many Members of the other body, and should the ban on honoraria be enacted, then I will return to the Treasury this year, which is a very simple thing to do, the difference between my current de facto salary and the new Government pay level.

Let us keep in mind, finally, as we approach this vote, that it is not simply, as the distinguished Senator from Alaska has pointed out, the pay of Members of Congress that we are weighing today. Only one in five officials affected by this proposal that former President Reagan put forward and President Bush endorses are Members of Congress. The rest are Federal district and appeals court judges, Cabinet secretaries and their deputies, and a whole cadre of scientists, engineers, physicians, prosecutors, and managers—the people who make our Government work and whose services we are increasingly unable to afford in market competition with the private sector. That is a fact, and we all know it.

I believe it is the obligation of Members of Congress to say where we stand on issues as controversial as our own salary, and I believe we must go on record, however difficult that may sometimes be. I agree with my colleague from South Dakota, LARRY PRESSLER, on the key point in his amendment, that there should be an affirmative vote in both Houses of Congress on this matter. But we must deal here with the system that exists, not some ideal procedure for setting the salary levels of the Nation's top executive, legislative, and judicial officials.

Therefore, Mr. President, I will oppose the Pressler amendment and I would urge my colleagues to weigh that amendment, as I hope they have considered the President's proposal, with honesty and fairness.

We are going to vote on this issue, Mr. President, not just once tonight. I would predict we will vote on this issue about 10 or 20 times before this session is over with. And I would also predict that the majority of people here will keep the salary.

And that is where the cynicism comes from. That is where the problem is. People do not think we are straightforward on these questions. So you will end up with an overwhelming vote against this, somehow this will be approved, Members will take the salary who voted against it—and there is where you have cynicism growing larger.

We are not being honest and straightforward with our constituents. I would urge that we do the right thing, take the approach the Senator from Alaska has adopted and be honest with our constituents. I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition? The Chair recognizes the Senator from California.

Mr. WILSON. Mr. President, at the risk of oversimplifying the issue, I think the question before us, as it relates not to the judiciary, not to the executive, but to ourselves, is simply this: the question is not one of need. There are a number of Members of Congress who quite legitimately can assert the need. They have large and young families, who would benefit by this increase.

The question is not merit. There are Members on this floor and in the other House who work long hours, diligently, in the public interest. They earn a good deal more than in fact they will ever be paid.

The question is neither need nor merit. The question, very simply stated, is that we find ourselves at this juncture with an overriding responsibility which Congress has yet to discharge. That responsibility is to deal with the deficit and in the course of doing so we are, indeed, as my friend from Connecticut has pointed out at other times on this floor, going to be talking about services and the cost of providing those services; what it will cost to initiate new programs, why we will have to cut back on old programs that are not undesirable but simply less desirable—those that do not meet the test of competition between competing goods.

So I think what is at stake is neither our need nor our merit but rather, as we set about doing the most difficult and the overriding responsibility that we have which is to set and keep priorities for the public, the issue is that an increase for us, even if you believe it to be merited, is not the most urgent public priority. We are required to rank how we will spend the taxpayers' dollars.

We have been through a campaign in which the winning candidate for President preached that there would be no tax increase. In the context of deficit reduction that means that we are going to be compelled to reduce the deficit even as we initiate some, very few, selective new projects, by cutting spending for others. Are we able to cut services that are desirable, are we able to be credible in doing that if we have set as one of the most pressing and most urgent of public priorities the increase of our own salary? I think the answer very simply is no.

Having said that, I am concerned about the judiciary. Each Member of this body has had the opportunity, the obligation to seek to nominate district court judges. It is getting difficult to recruit the kind of people that ought to be on the Federal bench. I do not really want people for whom it is a raise serving on the Federal bench. The kind of people whom I have nominated have in every case made a substantial financial sacrifice in order to take that judicial responsibility. It better not become too great a sacrifice for them or we will find out that we have been penny wise and pound foolish in the area of providing the Nation with the kind of judges which it must have on its Federal court benches.

So, while I would prefer a more straightforward approach, I am going to support the Pressler amendment because it will have the effect if, as we suspect, the House allows this raise to go through, of at least assuring that the judiciary will receive the increase while the rest of us do not.

I thank the Chair.

The PRESIDING OFFICER. who seeks recognition?

The Chair recognizes the majority leader.

Mr. MITCHELL. Under this agreement, this vote will occur at 7:55. In view of the fact that all but two of the speakers who have spoken on this issue have been in support of the resolution and the time has been allocated disproportinately on that side, I would like to yield the remainder of the time prior to the vote to Senator STEVENS, who has spoken on the opposite side of the issue, in an attempt to achieve some minimum level of balance in the debate.

I yield the remaining time to Senator STEVENS.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the leader. I will be brief.

Many people ask me why I persist in this effort of trying to bring about comparability in Federal salaries. You know, Mr. President, the real difficulty is, under the current system, we have not been able to devise any better way. But we have to face our responsibility.

Congress for years raised salaries without public accountability. People have said we have now created a mechanism that means that these salary increases can go into effect without a

vote. That is not true. We have voted here in the Senate on every pay raise that I have received. But such votes occur not very often, Mr. President, and that is the trouble.

Let me call the Senate's attention, as I close, to this fact. Pay raises of the type recommended by the Quadrennial Commission take place at the time of the change of a Presidency. In 1968, as President Johnson left, he received a recommendation from the Quadrennial Commission that there be a 50-percent pay increase. He approved that, but he allocated $7,500 of it to an expense allowance and $42,500, which was the remaining portion of the recommendation, to salary. Congress approved that request reluctantly.

The next time we changed our pay by any substantial amount was at the change between 1976 and 1977. Again, a change in the Presidency.

Then we had the problem of the Chadha case, a Supreme Court case in 1983 which ruled that a one-House veto over an executive action was unconstitutional. And in 1985, the Quadrennial Commission did not make recommendations, but recommended to Congress that the procedure for setting Federal salaries by law be changed and be changed so that it would require a two-House action to veto the decision of the President. That request was represented in the recommendations which President Reagan submitted to Congress in 1985.

Following that, in 1987, we did approve an 18.6-percent pay increase, but that in effect, rejected the President's actual recommendation. The 1984 recommendation of the President was $135,000. Let me say that again. The Quadrennial Commission's recommendation in 1984, to be submitted in 1985, was the same recommendation that is before us now.

Again, I have a bill, which I will be happy to introduce, to take Congress entirely out of the Quadrennial Commission recommendations. I wish we would do that. Let us deal with the executive branch and judiciary and find another way to deal with Congressional salaries. I am afraid we will once more find Congress putting off the Quadrennial Commission's recommendations that affect the judiciary and executive branch, that affect who is going to do the AIDS research, the cancer research, that affect who will be hired to be the surgeons in our armed services hospitals.

Can we attract the best and the brightest to perform the functions that the taxpayers want to be performed by government? We cannot do it if we refuse to accept the fact that they are entitled to pay increases to meet the ever-escalating cost of living. We must accept that we do not have the courage to face our own salary requirements.

President John F. Kennedy wrote a book, if you will recall, "Profiles in Courage." I wish that President George Bush, who has shown courage in supporting the recommendations of President Reagan, could write a book in which he could show that there were enough Members of Congress who showed courage, who had that profile in courage to accept the fact that there are times when we must act in the public interest because we have the knowledge that necessitates that action and the courage to lead rather than to follow.

Mr. President, I shall join my colleagues from Connecticut, Senator DODD. I thank my friend and colleague from Alaska for his kind words. I shall oppose this amendment. I shall vote for the Quadrennial Pay Commission recommendation, and I shall continue to defend the Commission's actions and urge each and every Member of Congress to examine his or her heart to find an answer to this dilemma. The actions we take tonight, I agree with the Senator from Connecticut, are not final. We will face this issue again and again and again this year. I thank the leader.

Mr. KASTEN. Mr. President, I rise in opposition to the proposed pay increase for Members of Congress. I believe the American people deserve better from their elected officials than to allow this 50-percent pay increase to go into effect. This proposed pay increase is especially offensive at a time when we are struggling with a very serious deficit problem.

The American taxpayer is being asked to carry a heavy burden. I believe we should block this pay increase to keep from adding to that burden.

I am an original cosponsor of legislation to block this pay increase. Since coming to Congress, I have voted for every single measure that came before the Senate to block increases in congressional salaries.

Like some legislation I introduced in the last Congress, this legislation will require a rollcall vote on any future pay increase. I believe the American people have the right to know where their elected officials stand on this issue.

We should enact this legislation with all due haste. We owe it to the American taxpayer—and to our own sense of institutional self-respect.

Mr. DECONCINI. Mr. President, I am pleased to join many of my Senate colleagues in cosponsoring the bipartisan amendment before us which really puts teeth into Senator SANFORD's joint resolution of disapproval. The Pressler-Grassley-DeConcini amendment accomplishes the same goals as Senate Joint Resolution 6. It disapproves the pay raise for all three branches of Government. It rescinds the pay rise, even if it is allowed to go into effect, once the House acts on this legislation. Finally, it requires that Congress act in an affirmative manner to receive any future pay raises. It is simple, it is direct and it is what the American people have indicated they want Congress to do.

Two of these provisions have been addressed previously by the Senate. The Senate is already on record opposing major increases in congressional pay. On at least two occasions in the 100th Congress we passed resolutions of disapproval by overwhelming margins.

Last session, the Senate also passed legislation to require an up or down roll call vote on future congressional pay raises. I cosponsored this legislation and was disappointed that it was dropped in conference with the House.

The third provision of the amendment ensures that these raises do not simply go into effect if either house fails to act on a disapproval resolution within the requisite 30-day time limit for action. Unlike 2 years ago, when the Senate passed a resolution of disapproval only to have the House vote on the resolution after the raises went into effect, this resolution ensures that the raises would be rescinded once the House acts on this legislation. Upon passage of this amendment, the Congress can no longer hide behind a convoluted legislative procedure.

The proponents of this amendment, along with the sponsors of the underlying resolution, are to be congratulated for their diligent action in bringing this issue before the Senate and the American people. I thank my colleagues, Senator PRESSLER, GRASSLEY, and SANFORD for their timely action in addressing this matter.

In this era of budget deficits—and I believe we have reached a critical point—it is unconscionable for President Bush and former-President Reagan and the Congress to seriously consider raising Federal salaries at the same time that cutbacks are being made in programs which directly affect the lives of working Americans. We cannot tell working mothers that there is no money for child care programs and accept this raise. We must not tell our young people that we cannot afford to assist them in getting a college education and accept this raise. We cannot tell the American people that we do not have the funds to aggressively wage the war on drugs and accept this raise.

And we must not allow this raise to go into effect by not taking any action to prevent it. Every Member of Congress should be on record indicating his or her support for or denial of the proposed 50 percent pay increase. Preventing a to vote on this pay raise would send a signal to the Nation that Congress is unwilling to address the deficit in a straightforward and realistic manner.

I am pleased that the leadership has brought this issue before the Senate in a timely manner. In addition to those senators mentioned earlier, a number of others are to be congratulated for their hard work and diligence on this issue. Senator GLENN and Senator ROTH, the chairman and ranking minority member, are to be congratulated for giving proponents and opponents an opportunity to express their views during two days of hearings in the Governmental Affairs Committee.

Finally, I would like to thank the leadership, particularly our new majority leader, Mr. MITCHELL, and minority leader, Mr. DOLE, for bringing this issue to the floor and for allowing the full Senate to work its will on this highly emotional and controversial issue.

I am confident that the Senate will overwhelmingly oppose these increases and I am hopeful that the House will do likewise. We must first resolve our Nation's budget crisis before we even consider increasing our pay. The voice of the American people loudly call out in unison in opposition to the proposed raises. Congress must listen to these voices.

Like many of my colleagues, I have received hundreds upon hundreds of emotional letters from my Arizona constituents strongly opposing these proposals. "Why raise congressional salaries?" they ask. There does not appear to be a shortage of people wanting to run for office. Few working Americans get the opportunity to set their own salaries, much less give themselves a 50-percent increase.

They correctly state that raises are usually earned after proving ability in getting the job done and done well. Have we completed the job on the budget deficit, or the environmental crisis, or the war on drugs? Or are we just trying to do a job on the American people?

Finally, they ask, if you think you deserve this huge pay increase, you should at least vote for it. Once again, I agree. I have introduced legislation to provide for affirmative votes on pay increases. I have also cosponsored the legislation before us today. I believe that Congress must vote on whether we deserve this raise or not. We cannot duck this issue anymore.

At this time, however, when we are asking the American people to sacrifice programs which are important to them, we also be willing to sacrifice. As leaders in Congress, we must set an example for the country and not feather our own nests. Because of the budget deficit, we cannot afford to add $76 million in red ink that these raises would cost. We cannot take an additional $45,500 in pay when the median family income in this country hovers around $35,000 a year. With a budget deficit of over $155 billion, we cannot look in the mirror and say we need this additional money. We have too many people on the streets, too many people on limited incomes to honestly say we need this additional money.

I ask my colleagues to support this legislation and to disapprove the pay increase. Once we have accomplished this, then we must move to reform the entire pay system to avoid these games in the future. For now, we must be leaders and shoulder our share of the burden of deficit reduction.

Mr. ROCKEFELLER. Mr. President, I rise to express my strong, strong feelings about the issue before this body. Tonight we are responding to the recommendations forwarded by President Reagan that would, unless the Senate and House take the necessary action, substantially increase the salaries for Members of Congress and other top Government officials.

From the moment the possibility of a pay increase for Congress emerged, I vigorously opposed it. I still oppose the pay increase, and I will vote tonight accordingly, I don't think there could be a worse time than now to hike the salaries of lawmakers. This is exactly when we should be acting according to what we preach. And that means we should resist and condemn any and all ideas of increasing our pay.

Mr. President, 3 years ago Congress approved Gramm-Rudman legislation as a serious and aggressive process for tackling a Federal deficit of intolerable proportion. The American people understandably had many questions about the legislation, worried about its effects on vital services and programs. As I have explained in great length to my constituents in West Virginia, Gramm-Rudman was enacted to finally begin the absolutely crucial process of eliminating the deficit.

But to succeed in achieving the Gramm-Rudman goal of a balanced budget, tough choices must be made. Cuts must be made in some areas, and they have been made. We must be disciplined and impose austerity whenever and wherever possible.

If Congress were to allow a pay increase to go into effect for itself, it would be a direct violation of our supposed commitment to fiscal responsibility, sacrifice, and austerity. I can completly understand why the vast majority of Americans—and indeed, of the people of my State—are outraged that the very idea of a pay increase has been considered. My State has suffered hard times in the recent years, with unemployment that has wracked many of our communities. If there are additional resources to distribute from the Federal Treasury, they should go to road construction, child nutrition, health care, and education in the distressed regions of West Virginia and other parts of the country—not to a pay increase for Members of Congress.

I am very grateful that we are voting on the pay increase in the Senate. I have argued strenuously that we should have a recorded vote. For the reasons I have stated, I am voting against the pay increase.

Mr. WARNER. Mr. President, I only wish to take a few moments of the Senate's time to share what I find to be the most unfortunate aspect of this process.

There are in the Federal Government outstanding individuals, in both the judiciary and the executive branch, who are deserving of improved compensation. Through no fault of their own, these senior Government officials are tied to the Congress in terms of their pay. Because of this link, they too have been subject to the public outcry over the manner in which present law provides for Federal executive pay raises.

I am proud to number among my constituents many members of the senior executive service and officers of the judiciary. These individuals have come to public service through many paths, but they are on the job today providing the wealth of ability and managerial experience it takes to run the Federal Government.

Mr. President, 50 percent of the SES will be eligible to retire in 1989. They are watching the Senate tonight to see if they are going to be denied the most significant incentive in recent history to stay with the Government—a measure of comparability with the private sector.

The judiciary is also watching tonight. How many judges are debating whether to stay at the bench or take that standing offer for greatly increased pay as a senior law partner.

It is my hope that if we have learned one thing from this debate, it is that the Congress should take action to dissolve the compensation link between ourselves and our colleagues in the other two branches. Let the needs of each sector be separately assessed and voted on by the Congress, expressing the will of the people.

Mr. BOSCHWITZ. Mr. President, I rise today as an original cosponsor of the resolution to disapprove the congressional pay raise. I urge its passage by the Senate.

Reducing the deficit is the most important challenge facing this Congress, and it will guide many of the decisions we make in the next 2 years. It must guide this decision.

We as a Congress cannot hope to restrain Federal spending if we don't oppose this pay raise. If our first decision as a Congress is to raise our own pay by 50 percent, we almost ensure failure in our efforts to control other spending.

Right now, as intractable as these deficits seem, the fact remains that we can balance the Federal budget in 4

years by just holding the increase in Federal spending to 3 or 4 percent. But—and this is the key—every body has to pitch in.

How can we expect others to do their share when we exempt ourselves? Americans will accept smaller increases in their favorite programs if they think we are being fair. But when they see us giving ourselves a hefty 50-percent pay raise—and asking them to hold to 3 percent—they'll object, and for good reason. They won't want to share the burden we are unwilling to shoulder ourselves.

Frankly, I think Americans might not resent paying Members of Congress more if we did a better job of bringing the budget under control. An executive who turns around an ailing company and gets it back in the black deserves a bonus. One who bankrupts the company does not.

That's why I like the idea of tying a pay raise to success in reducing the deficit. For instance, if Members of Congress got a $3,000 bonus for each $10 billion in deficit reduction, we would receive this full pay raise only if we eliminated the deficit entirely from this year's level of $155 billion. If we made substantial progress on the deficit, say a $40 billion cut, we'd get a $12,000 bonus. That kind of a performance-based bonus would be worth the money to taxpayers—this kind of a raise certainly isn't.

I can't help but add something about the whole way we go about making this decision.

We face these pay raise decisions every so often around here. The last time this all happened was in 1987. We in the Senate voted down the pay raise in a timely fashion. In the House—which has very little turnover and has been controlled by one party for 35 consecutive years—there is a certain arrogance of power. The House acted one day after its 30-day deadline, and then almost all of them voted against the pay raise. Because it was a day late, though, their vote had no effect, and the pay raise took effect. But Members could still brag back home that they voted against the pay raise. It's no wonder that people are so thoroughly cynical about Congress.

They will be cynical about anything we do to restrain Federal spending this year if we give ourselves another backdoor raise. That's why we must start out on the right foot and vote this raise down.

I believe we can reduce the deficit significantly in the next two years. But we haven't done it yet. And we shouldn't be giving out any raises until we do.

Mr. KERRY. Mr. President, I will vote to oppose the pay increase.

The Commission on Executive, Legislative and Judicial Salaries, former President Reagan and President Bush have agreed to increase the salaries for the most important governmental positions, including judges, Cabinet chiefs, and Congress, by approximately 50 percent.

Yet there is no question that for Congress to increase its own salary by 50 percent at a time when we have an enormous Federal budget deficit strikes many people as simply wrong. While some raise is deserved, a raise in one 50-percent increment in 1 year is too much. For that reason I will vote to disapprove the salary mandated by the Commission and the President.

I will also vote in favor of the bill to prohibit any pay raises for Congress in the future except through a rollcall vote in both Houses of Congress. I do so with mixed feelings.

I agree with those who believe Congress should not vote on its own salary because to do so creates a conflict of interest. For this reason, I have in the past supported the current system, in which the President, not the Congress, makes the final determination as to what the Federal judiciary, high-level Government officials, and the Congress are paid.

On the other hand, I also believe that elected representatives should be held accountable for what they do, and should make tough choices, even when a vote is difficult. The pay raise has become such an issue. On balance, I believe the substitution to require a rollcall vote on pay raises is appropriate, because we must be accountable for what we vote for and vote against.

I will also vote to support the Mitchell-Dole amendment on honoraria, which would link acceptance of the pay raise proposed by the Commission and the President to a ban on honoraria.

Finally, after voting against this 50-percent pay raise, we need to do something to make sure that the Congress and Government generally do not become places where only the independently wealthy can afford to serve. As the Salary Commission found, salaries in Government have not kept pace with the private sector. The growing dispairty between Government salaries and salaries outside Government is causing qualified people to leave Government, with the result that our ability to carry out our responsibilities to the people may be imperiled.

We need to find a way to pay Government workers what they need and deserve in order to attract and keep people who are capable of giving the Nation what it needs and deserves in a government. I hope that we will find a way to do that in the months to come.

Mr. JEFFORDS. Mr. President, before this evening, I had intended to vote in favor of the Quadrennial Commission's proposal to raise the pay of the executive, legislative, and judicial branches of Government. I believed that doing this, with the full knowledge that the proposal would be overwhelmingly defeated by the Senate, was necessary to bring the issues to the public's attention and record my position.

One of these issues is the need to ban honoraria. The reality is, the Senate has already received most of the pay raise we are voting on tonight. The question here is whether we want to continue to receive this pay raise from special interest groups, or whether the American public should pay its U.S. Senators' salary.

I strongly believe it is bad policy to be dependent upon special interest groups. The only way to abolish or limit honoraria is to tie it to a pay raise. This has been my aim. Let me review the situation.

In addition to their salary, Senators can receive up to 40 percent of their salary in honoraria. It is not difficult for a Senator to obtain sufficient invitations to reach this limit. In the House, the situation is somewhat different. Members there can receive up to 30 percent of their salaries in honoraria, but few Members are offered that amount. So the disparity in actual terms is greater than the 10 percent suggested by the differing limits.

Since I was elected to the House in 1974, the purchasing power of salaries paid to Members of Congress, the executive branch, and the judiciary has diminished by 30 percent. Not by coincidence, the 30- and 40-percent limits on honoraria in the House and Senate respectively have entirely supplanted that loss for the Congress. This supplement is not allowed for the judiciary or the executive branch. This presents several problems, one of which is the issue of equity.

It is important to keep in mind that executive and judicial branch employees are forbidden from accepting honoraria. Therefore, the equity of pay which is supposed to exist between the three branches in fact does not exist. Currently, every Senator has the opportunity to earn $125,300 in salary and honoraria. Executive and judicial employees are limited to their substantially smaller Federal salary. This is not equity. This inequity is causing problems in attracting and keeping good people in the executive and judicial branches.

I believe a raise accompanied by a ban on honoraria is in order, both to correct this inequity, to establish a healthy pay policy, and to restore salaries to the level they stood at when I entered Congress in the seventies.

However, I have repeatedly stated that I felt the proposed raise was too high and hoped that legislation would follow immediately that would cut the size of the increase and would ban honoraria.

This afternoon, Speaker JIM WRIGHT committed to holding a vote in the

House of Representatives that would do just that. The vote would cut the raise from 50 to 30 percent and would ban honoraria. Earlier this evening, the majority leader of the Senate echoed a desire for this kind of compromise. In talking with my colleagues on both sides of the aisle I am confident that when the House sends its proposal to the Senate, it will be approved.

Such a raise, along with a ban on honoraria, would reestablish the equity between the judicial, executive, and legislative bodies, and would help to offset the loss of purchasing power since the inflationary period of the seventies.

The end result, if a vote to cut the raise to 30 percent passes, will be a raise for the executive, judicial, and most Members of the House and a cut in the income available to Members of the Senate by $8,950. Senators now can earn $125,300 in salary and honoraria. If the 30-percent raise goes through along with a ban on honoraria, Senators will then be able to earn $116,350. In essence, we will earn a straightforward salary from the public of $116,350 rather than the current salary limit of $125,300 from the public and special interests.

Although I will vote against the recommendation of the Quadrennial Commission this evening, I do so with confidence that in the very near future we will have the opportunity to vote for a modified proposal which will address my concerns.

Mr. MITCHELL. On behalf of Senator DOLE and myself, I yield back all remaining time on the joint resolution in order that final passage on the joint resolution may occur immediately after this vote. I know of no Senator who has requested a rollcall vote on final passage. It is my hope that we can voice vote final passage on the joint resolution and then proceed directly to the honoraria resolution. With respect to that resolution, I know of no Senator who has requested a rollcall vote. It is my hope we can proceed to voice vote that resolution after it is presented and discussed——

Mr. STEVENS. Reserving the right to object, Mr. President, the joint resolution is the resolution of disapproval that will be voice voted and the honorarium resolution is the resolution that takes away the right of Members of the Senate to collect and retain honoraria.

Mr. MITCHELL. That is correct.

Mr. STEVENS. So we are not going to vote either pay raise or honoraria by rollcall vote.

Mr. MITCHELL. That is right. The rollcall vote will be on the Pressler amendment to the Sanford joint resolution. If, as anticipated, that is approved, then we will voice vote the Sanford joint resolution as amended by the Pressler amendment which disapproves the proposed pay raise. We will then proceed to offer and describe a separate resolution to be offered by Senator DOLE and myself banning honoraria in the event a pay raise does take effect beginning next Tuesday midnight, notwithstanding the vote in the Senate on the Pressler amendment and the Sanford joint resolution. No one has requested a rollcall vote on that.

So it is my hope that we will have a rollcall vote on the Pressler amendment, then voice vote the Sanford resolution as amended by the Pressler amendment and then voice vote the Mitchell-Dole resolution banning honoraria in the event a pay raise takes effect.

Mr. HARKIN. Will the leader yield on that point?

Mr. MITCHELL. Yes.

Mr. HARKIN. I have not had a chance to see the final version of the honorarium resolution. I ask the question, when that comes up, will that be subject to amendment?

Mr. MITCHELL. No. A unanimous-consent agreement was entered into several hours ago this afternoon in which it was agreed that it would be presented and voted on without amendment or motion.

Mr. HARKIN. So the portion in there that still has that Members can have honorarium go to charity is still in there?

Mr. MITCHELL. It is. It is limited to $2,000.

Mr. HARKIN. No overall limit; it can be 100 or 200.

Mr. MITCHELL. If the Senator chose to make 100 separate appearances in behalf of charity, that is correct.

Mr. MURKOWSKI. Mr. President, inquire. For clarification, the voice vote on the Sanford resolution pending has the consequence of amending the Pressler substitute and will put the Sanford resolution in the same status of interpretation; is that correct?

Mr. MITCHELL. Yes; if I understand the Senator correctly, the Pressler amendment is a substitute for the Sanford resolution. So the Sanford resolution would be as amended by the Pressler amendment.

Mr. MURKOWSKI. So we basically have a rollcall as well as a voice vote on what constitutes the same substantive material.

Mr. MITCHELL. That is correct. That is the reason why I asked that there not be a rollcall vote.

Mr. MURKOWSKI. I simply ask, when I made my statement, I was under a mistaken procedure and assumed the Sanford resolution would stand on its own and, as a consequence, I would defer for the record the basis of my statement. I will be accompanying my colleagues, the senior Senator of the minority, on this vote rather than the position I announced presently because I anticipated I would accept the recommendation of the Commission which I anticipate would be a voice vote. I wanted the record to clarify that. I thank the majority leader.

The PRESIDING OFFICER (Mr. KERREY). Under the previous order, the hour of 7:55 having arrived, the Senate will now vote on the substitute amendment offered by the Senator from South Dakota to Senate Joint Resolution 7. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 95, nays 5, as follows:

[Rollcall Vote No. 11 Leg.]

YEAS—95

Adams	Fowler	McClure
Armstrong	Garn	McConnell
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mikulski
Biden	Gorton	Mitchell
Bingaman	Graham	Moynihan
Bond	Gramm	Nickles
Boren	Grassley	Nunn
Boschwitz	Harkin	Packwood
Bradley	Hatch	Pell
Breaux	Hatfield	Pressler
Bryan	Heflin	Pryor
Bumpers	Heinz	Reid
Burdick	Helms	Riegle
Burns	Hollings	Robb
Byrd	Humphrey	Rockefeller
Chafee	Inouye	Roth
Coats	Jeffords	Rudman
Cochran	Johnston	Sanford
Cohen	Kassebaum	Sarbanes
Conrad	Kasten	Sasser
Cranston	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Symms
Dixon	Levin	Thurmond
Dole	Lieberman	Wallop
Domenici	Lott	Warner
Durenberger	Lugar	Wilson
Exon	Mack	Wirth
Ford	McCain	

NAYS—5

Dodd	Matsunaga	Stevens
Kennedy	Murkowski	

So the amendment was agreed to.

Mr. PRESSLER. Mr. President, I move to reconsider the vote by which the amendment in the nature of a substitute was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 7) was ordered to be engrossed for a third reading, was read the third time and passed, as follows:

S.J. RES. 7

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISAPPROVAL OF PRESIDENTIAL RECOMMENDATIONS FOR CONGRESSIONAL PAY INCREASE.

The recommendations of the President relating to rates of pay for offices and positions within the purview of section 225(f) of the Federal Salary Act of 1967, as included (pursuant to section 225(h) of such Act) in the budget transmitted to the Congress for fiscal year 1990, are disapproved.

SEC. 2. EFFECTIVE DATE PROVISIONS AND RECORDED VOTES ON CONGRESSIONAL PAY INCREASES.

(a) EFFECTIVE DATE PROVISIONS.—(1) Subject to paragraph (2), if the date of the enactment of this resolution is on or after February 8, 1989, the rates of pay for all offices and positions increased by the recommendations described in the first section shall be the rate of pay in effect for each such office and position before such recommendations took effect.

(2)(A) The provisions of paragraph (1) shall not be applied to reduce the rate of pay of any office or position which was increased during the period of February 8, 1989, through the date of the enactment of this resolution by reason other than the recommendations described in the first section.

(B) The provisions of the first section and this section shall not apply to reduce the rate of pay of any judge or justice appointed pursuant to article III of the Constitution of the United States.

(b) AMENDMENT TO FEDERAL SALARY ACT OF 1967.—Section 225(i) of the Federal Salary Act of 1967 (2 U.S.C. 359) is amended to read as follows:

"(i) EFFECTIVE DATE OF PRESIDENTIAL RECOMMENDATIONS; CONGRESSIONAL VOTE ON INCREASES IN CONGRESSIONAL RATES OF PAY.—(1)(A) Except for the recommendations relating to Members of Congress (which shall be subject to the provisions of paragraph (2)), the recommendations of the President which are transmitted to the Congress pursuant to subsection (h) of this section shall be effective as provided in subparagraph (B) of this paragraph, unless any such recommendation is disapproved by a joint resolution agreed to by the Congress not later than the last day of the 30-day period which begins on the date on which such recommendations are transmitted to the Congress.

"(B) The effective date of the rate or rates of pay which take effect for an office or position under subparagraph (A) of this paragraph shall be the first day of the first pay period which begins for such office or position after the end of the 30-day period described in subparagraph (A).

"(2)(A) The recommendations of the President relating to the rates of pay of Members of Congress which are transmitted to the Congress under subsection (h) of this section shall become effective only after the enactment of a joint resolution as provided under subparagraph (B).

"(B) The joint resolution described under subparagraph (A) shall—

"(i) relate only to the issue of such recommendation to increase the rates of pay of Members of Congress; and

"(ii) be passed by recorded vote to reflect the vote of each Member of Congress thereon.

"(C) For purposes of this paragraph the term "Members of Congress" includes all positions described under section 225(f)(A), except for the Vice President of the United States.".

(c) CONGRESSIONAL VOTE TO INCREASE CONGRESSIONAL RATES OF PAY WITH INCREASES IN THE GENERAL SCHEDULE.—Section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended to read as follows:

"(2)(A) Any increase in the rates of pay of Members of Congress which corresponds to an increase in the rates of pay in the General Schedule under section 5305 of title 5, United States Code, in any fiscal year shall become effective only after enactment of a joint resolution as provided under subparagraph (B).

"(B) The joint resolution described under subparagraph (A) shall—

"(i) relate only to the issue of the increase in the rates of pay of Members of Congress; and

"(ii) be passed by recorded vote to reflect the vote of each Member of Congress thereon.

"(C) If a joint resolution is enacted as provided under subparagraphs (A) and (B), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which such joint resolution is enacted, each annual rate of pay of Members of Congress shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiple of $100, to the next higher multiple of $100), equal to the percentage of such annual rate which corresponds to the overall average percentage (as set in the report transmitted to the Congress under section 5305) of the adjustment in the rates of pay under the General Schedule.".

(d) CONGRESSIONAL VOTE ON ANY INCREASE IN THE RATES OF PAY OF MEMBERS OF CONGRESS.—(1) Notwithstanding any other provision of law, any increase in the rates of pay of Members of Congress shall become effective only after the enactment of a joint resolution as provided in paragraph (2).

(2) The joint resolution described under paragraph (1) shall—

(A) relate only to the issue of the increase in the rates of pay of Members of Congress; and

(B) be passed by recorded vote to reflect the vote of each Member of Congress thereon.

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

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

The motion to lay on the table was agreed to.

Mr. KOHL. Mr. President, tonight the Senate took a modest step toward regaining the trust of the American people. We rejected the 50-percent pay raise which Presidents Reagan and Bush had endorsed. More importantly, we did so in a meaningful way: Even if the pay raise theoretically goes into effect next week, we have indicated our intention to rescind it. Finally, we have set up a system which ought to help us avoid the embarrassing way this issue was handled this year.

But Mr. President, we have not gone far enough. We have rejected honorarium—but only conditionally. If the pay raise does not go into effect, members can still legally take money for giving speeches. There are enough conditions on honorarium as it is. We ought to ban the practice once and for all. Finally, fixing the way we get paid once we are in office isn't enough—we also have to fix the way we pay for the campaigns that get us into office. If we want to protect the Congress from conflicts of interest, be they real or not, then we ought to adopt some meaningful campaign finance reform legislation. I hope that the same bipartisan support we had to restrict spending on our salaries will be evident when we try to limit the amount we spend on our campaigns.

Mr. BIDEN. Mr. President, I have always voted against pay raises for Senators. That is why I voted for the Pressler substitute, because it was the Senate's only chance to insure that the 50-percent pay raise recommended by President Reagan would be defeated. I am happy that the Pressler substitute was adopted by the Senate.

However, the Pressler substitute also contained a provision calling for all future pay raises to be subejct to an affirmative vote by the Congress. I oppose this provision. In my opinion Members of Congress should not be voting on their own salaries. I believe we must find a way to take salary decisions out of the hands of Congress.

HONORARIA

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of a resolution sponsored by the joint leadership.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. May we have order in the Senate?

The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 40) to prohibit the receipt of honoraria by Members, officers, or employees of the Senate on or after the first day that there takes effect any increase in the salaries of Members, officers, or employees of the Senate as recommended by the Commission of Executive, Legislative, and Judicial salaries and included in the budget transmitted by the President to the Congress.

The Senate proceeded to consider the resolution.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, for the benefit of our colleagues, I will now seek immediate consideration of this resolution offered by Senator DOLE and myself to ban honoraria in the event a pay raise takes effect. At this moment, no one has requested a rollcall vote. With so many Senators in the Chamber, for the benefit of those colleagues who wish to leave, it is our intention to proceed to a discussion of this resolution, and then to voice vote it, no opposition having been expressed, unless some Senator requests a rollcall vote.

Just for the benefit of those who want to know whether or not they can leave without a rollcall vote, I observe that no Senator has indicated a desire for a rollcall vote.

Mr. President, this resolution offered by Senator DOLE and myself will ban honoraria, and will become effective on the first day that there takes effect the recommendations of the President relating to rates of pay for the executive, legislative, and judicial branches as included in the budget transmitted to the Congress for fiscal year 1990.

It will remain in effect so long as those recommendations are in place. It is possible, some say likely, that the pay raise may not go into effect, or if it does, that it may not remain in effect. Senator DOLE and I felt that we should put this resolution before the Senate now and urge its passage now, lest we in the Senate find ourselves in the position of having received a pay increase and still permitting Senators to collect large amounts of honoraria.

We do not believe that should occur. Once effective, this resolution will put an end to the practice of Members receiving monetary compensation for any appearance, speech, or article.

This resolution also prohibits Members from accepting honoraria payments prior to the effective date of the resolution for activities to be performed after the effective date.

This resolution will still allow payment on a Member's behalf of honoraria to charitable organizations. Each such payment will be limited to a maximum of $2,000 and no pension or annuity benefit can accrue to a Member, based on these charitable donations. This effectively bans the use of honoraria income to enable contributions to a Keogh retirement plan. The resolution will also forbid any Member or former Member from acquiring any personal financial benefit from any such charitable donations made on his behalf or her behalf to a charitable organization.

This provision is similar in nature to Senate rule XXXVIII, which forbids a Member or former Member from converting unused campaign funds to personal use. This resolution also requires the Senate Committee on Ethics to develop guidelines regarding travel by Members which is reimbursed by others.

It is our intention that the Members be given appropriate guidelines in advance regarding the reasonableness of the type of reimbursed expenses, as well as appropriate lengths of stay.

Existing Senate rules already address certain other concerns related to this issue, which I understand are being addressed by the House. Senate rule XXXVII, clause 5, prohibits affiliation with a business entity or use of a Member's name in connection therewith, or the practice of a profession for compensation to any extent during regular office hours of the Senate office in which employed.

Senate rule XXXVII, clause 6, prohibits Members from serving as officers or members on the board of a publicly held or publicly regulated corporation.

Senate rule XXXVIII, clause 2, prohibits Members and former Members from converting any campaign contributions to their personal use. Through the enactment of its code of conduct in Senate rules XXXIV through XLII, the Senate has already taken significant steps to prohibit conflicts of interest and to eliminate the appearance of impropriety. I believe the Senate must take the additional important step of passing this resolution, which bans honoraria, effective at the same time that the recommended salary increase goes into effect, if it goes into effect, and the honoraria ban would remain in effect so long as the salary increase did so.

I yield to the distinguished Republican leader.

Mr. DOLE. Mr. President, I will just take a minute or two, and I want to thank the distinguished majority leader and members of staff on both sides who worked on this resolution.

I think we have tried to accommodate the concerns some Members have, but at the same time make it very clear that as long as the President's pay recommendation was in effect, honoraria would be banned. If something happens, if it is modified, canceled, rescinded, then we will be right back where we are today. Say you received a 30-percent raise. This resolution would self-destruct. We would have to revisit the honoraria section, because then we would be allowed to make more honoraria than we are now. We do not want to do that.

We thought it better to address that after we know what is going to happen. No one knows whether there will ever be a pay raise, except for judges who are now going to be assured of it; nor whether the executive or legislative branch will ever have a pay raise, and if so, how long, and at what level.

I do not believe we will know that for a matter of weeks or months. However, in the meantime, if the raise takes effect and stays in effect, honoraria are banned, except for charitable contributions, and some Members have included volunteer fire departments and all kinds of definitions in the code.

I would like to place in the RECORD at this point, from the United States Code, the definition of "honorarium." Some have asked, "What do you mean by honorarium?" It means, a payment of money or anything of value to a Member for an appearance, speech, or article by the Member. That is the definition that has been used in the code.

I also submit the definition used in the Cutler report, the Quadrennial Commission Report, where it describes honoraria:

"Honoraria" are payments for public appearances to deliver a talk or engage in a colloquy at the invitation of some non-governmental groups, often one with a material interest in pending or anticipated legislation.

There are, in other words, some areas that would not be covered by this. It is pretty clear.

I ask unanimous consent that this definition from the United States Code be printed in the RECORD.

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

§ 31-1. Maximum amount of honoraria which may be accepted by Members of Congress

(a) Definitions: For the purposes of this section—

(1) "charitable organization" means an organization described in section 170(c) of Title 26;

(2) "honorarium" means a payment of money or anything of value to a Member for an appearance, speech, or article, by the Member; but there shall not be taken into account for the purposes of this section any actual and necessary travel expenses, incurred by the Member, and spouse or an aide to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that such expenses are not paid or reimbursed;

(3) "Member" means a United States Senator, a Member of the House of Representatives, a Delegate to the House of Representatives or the Resident Commissioner from Puerto Rico; and

(4) "travel expenses" means with respect to a Member, and spouse or an aide, the cost of transportation, and the cost of lodging and meals while away from his or her residence or the metropolitan area of Washington, District of Columbia.

(b) Maximum as percentage of aggregate salary:

(1) Notwithstanding any other provision of law, except as provided in paragraph (2), on and after January 1, 1986, a Member shall not accept honoraria which are attributable to any calendar year and total more than the amount that is equal to 40 percent of the aggregate salary paid to such Member for service as a Member during such calendar year.

(2) An individual who becomes a Member on a date after the first day of a calendar year shall not accept honoraria which are attributable to the remaining portion of that calendar year on and after the date such individual becomes a Member and total more than the amount that is equal to 30 percent of the aggregate salary paid to the Member for service as a Member during such calandar year.

(3) For the purpose of this subsection, an honorarium shall be attributable to the period or calendar year in which payment is received.

(c) Honoraria paid to charitable organizations: Any honorarium, or any part thereof, paid by or on behalf of a Member to a charitable organization shall be deemed not to be

accepted for the purposes of subsection (b) of this section (July 30, 1983, Pub. L. 98-63, § 908(a)-(c), 97 Stat. 337, 338, as amended Dec. 19, 1985, Pub. L. 99-100, § 137, 99 Stat. 1323).

Mr. DOLE. Mr. President, in my view, the majority leader covered the other questions: that there are no Keogh benefits; the $2,000 limit; that if you make a speech for charity, it is still a $2,000 limit. That also takes care of any personal use or personal interest in any charity, and it does indicate that we will ask the appropriate committee to take a look at expenses for travel and other things through the normal course of business.

I thank the majority leader for his efforts and again Joe Stewart and other members of the staff on both sides who have developed this resolution.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, will the minority leader yield?

Mr. DOLE. I yield.

Mr. CHAFEE. Mr. President, I would like to address a question to the distinguished majority leader and our leader.

It is my understanding that this goes into effect if the President's plan—the President's recommended salary increases—does go into effect or, vice versa, if the President's plan does not go into effect, then the honoraria continues?

Mr. MITCHELL. That is correct.

Mr. CHAFEE. So if you get the situation where, say, there is some discussion of a 30-percent raise, that would not eliminate the honoraria?

Mr. MITCHELL. No, but it is our intention that we would at that time return to address the issue in the light of those circumstances.

Mr. CHAFEE. That is right. So we would address that in a separate matter, where, for example, they might adopt a 5-percent pay increase. Then the honoraria would stay in effect as they are currently, 40 percent of our current pay?

Mr. MITCHELL. Right.

Mr. CHAFEE. Or I guess it would be 40 percent of the increased pay?

Mr. MITCHELL. The then current pay.

Mr. CHAFEE. Then we come back and address the issue?

Mr. MITCHELL. The Senator is correct. The reason for that is that the only certain thing about this issue is the uncertainty which surrounds it. No one of us can now know what will happen next week in the House or, beyond that, in the House or the Senate. When we started drafting this, we attempted to anticipate alternative courses of action. Frankly, if we tried to write into here provisions dealing with every conceivable set of circumstances, it would be much more than a resolution of a few pages.

What this says is exactly as the Senator described it. If the pay raise goes into effect as recommended by the President, honoraria are banned. If at a later time the President's recommendations on pay are repealed, the honoraria ban terminates; but if an action is taken somewhere between those two, honoraria would continue until such time as we return to address it.

I can state that in line with the discussion of the distinguished minority leader and me, we would intend to come back at that time and address that situation.

Mr. CHAFEE. We would start fresh.

Mr. MITCHELL. Exactly right.

Mr. CHAFEE. I thank the majority leader.

Mr. ARMSTRONG. Mr. President, will the minority leader yield to me?

Mr. DOLE. I am happy to yield.

Mr. ARMSTRONG. Mr. President, I am a sucker for an unpopluar cause, and I judge that honoraria is an unpopular cause.

I rise to say that were there to be a rollcall vote, I would vote against this.

I think this is really an ill-considered idea. In fact, the premise upon which it rests strikes me as quite an unusual one. I know there are some Members in this Chamber who think it is unethical to speak or write articles for money. And they may have some very good reasons for that.

It so happens I do not choose to do that. I do not accept honoraria. I do not happen to agree with those who think something is morally wrong or reprehensible or unethical about it. I do not think that way.

I know that some of the outstanding Members of this Chamber will tell you in private moments they would not be in this body if they did not have an opportunity to earn some income on the outside. I do not choose to do that. I know some do. I respect the opinon of those who think that is unethical, though I do not agree with them.

I also respect the opinion of those who say, "Yes, sir, it is ethical. What I do on my own time is my own business and if there is something wrong about it when disclosed then that is between me and my constituent." I respect that point of view.

What I cannot really fathom is the new motion introduced by this resolution which is that it is morally right and ethical at one salary level but reprehensible and to be precluded at another salary level.

So I am not trying to persuade anyone, and I did not ask for a rollcall vote and I know what the outcome of such a rollcall vote would have been. But I want to note in passing that I think it is ill-considered, and I think it is just the latest in a quite long series of ill-considered measures which have been characterized as reform but which in fact have lowered the public esteem for this body much is to the disadvantage of Members but more importantly to the disadvantage of those we serve.

Mr. MITCHELL. Under the previous agreement there is a total of 1 hour of debate on this resolution, and 30 minutes remain. How much time does the Senator wish?

Mr. HARKIN. Just 5 minutes.

Mr. MITCHELL. I yield 5 minutes to the Senator from Iowa.

Mr. HARKIN. I thank the leader for yielding.

Mr. President, I support the resolution doing away with honoraria. I obviously will not ask for a rollcall vote either.

I wish to raise one point perhaps as something that bothers me and I think maybe a warning shot in the future. I think there is a loophole left in it that is going to come back and trouble us, and that is the provision that Members can still go out and earn honoraria to give to charity.

Perhaps at the risk of sounding like someone opposed to giving to charity, let me just state that it looks like what we have done is shifted the honoraria from personal to perhaps political.

I do not doubt anyone's motives in giving to charity. I hope people do give to charity. It is indeed an honorable thing to do to give to charity.

But I just wonder that without the limits, without any limits at all, whether or not we are going to have people out there now vying with one another seeing how much money they can raise for charities in the State and going to spread it over the State. Sure it is good. Does anyone doubt there is a residual political benefit to that? Of course there is a residual political benefit to that.

I can see a contest building up in the future, one vying against another to see how much money can be raised for charity and spread it over the State. It makes you look good.

It seems to me if you want to give to charity, you should give it out of your own resources like everyone else does without going out and earning it.

I am troubled by this, troubled more I guess by the fact there is no limit on it. Maybe if this was a $10,000 or $20,000 limit that would be okay, but there is absolutely no limit at all in what you can earn in honoraria and give to charity.

So I predict, standing here right now tonight, a year from now or 2 years from now the amount of honoraria earned by Members will not go down; it will simply be shifted. It will be shifted from them to charities. They will be disbursed all around the State.

Again I believe that is going to come back to haunt us in the future. I wish it were not in there. I wish there were some kink of a cap or limit in there because I think this is going to be a very troubling measure.

The PRESIDING OFFICER. Who yields time?

Mr. RUDMAN. I would like to ask whoever is controlling the time if I could have maybe 5 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I would like the attention of the Senate for one moment or, if they do not wish to pay attention, I would like them to read the RECORD. I would just point out that on page 3 of this document, line 12, and I hope everybody will read it because it is going to cause us a lot of problems, at least it is going to cause HOWELL HEFLIN and WARREN RUDMAN a lot of problems being the chairman and vice chairman respectly of the Senate Committee on Ethics. It says:

(d) The Select Committee on Ethics shall prescribe regulations specifying which expenses are and are not permitted to be included as "acctual and necessary travel expenses" (as such term is used in section 908(a) of the Supplemental Appropriations Act, 1983). Such regulations shall exclude any expenses which the committee determines to be unreasonable or excessive, including expenses attributable to an unreasonable length of stay.

I point out to the Senate that the history of why this language is in here is that there has been a great deal of criticism of Members who will go to a particular location and give a speech. They generally do not go to New Hampshire in the winter or Miami in the summer. It is usually quite reversed. If it is a wonderful balmy summer day, they will go and give a speech in New Hampshire or Maine. I am not sure they have any fish in Kansas. But they go to those kinds of places and give a speech and have 2 or 3 days of fishing or whatever with families and then return to the city.

I point out that even under this new resolution that charity or noncharity people are still free to go to places and give speeches because they want to speak to the group. I expect many of us will do that.

There are certain groups that we like to speak to because they can be very important in terms of support of legislation we might hold dear, such as acid rain legislation or all kinds of legislation.

The Ethics Committee is going to have to tell the Senator if you go to California, then it is all right to get out there on a Friday night, spend Saturday night there and maybe Sunday night but better be back by Monday night. If you want to stay beyond Monday, you better pay your own way back or maybe pay for your own hotel.

I submit to the Senate you are putting a burden on the Ethics Committee which I do not receive happily. I dare say Senator HEFLIN and I, by the time 6 months is over, we will be lucky if anybody speaks to us.

I am going to suggest in spite of what you have written in this resolution, I just serve notice on the Senate I intend to find some way to bring these regulations, which is not a rule, a rule the Senate would have to adopt, but these regulations which we have the power to adopt now to the floor in some way and let the Senate comment on the rules or regulations, if you will, that Senator Heflin and I and the other fortunate members of the Senate Ethics Committee bring to you and let the Senate decide what is reasonable and unreasonable because I am not sure we ought to try to do that by ourselves.

Mr. DOLE. No time limit. You could do that next year or whatever.

Mr. RUDMAN. I will let the majority leader make the decisions on the record. I will not repeat them.

Mr. MITCHELL. The Senator means the minority leader.

Mr. RUDMAN. The minority leader. Excuse me, Senator MITCHELL. I have a very bad memory of what happened a few years ago.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Two minutes.

Mr. MITCHELL. I yield 2 minutes.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to associate myself with the concerns expressed by the Senator from Iowa as to the fact that without any limit on honoraria it could very well be used as a very effective political process.

A group wanting to help a particular candidate could figure out a way to arrange for 30 or 40 or 50 speeches and make it possible for a candidate to distribute that money very effectively in a political campaign.

I am aware of the fact that we are operating under a unanimous-consent agreement and that, therefore, an amendment would not be acceptable at this point.

And I am also aware of the fact that to attempt to get a unanimous-consent agreement to offer an amendment notwithstanding the agreement that is in effect would really not be fair to many other Members of the Senate who may have a point of view on this subject.

But I would hope that we do proceed forward and if this becomes the reality that the leadership of the Senate would see fit to come back to the Senate with some limitation on the matter of honoraria notwithstanding the fact that it will be given to charity.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. The Senator from Iowa and the Senator from Ohio have raised an important and serious point. But I would point out to them and to make the record clear that this provision tightens the existing rules on honoraria contributions to charity. Under the existing rules, although it may not be widely recognized, the $2,000 limit per appearance applies only to the amount of income from honoraria which a Senator can retain. There is no limit on the amount which a single appearance now can produce for charitable contributions. So that under the existing rule, if the Senator from Ohio chose to do so, he could make an appearance, be paid $12,000, $10,000 of which would go to charity, $2,000 of which he would retain.

This provision reduces the maximum amount which can be contributed to charity from any one appearance to the $2,000 limit which, under existing rules, applies only to the portion that can be retained by the Senator.

That does not detract from the validity and the significance of the point they raise. It may well be that if the predictions made by the Senator from Iowa come true, we will want to revisit and reconsider this issue. In that case, it is something we ought to look at.

This attempts to strike a balance. It may not be the proper balance. Only time will tell that. We are all aware of the problems that have arisen in the past of being able to avoid the effect and application of these rules. So I say to the Senator, I respect the view he has expressed. He has raised a good point. He should be aware that the provision does tighten existing rules and that we ought to watch this, we ought to monitor it carefully and, should the circumstances which he predicted occur, then I think clearly we all ought to come back and revisit this. And, of course, Senators are free at any time to suggest proposals to modify this if this takes effect. So I thank the Senator for his views.

Mr. MURKOWSKI. Will the majority leader yield for an observation?

Mr. MITCHELL. I yield to the Senator from Alaska.

Mr. MURKOWSKI. I thank my friend the majority leader.

As the debate this evening comes to a close, it would be the observation of the junior Senator from Alaska and perhaps others, that what we have accomplished this evening is to vote no on a pay raise, to vote no on taking an honorarium, yet to leave the door open to take both. So, I thank the majority leader. I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. DOLE. I yield back all remaining time on this side.

Mr. MITCHELL. If no other Senator wishes to speak, I will yield back all remaining time on this side.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the resolution.

The resolution (S. Res. 40) was agreed to, as follows:

S. RES. 40

Resolved, That (a)(1) on or after the first day that there takes effect the recommendations of the President relating to rates of pay for the Executive, Legislative, and Judicial branches as included (pursuant to section 225(h) of the Federal Salary Act of 1967) in the budget transmitted to the Congress for fiscal year 1990, no Member, officer, or employee of the Senate may accept any honorarium on or after such first day, or accept any honorarium before such first day if it is to be earned on or after such first day.

(2) Any payment which, except for paragraph (1) of this subsection, might be made to a Member, officer, or employee of the Senate, but which is made instead on behalf of such Member, officer, or employee to a charitable organization, shall be deemed not to have been accepted for purposes of this subsection. No payment may be made pursuant to this paragraph which exceeds $2,000 for any speech, appearance, or article.

(b)(1) No contribution by or on behalf of a Member, officer, or employee of the Senate may be made under a pension, annuity, or other retirement plan if—

(A) a deduction for such contribution would be allowable to such Member, officer, or employee for Federal income tax purposes, but

(B) such contribution would not be so deductible if amounts to which paragraph (2) of subsection (a) applies were not taken into account.

(2) The provisions of paragraph (1) shall not apply to any contribution made with respect to amounts received before the first day referred to in subsection (a).

(c) For purposes of this resolution—

(1) the term "employee" has the same meaning as defined in paragraph 10(a) of Rule XXXVII of the Standing Rules of the Senate;

(2) the term "honorarium" has the same meaning as defined in section 908(a)(2) of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1); and

(3) the term "charitable organization" has the same meaning as defined in section 908(a)(1) of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1).

(d) The Select Committee on Ethics shall prescribe regulations specifying which expenses are and are not permitted to be included as "actual and necessary travel expenses" (as such term is used in section 908(a) of the Supplemental Appropriations Act, 1983). Such regulations shall exclude any expenses which the committee determines to be unreasonable or excessive, including expenses attributable to an unreasonable length of stay.

(e) No donation to a charitable organization, or other entity, made at the request of or on behalf of a Member, officer, or employee of the Senate may be converted to the personal use of such Member, officer, or employee either during or following the term of service of such Member, officer, or employee in the Senate.

(f) After the effective date of this resolution, nothing in section 908 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1) shall be construed to permit the acceptance of any honorarium by any Member, officer, or employee of the Senate.

SEC. 2. This resolution shall be in effect so long as the recommendations referred to in the first section are in effect.

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

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

The motion to lay on the table was agreed to.

COSPONSORSHIP

Mr. MITCHELL. Mr. President, several Senators have inquired about cosponsorship. We would like to permit every Senator the opportunity to cosponsor this resolution who wishes to do so. I would, therefore ask, unanimous consent that the matter be left open for cosponsorship through next Tuesday.

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

Mr. MITCHELL. Mr. President, the vote that we have just had is significant. Although there was not a recorded vote, it would have, if recorded, been overwhelmingly in favor. That is indicated by the fact that there was very little said in opposition to the resolution, but some questions raised about some aspects of it. I think it is significant that the Senate, by an overwhelming vote, has chosen to go on record stating that in the event the pay raise goes into effect there will immediately go into effect a ban on honoraria.

As I said earlier, Senator DOLE and I wanted to do that lest any question arise that the pay raise take effect and then we would be in a position to continue receiving large amounts of honoraria.

AIDS UPDATE

Mr. CRANSTON. Mr. President, according to the January 30, 1989, AIDS Weekly Surveillance Report, 84,985 Americans have been diagnosed with AIDS; 48,582 Americans have died from AIDS; and 36,403 Americans are currently living with AIDS.

Mr. President, 2,581 more Americans have developed AIDS and 2,448 Americans have died from this horrible disease since I last noted these statistics 5 weeks ago.

Mr. President, a few days ago, the FDA approved the drug pentamidine for use under certain circumstances to treat Pneumocystis carinii pneumonia, the most common opportunistic infection associated with AIDS. Approval of the drug comes under a new policy that allows more rapid release of drugs for life-threatening diseases.

Mr. President, this is a bold and promising step. However, very careful followup surveillance and monitoring of the drug must continue to determine for certain its safety and effectiveness.

I ask unanimous consent that a February 2 Washington Post article describing this decision be printed in the RECORD at this point.

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

AIDS DRUG APPROVAL: A SHIFT IN RESPONSIBILITY?

(By Michael Specter)

By deciding to permit unusually rapid release of a drug that promises to extend the lives of AIDS patients, federal health officials have demonstrated their willingness to hasten a drug-approval process critics have called needlessly burdensome.

AIDS activists have hailed the move as bold and compassionate. But for many scientists Tuesday's decision by the Food and Drug Administration to approve the drug pentamidine raises anew questions about the degree of scientific certainty required to permit release of drugs used to treat any life-threatening disease.

The decision, scheduled to be announced next week, will permit physicians to prescribe pentamidine, inhaled as an aerosol spray, to people infected with the AIDS virus and whose count of certain immune system cells, called T-4, has dropped to 200 or less. The drug will be used as a preventive against Pneumocystis carinii pneumonia, the most common killer among the many AIDS-related infections.

"My highest priority since I came to the agency is to get drugs to the desperately ill and people that need them as quickly as possible," said FDA Commissioner Frank E. Young. "For those people, it is clear they are prepared to take a different set of risks when a disease threatens their lives."

This decision illustrates that the burden of judging the value of many experimental drugs may shift from the FDA to physicians and their patients.

Most experts agree that, just three years ago, aerosolized pentamidine would not have been approved unless more were known about it. Research shows that it is effective in preventing a return bout of the pneumonia, but there is not yet enough information to be certain that it will prevent the first occurrence as well, a use for which it is to be approved.

Yet, this infection kills such a high proportion of people with AIDS—nearly two-thirds—that federal health officials agree the probable benefits outweigh some uncertainty about its side effects.

"I really wish there were ways that make everyone a little more comfortable about this process," said Jere Goyan, a former FDA commissioner who is dean of the pharmacy school at the University of California at San Francisco. "If you extrapolate from what looks right, there are a lot of AIDS and cancer drugs you could approve without further testing. Some of them would work, but certainly some of them wouldn't."

Federal health officials said they are comfortable with this decision but that each case will have to be considered on its merits. They also stress that because the burden of judging who should receive experimental treatments has shifted—at least in this case—it will become more important to follow up the drug's release with detailed studies of its effectiveness and safety.

Assistant Secretary of Health and Human Services Robert E. Windom said surveillance after release will be one of the most critical elements of the new program. In the past, he said, FDA gathered a huge cache of data

before releasing a drug. After release, study was sporadic.

"Now we have shifted gears," he said. "We don't have as much preliminary information so we need to follow the drug aggressively once it is on the market."

Under FDA's plan, the drug—which is inhaled once a month—will be given a "treatment IND," or investigational new drug status, which will allow it to be made available on a somewhat restricted basis before the agency grants final approval to sell it through normal commercial channels.

Federal sources said final approval should be routine and come within six months.

"This is a very courageous move on their part," said Jerome Groopman, an AIDS researcher at Harvard Medical School. "It sets an important precedent because it is a realization on the part of the FDA that drug development needs to be tailored to the realities of AIDS."

NATIONAL WOMEN IN SPORTS DAY

Mr. BRADLEY. Mr. President, I rise to join the Senator from Oregon [Mr. PACKWOOD] in introducing a joint resolution, Senate Joint Resolution 32, to designate February 2, 1989, as "National Women in Sports Day."

Although the history of women in sports is rich and long, there has been little national recognition of the significance of women's athletic achievements. Over the last 15 years, many women athletes in our country have emerged as international figures. Their talent, determination, and dedication serve as an example for all Americans. National Women in Sports Day recognizes the importance of these athletic achievements to our country.

Today, over 10,000 women attend college on athletic scholarships. Women represent 30 percent of all college athletes, yet the athletic opportunities available to male students at collegiate and high school levels remain significantly greater than those for female students. This day provides us the opportunity to acknowledge the existence of such injustices, while emphasizing the progress women have made in the athletic community.

Over the last decade, there has been a decline in the number of women in athletic leadership positions including coaches, officials, and administrators. Women need to be restored to these positions in order to ensure equitable representation of women's abilities and to provide role models for young female athletes.

Mr. President, athletic fitness contributes to emotional as well as physical health. Women's athletics is one of the most effective avenues available through which women of America may develop self-discipline, initiative, and confidence, as well as acquire leadership and communication skills. The bonds built among women through athletics help to break down social barriers of racism and prejudice. The positive effects of participation in athletics are bound to carry over to the athlete's contribution at home, at work, and to society.

"National Women in Sports Day" is an affirmation of these positive effects.

NATIONAL WOMEN AND GIRLS IN SPORTS DAY

Mr. PACKWOOD. Mr. President, today marks the third anniversary of the national recognition of National Women and Girls in Sports Day. It is a day to mark how far female athletes have come in achieving their goals and a day to set their sights to the future.

Throughout the country today and during the coming week, different groups are recognizing outstanding women athletes and the importance that sports have played in their lives. Besides the tremendous benefit of physical fitness, athletic activities have been shown to increase a woman's self-image and confidence. Girls who regularly participate in sports are more likely to develop into talented leaders and to avoid the pitfalls of drugs and dependency which lay claim to far too many of our youth.

In the 3 years since I first introduced this day, I have met many outstanding female athletes who point to the passage of title IX of the Education Act Amendments of 1972 as a watershed mark on their lives. Title IX, coupled with last year's Civil Rights Restoration Act, give real hope for female athletes who clearly have the drive to succeed but only lack the necessary means.

By appreciating the strides taken by female athletes across the last decade, we can see that we clearly have the momentum to reach the ultimate goal of sporting opportunity for all girls and women. A great step toward this goal will be taken with the effective enforcement of the Civil Rights Restoration Act by the executive branch.

Apart from the legislative approach, one of this day's most important activities is recognizing outstanding role models for young athletes. Earlier today, I was privileged to announce that this year's Flo Hyman Award winner is Evelyn Ashford.

The Flo Hyman award is named in honor of the late American volleyball star who died tragically from a rare heart disorder in 1986. I first met Flo in 1984 when she was lobbying Congress on behalf of the Civil Rights Restoration Act. She impressed me with her commitment and leadership. Even when it became apparent that in 1984 the Senate was not yet ready for our bill, Flo never gave up and was still supporting our efforts at the time of her death.

Evelyn Ashford embodies the best attributes of leadership and commitment to women in sports that befits one who is to receive an award bearing Flo's name.

Her athletic achievements are breathtaking. She has been an American Olympian since the 1976 Montreal games. A multiple medal winner in the last two Olympics, she is the proud owner of three gold medals and is a former world record holder in the 100 meter dash.

Off the field, Evelyn is an outstanding citizen of her profession. She is the cochairperson of Athletes for Literacy, demonstrating a willingness to share in the fruits of her success. Just today, at our press conference, she made a moving plea for a women's track movement which is free from the taint of drugs.

Most importantly, her fellow athletes seem to recognize those qualities which make Evelyn so special. She has been repeatedly cited for the inspiration and motivation which she supplies to younger athletes. She was elected by her peers to carry the American flag at last year's Seoul Olympic games. It was no accident that she was selected to anchor the gold medal effort by our women's 4x100 meter relay team. She is an anchor of integrity and talent, as well as one of the few anchors who can run the 100 meters in under 11 seconds.

I wish Evelyn well and hope to see her continue running for years to come.

WOMEN'S SPORTS FOUNDATION

Mr. STEVENS. Mr. President, I rise to join my colleagues to commend the Women's Sports Foundation on another successful day to recognize and pay tribute to the contribution of girls and women to various sports. However, we should simply not recognize the strides made by women in the world of sports for 1 day. It is important to support women's athletics as well as traditional men's sporting activities.

It is revealing to reflect on the fact that the world record time of Janet Evans put in 4:03:85 in the 400-meter freestyle during the recent Olympic games would have won the men's event 20 years ago. As more opportunities in sports become available, women will continue to close the gap between comparable men's and women's events. The issue in women's athletics has never been ability, it has always been the availability of opportunity to compete.

Today, Evelyn Ashford was presented with the Flo Hyman Award by the President. Her achievement at the Seoul Olympics, her third gold and a silver medal, distinguish her as a great athlete by any standards. Evelyn is a cochairperson for Athletes for Literacy. Her leadership and example will inspire countless young Americans. I commend her, the other athletes par-

ticipating in National Girls and Women in Sports Day, and all those who took a moment today to reflect on the growing role women play in American athletics.

NATIONAL WOMEN AND GIRLS IN SPORTS DAY

Mr. KENNEDY. Mr. President, it was in 1971 that a young student in Connecticut tried out for the men's cross country team because her high school did not have a women's team. She won a spot on the roster but lost her day in court. The judge, in upholding an interscholastic athletic rule, prohibited Susan Hollander from competing with her teammates. In rendering his decision, the judge declared that "athletic competition builds character in our boys. We do not need that kind of character in our girls."

Fortunately, attitudes like that have changed, and so too have the opportunities for women in sports. Unfortunately, there is still a long way to go.

I am proud to join my colleagues as a cosponsor of Senate Joint Resolution 32 which designates February 2, 1989, as "National Women and Girls in Sports Day." It is a day to reflect on the important contributions of women in sports. There are the accomplishments of triple gold medalist and recipient of this year's Flo Hyman Award, Evelyn Ashford. There is Chris Evert—winner of 18 Grand Slam singles titles—who will retire at the end of this year, and who has been an outstanding role model for young women in sports for two decades. There were the outstanding Olympic performances in 1988 by Florence Griffith-Joyner, Janet Evans, Bonnie Blair, Jackie Joyner-Kersee, and the women's basketball team. There is Pam Ann Fletcher of Acton, MA, who is America's best hope for a gold medal in the World Alpine Downhill Skiing Championship this Sunday in Vail, CO. There are many heroes and role models. But it is also important to celebrate the achievements of the thousands of girls competing in Little League and the millions of young women participating on high school and college athletic teams.

In 1972, Congress passed title IX as part of the Education Act amendments to provide statutory protection against sex discrimination. The impact of title IX on the growth and development of women's sports is one of the great success stories of the past two decades. In 1972, there were 32,000 women participating in college athletics; by 1983 the number of female college athletes had soared to 150,000. During the same period, expenditures for women's athletic programs at NCAA schools increased from $4 million annually to $116 million.

Progress was sidetracked for a time, however, and the fragile nature of statutory prohibitions against discrimination made clear, by the Supreme Court decision in the Grove City College case, in which the Court ruled that title IX applied only to the specific college programs which received Federal funding. Thus, college athletic departments which rarely, if ever, received Federal funds, were free to discriminate, even though other parts of the college received substantial Federal aid. Congress never intended that bizarre result, and last year we restored the antidiscrimination law to its broad prior status.

I am encouraged by the restoration of title IX, but I remain concerned about the pace of progress for women in sports. A 1982 study found that only 28 percent of financial aid to division I athletes went to women. Less than half of the intercollegiate women's athletic teams are coached by women. And only 16 percent of women's athletic programs in colleges are headed by women.

While progress has been obvious for women in individual sports like tennis, golf, and skiing, our goals for support, recognition, and equality for women's team sports have not been achieved. Many of us have watched the men's basketball teams from Oklahoma, Georgetown, Notre Dame, and UCLA compete this season, but how many even know that undefeated Auburn is the No. 1 ranked team in women's basketball? This season, the three major networks plan to televise more than 80 men's basketball games, yet they will televise only one women's game—the championship. As Billie Jean King, a pioneer for women in sports, wrote in her autobiography, "women's sports will have arrived only when women's teams sports are accepted."

A "National Men and Boys in Sports Day" is not necessary—the achievements and opportunities for men are celebrated continuously with the Superbowl, the World Series, and the NBA and NCAA championships. While I am encouraged by the progress made during the last two decades, I look forward to the day when such a resolution will be as redundant for women as it now is for men.

FSX SALE: A BAD DEAL FOR THE UNITED STATES

Mr. DIXON. Mr. President, yesterday 12 members of the Senate sent a letter to President Bush, urging him to have a complete review of the FSX Japanese Fighter Plane Agreement. This request was made in the spirit of "bipartisanship in foreign policy and the close consultation with the Congress" that President Bush proposed in his inaugural address.

Just last Sunday, Mr. Clyde V. Prestowitz wrote an article for the Washington Post entitled "Giving Japan a Handout." Mr. Prestowitz points out that this FSX deal "* * * does not provide the most cost-effective defense for either country." I agree with Mr. Prestowitz.

The FSX codevelopment agreement between our country and the Japanese allows them to acquire advanced United States technology to develop competitive commercial and defense aircraft industries that will compete against our firms sooner, probably much sooner, than they otherwise would. This program gives the Japanese access to coveted United States technology that will enable them to compete against our own companies and threaten United States jobs. I do not believe this technology sale, as presently constituted, is in the best interest of our country. I believe we need to do a better job of negotiating this program to protect our technology base and to protect future American jobs.

I am extremely disappointed that the Defense Department has ignored congressional direction by not working with the Commerce Department in negotiating these sales. I know my good friend Senator BINGAMAN, as subcommittee chairman of the Defense Industry and Technology Subcommittee, shares this concern. He was responsible for the language in last year's defense authorization bill which directed the Defense Department to consult with Commerce in negotiating memorandums of understanding.

I find it hard to believe that the Defense Department and State Department do not realize that we need to protect the long-term health and competitiveness of our aerospace industry. I see the same errors being made as were made in the sale of the F-15 to Japan. The General Accounting Office report to Congress on that sale pointed out that State and Defense were not concerned with the U.S. industrial base; they were more concerned with the foreign policy implications. Well, I think it is about time that those Departments of Government that are concerned about our industrial well-being are included in these decisions. If these questions are left solely to the State and Defense Departments, in a few years we will not have any technology left to sell.

Mr. President, we had a $50 billion plus trade deficit with Japan in 1988. Still, the Japanese refuse to buy the best fighter plane in the world today. They want to use the F-16 technology to build 120 fighter planes. They can buy these 120 fighter planes from us for far less than it will cost them to do the research and development for the FSX.

Mr. President, I want to congratulate the ranking member of the Senate Foreign Relations Committee, my friend from North Carolina, Senator HELMS, for taking the lead in asking

the administration to delay sending this agreement to Congress for 60 days. I also extend congratulations to my friend, the Senator from New Mexico, Senator BINGAMAN, for his hard work on this FSX sale.

I urge all of my colleagues to read the Prestowitz article and also the letter which a number of us have sent to the President.

Mr. President, I ask unanimous consent that the Prestowitz article and the copy of the letter I discussed previously be included at this point in the RECORD.

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

GIVING JAPAN A HANDOUT: WHY FORK OVER $7 BILLION IN AIRCRAFT TECHNOLOGY?

(By Clyde V. Prestowitz)

First it was TV sets, then VCRs, then semiconductors. Now, unless Congress and the administration act quickly the United States will shortly give Japan a big boost toward its long-sought goal: leadership in aircraft manufacture, one of the last areas of American high-technology dominance.

A few days ago, General Dynamics signed a licensing agreement under which—despite its technological superiority—it will become a subcontractor to Japan's Mitsubishi Heavy Industries in a so-called co-development project to create Japan's next-generation "FSX" fighter.

The administration must now process an export license and notify Congress. If neither Congress nor the affected federal agencies raise an objection within 30 days, the deal will go through. Before it does, we should pause and reconsider. This agreement may not be in the best interests of the United States for a number of reasons:

By diverting scarce Japanese defense dollars (Japan spends only 1 percent of its GNP on defense) from immediate procurement needs into a 10-year project, the deal will increase the U.S. burden in defending Japan. It does not provide the most cost of effective defense for either country.

The deal is being done with practically no consideration of its potential long-term impact on the competitive capability of U.S. industry or of its possible exacerbation of the U.S. trade deficit with Japan.

It will transfer technology developed at great expense to U.S. taxpayers at very low cost to a country whose primary interest is not defense but catching up with America in aircraft and other high-technology industries.

The fighter deal is typical of a broader problem in America's relationship with Japan. When dealing with Tokyo on trade issues, the United States is a pussycat. Too often, our government and corporate officials act as if there's something wrong with bargaining hard to maintain America's economic position in the world. In our anxiety about offending the Japanese, we're ready to give away the store. The Japanese don't bargain that way. They seek to protect their nation's economic interests. And so should we.

Under the General Dynamics-Mitsubishi arrangement, the GD-built F16, currently one of the Air Force's hottest fighters, will be stripped and virtually redesigned into a new fighter for deployment by Japan's Defense Agency (JDA) in the late 1990s. General Dynamics will provide all the technology—developed at an estimated cost of $7 billion from designing, producing and improving the F16 over the years. In addition, because GD is a competitor in the Air Force's latest development program (the advanced tactical fighter) and knowledge is fluid within the company, it is likely that some technology from the ATF program will also be transferred.

This is what General Dynamics will get in return: $440 million in subcontracting work from Mitsubishi on four development prototypes, possibly a share of component manufacture for eventual production of 130 planes, a possible transfer of allegedly advanced Japanese radar and composite-wing technology and possible royalties on future production of $75–$150 million.

The deal originated in the late '70s with a Japanese plan to replace its old fighters with new U.S.-made models in the mid-1980s. But soon thereafter, with Japan's growing emphasis on technology independence, the idea evolved into a plan to develop a Japanese plane from scratch. By 1985, the JDA had cut its original (and prohibitive) cost estimates by half and claimed that developing its own FSX would cost the same as buying from America.

Analysts in both countries were skeptical. In several meetings during 1986 and 1987—as the U.S. trade deficit with Japan neared $50 billion—Pentagon officials and American industry experts told the Japanese that the United States had three planes (the F18, F15 and F16) that could perform the required missions faster, cheaper and better. Alternatively, if Japan would not buy U.S. planes outright, they argued, it would still be better to produce slightly modified versions under license rather than reinvent the wheel.

In the spring of 1987 (as the U.S. Navy began to patrol the Persian Gulf, from which most of Japan's oil comes), the JDA again rejected the U.S. proposals in favor of self-development. While warning Japan that its attitude could harm relations between the two countries, U.S. officials compromised further, proposing "co-development"—which turned out to mean design modifications so extensive as to constitute virtually a new airplane.

In this country, the deal was announced a successful compromise. But Japan's noted aerospace analyst Eiichiro Sekigawa said in Tokyo that "Japanese industry got most of what it wanted. In the end 80 percent will be Japanese."

Proponents of the agreement in the departments of State and Defense have been touting it as a breakthrough and a model for future projects. Among the advantages they cite: It will maintain U.S. influence and deter Japan from becoming a leading independent aircraft producer by denying it the experience of developing a plane entirely on its own. It will improve defense capabilities by yielding a better plane than Japan could make on its own, and get U.S. industry 40 percent of the development work and a piece of the eventual $8 billion production expenditure instead of nothing. It will also give us access to advanced Japanese technology and develop cooperative industrial relationships that will ensure continuing access and costsharing in the future. And it will do all this at no risk to American industry because the U.S. contribution is "mostly old technology."

Critics, however, argue that technology is only old if you already have it. Since the Japanese do not, infusion of U.S. technology can only spur rather than delay Japan's advance. The deal may yield a better plane than Japan could have made. But the U.S. could have done that itself.

The other putative benefits of the deal are tentative. Although GD's $440 million subcontract is supposed to be 40 percent of the development budget, both Japanese and American analysts believe that budget to be underestimated by half or more. Thus GD's share may be less than 20 percent.

Moreover, whether GD will get any of the eventual production run depends on Japan's evaluation of the prototypes. If they are found unacceptable, Japan could cancel the deal, take the technology and go on to build its own FSX as it planned originally. But even with a "go" on production, GD's share is subject to negotiations after prototype evaluation. Industry experts in both countries are skeptical that the JDA, which has been the main force behind development of the Japanese aircraft industry, will give GD more than a few bones.

There is also serious doubt as to whether the advertised Japanese technology is genuinely advanced—and whether GD will get it if it is. Industry experts are unanimous in the view that U.S. firms such as McDonnell-Douglas, Lockheed and Boeing are the world leaders in composite-materials technology. The Air Force's top composite engineer, Ted Reinhardt (who was consulted on the deal only last month after three years of negotiation had brought it near conclusion), says that on the basis of what the Japanese showed his people, they are far behind U.S. companies. In addition, even if Mitsubishi does have something interesting, GD officials have told the Pentagon that the company would have to build at least six of the 14 planned test wings in order to benefit from Japanese composite technology. But under the agreement, GD will be making only four.

Finally, because Japan doesn't make advanced jet engines, the plan will have to be powered by engines from either Pratt & Whitney or General Electric. The criteria for selection will likely involve how willing either company is to transfer "hot-section" and digital fuel-pump technology.

Thus, say the critics, in the worst-case scenario the United States could be creating a powerful competitor in its best export industry for a relative pittance in subcontract fees. And even if GD gets a substantial amount of eventual production work, the return to the United States will be far less than if we had sold Japan our planes or licensed their manufacture there.

Ultimately, however, the issue is much broader. It goes to the heart of the U.S. relationship with Japan. To ensure the best defense for that country, both supporters and critics of the GD-MHI arrangement agree on a number of points: Japan needs a fighter now rather than eight to 10 years from now, when the FSX will become available; the specifications for the FSX are far more demanding than necessary to perform most of its presumed missions; the same specs make it less than optimal for other probable missions; three existing U.S. planes can perform all possible missions and can do them now or in the near future; the U.S. planes would cost half to a third as much as developing and producing the FSX; interoperability of U.S. and Japanese aircraft is highly desirable, but cannot be obtained with the FSX.

Two obvious questions arise. First: Why would Japan, when it is under immense international pressure to share more of the defense burden, choose a course that will

waste scarce resources in both countries, aggravate the trade problem and still provide a suboptimal defense? And second: Why would the United States cooperate in such an undertaking?

U.S. SENATE,
Washington, DC, January 31, 1989.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing in regard to the proposed sale of U.S. F-16 fighter technology to the Japanese for incorporation into their FSX aircraft. There are complex issues involved in this program, including defense burden-sharing and the larger question of its long-term impact on the health and competitiveness of the American aerospace industry, the only high technology area in which the United States remains the undisputed world leader.

It is this latter question that we believe in particular has been ignored in the FSX negotiations, which have been conducted by the Departments of State and Defense to the exclusion of USTR and the Department of Commerce. Executive Branch proponents of the FSX deal cite it as the model for the future. However, before the United States goes a step further down this road, we think that the FSX program should be fully considered by all cognizant Cabinet departments and that all relevant issues should be thoroughly reviewed.

Therefore, in the spirit of the bipartisanship in foreign policy and the close consultation with the Congress that you proposed in your inaugural address, we are requesting that you order a complete review of the FSX program within the Administration, including the Departments of Commerce, Labor, and Energy, as well as the Office of the Trade Representative and the White House Science Office. We hope that your Administration will refrain from any further commitments on the FSX until that review has been completed and the Congress has been fully consulted.

We realize that during the upcoming visit of Japanese Prime Minister Takeshita, there will be intense pressure from the Japanese, and perhaps from those within DoD and State who negotiated the FSX deal, to give the full commitment of the President to the program. However, to do so without a full assessment of the program's long-term impact would not be in the best interests of the United States.

It is our hope that the proposed review will establish guidelines for programs like the FSX which may be considered in the future and that all concerned Executive Branch agencies will be included both in internal Administration discussions and in negotiations with foreign governments from the very inception of consideration of a proposed program.

We would like to thank you for your consideration of this critical issue and we look forward to receiving your reply.

Sincerely,

Senators Helms, Bingaman, Dixon, Murkowski, Ford, Danforth, D'Amato, Hollings, Byrd, Wirth, Gore.

UKRAINIAN INDEPENDENCE DAY

Mr. DIXON. Mr. President, January 22, 1989, marked the 71st anniversary of the independence of the Ukraine from the Soviet Republic forged by the success of the Russian revolution. Though divided, the Ukraine resisted Communist takeover until the early 1920's, only to face the wrath of the Stalin government in the 1930's. At the end of the Second World War, the Ukraine once again found itself occupied by Soviet troops, which continues until the present day.

Although Ukraine has its own officially separate Soviet Government and is a founding member of the United Nations, any attempt by Ukraine to exercise its right to self-determination and independence is brutally punished by Moscow.

The people of the Ukraine, and their relatives worldwide, many of whom reside in my State of Illinois, have been peacefully resisting occupation of their land, deportation of their peoples, and russification of their culture.

Ukrainian immigrants have brought with them their love of freedom, their work ethic, and their culture. Indeed, Ukrainian achievements in art, music, scholarship, science, industry, philosophy, and commerce have enriched every aspect of our lives.

I am completely committed to self-determination and freedom for the Ukraine. We must never forget the Ukrainian struggle. For, when we support the people of the Ukraine, we support the pursuance of liberty in the United States and everywhere. And when we continue our support of the Ukraine, we know that one day freedom will come to the Ukraine. As Taras Shevchenko, the poet who has come to be known as the Father of the Modern Ukrainian nation once wrote, "the Ukraine awaits its own General Washington!"

STRATTON LINES

Mr. LEAHY. Mr. President, I go back to Vermont almost every weekend. It is the best way I know to find out what's going on in Washington.

Sure, we watch the evening television news and read the hometown newspapers to measure public reaction to the events of the day. During election years, we take polls as well.

But in Vermont, you can catch up on all the news of the State and world—and get an earful of editorial opinion as well—just by dropping by the Oasis Diner on Bank Street in Burlington.

The food is wonderful, and the prices very modest. The conversation, however, is priceless, and the biggest attraction is the man who pours your coffee—Stratton Lines.

Stratty has presided over this downtown debating and chowder society for 35 years—and his clientele includes former and present Governors, U.S. Senators, mayors, State legislators and visiting dignitaries including a former Vice President of the United States.

It was a heady experience for a young, Burlington lawyer seeking his first public office to enter this political hall of fame—I can tell you. I would sit at the counter and just listen to these men and women, awed by their very presence in the same room.

But even more awesome was the direct cross examination they endured—and enjoyed—from Stratty on the other side of the counter.

My biggest regret today is that I can no longer slip into one of the booths unnoticed—and enjoy the advantages of anonymity that would allow me to eavesdrop on the wonderful give and take between Stratty and his customers.

Today, I am the one who feels the heat—Stratty plays no favorites—and the fact that I keep going back for more is a tribute to both the food and the conversation.

It does not seem that 35 years have gone by since the diner was erected on that corner. But for those of us who have lived in Vermont all our lives, it remains one of those institutions unaffected by the passage of time that you cling to as you grow older—or as Stratty would not hesitate to say—as your hair grows thinner.

By my figuring, only my mother and wife have served me more coffee than Stratty Lines—or more meals. It has been quite a bargain when you toss in the political education that went with it. And I am still learning from my friend.

Of all my fond recollections of the times I have spent with the Oasis regulars, a cold, November morning in 1974 remains foremost in the minds of the Leahy family.

I had just become the first Vermont Democrat popularly elected to the U.S. Senate.

When I went down to the Oasis the next morning, I brought Marcelle and the children, Kevin, Alicia, and Mark. Stratty met me at the door to announce a new management policy.

On that day, Stratty said, newly elected U.S. Senators, and their families, were entitled to a postelection breakfast on the house.

He made us feel special—in a very special place. Our lives were changing—but some things never change. We never forgot that. Today, I rarely miss the chance to have a cup of coffee with my friend whenever I am in Burlington.

Mr. President, it is the 35th anniversary of the Oasis—and as long as there are Vermonters who enjoy a good cup of coffee, a tasty meal and friendly conversation, the Oasis Diner will have the lights on.

To Stratty and his family and all the folks who work behind the counter and in the kitchen, the Leahy family says thanks for the wonderful memories, and the times still to come.

In honor of this special occasion, Mr. President, I ask unanimous consent that an article that appeared in the January 26, 1989, edition of the Bur-

lington Free Press be reprinted in the CONGRESSIONAL RECORD.

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

[From the Burlington (VT) Free Press, Jan. 26, 1989]

FOR 35 YEARS, DOWNTOWN DINER AN OASIS FOR LUNCHTIME CROWD

(By Ian Polumbaum)

Wednesday was mid-life at the Oasis.

Three and a half decades is a long life for any restaurant, but Stratton "Stratty" Lines shows no sign of slowing down.

The day began with a live radio broadcast and gathering of several well-known customers, including former Gov. Philip Hoff. By early afternoon, aside from the flowers and 35th anniversary cards near the cash register, it appeared just another lunchtime at Lines' Oasis Diner on Bank Street.

A mix of long-time and first-time customers sampled the simple, made-to-order fare while Lines, 59, remarked on how little the stainless steel Art Deco structure had changed since his father opened it Jan. 25, 1954.

"The only thing we've really changed, we've reupholstered the seats," he said. "And we got some new coffee urns."

Prices, of course, have changed: Coffee once cost a dime a cup and a hamburger, now $2.10, cost a quarter. But the regulars' allegiance has not.

"It's kind of a club affair," said R.E. "Whitey" Palmer, a Burlington funeral director. Just back from Florida, he popped in for a chicken salad sandwich and a piece of pie and said, "I didn't realize it had been 35 years."

A prominent local lawyer, Charles Tetzlaff, sat at the counter for a Blue Plate Special, which on this particular day was tomato macaroni soup, hot dogs and beans.

"He normally has a soup and a sandwich," Lines offered, as he and Tetzlaff struggled to remember when the attorney first ate there. They agreed it roughly coincided with his departure from the prosecutor's office, around 1970.

The "club affair" includes a long line of local politicians. In fact, a 1979 obituary for former state Treasurer Frank Davis listed him as "chairman of the board of the Oasis Dining Club."

Palmer's history as a customer predates the Oasis, to the years when Harry Lines ran the Miss Burlington Diner on South Winooski Avenue, on a site now occupied by the Nickelodeon cinemas. "I'm an institution here, about 100 years," said the 75-year-old Palmer.

The start of the Oasis was not without twists. Hoff, who as friend and lawyer helped Harry Lines acquire the Bank Street property, recalled that when Mountain View Diners of Singac, N.J., finished making the new building, New York State officials refused to let it be transported to Vermont.

"There was a time I thought it was going to stay in New Jersey forever," Hoff said.

Eventually, the Oasis was shipped to Vermont in pieces in late 1953. "Stratty" Lines, then 24, left his job at the General Electric Co. plant and plunged into his father's business. When Harry Lines died in 1962, "Stratty" took over.

This reins may be passed again within the family. Nothing is definite, but Lines would like to retire and let Jon, the oldest of his four children, take over.

"If he wants me to, I will," said Jon Lines, 25, who has worked full-time at the diner for four years. "It's definitely something that's too good to give up.

"Everybody comes here for a certain reason. There's a lot of things that go on just between the help and the customers, little inside jokes, that can bring someone up if they're down," he said.

Hoff said of his frequent visits: "I expect a lot of political conversation, a lot of good-natured joshing. You can go there and see the same people day in and day out."

WEIRTON STEEL: AN ESOP SUCCESS

Mr. ROCKEFELLER. Mr. President, on January 11, the community of Weirton, WV, celebrated a tremendous anniversary. On that date 5 years ago Weirton Steel became the Nation's largest employee-owned corporation [ESOP]. Since the employees first made the decision to purchase their mill, both the citizens of Weirton and the employees have demonstrated a remarkable combination of tenacity and innovation that serve as an inspiration to us all.

This year, Weirton Steel will distribute profit-sharing bonuses totaling $75 million to its 8,000 employee-owners. Anyone at all familiar with the recent history of our steel industry will recognize what a truly remarkable achievement this is.

Weirton's accomplishments are all the more noteworthy in light of the circumstances of its founding. The decision by National Steel in 1982 to close the mill and eliminate 8,000 jobs was a devastating blow. The lifeline of the community was to be cut.

Instead of accepting defeat or being overwhelmed by the task of rescuing the plant, the mill's employees and the citizens of Weirton took matters into their own hands. As Govenor of our State then, I was privileged to work with those involved. I saw first hand the enormous courage they mustered. Before negotiations to buy the mill could even begin, money had to be raised to study the plan's feasibility. Through a combination of local, State, and Federal grants and private contributions, the initial funds were raised and the study undertaken. After reviewing a generally optimistic report which nevertheless recognized the need to cut wages and benefit costs by 20 percent, the employees in 1984 overwhelmingly agreed to make the concessions and accept the proposal to buy Weirton Steel.

Since then, the plant has become a shining example of successful cooperation between labor and management. From the shop floor to the board room, worker participation in decisions affecting the mill's operation has flourished. In the years since the buyout, Weirton has become one of the Nation's most profitable integrated steel mills. It has shown profits for 20 consecutive quarters, at a time when most of the steel industry experienced dismal returns. Recognizing the crucial role of research and development, Weirton has pushed to improve and expand its products. Confronting the hard realities of a rapidly changing industry, it has been steadfast in its commitment to plant modernization.

I am proud of these successes, and pleased to share in the sense of accomplishment so rightly felt this month on the fifth anniversary of Weirton's creation. Tough times and hard decisions still face Weirton Steel, but the future is full of promise. Already, Weirton has served as a beacon of hope for distressed communities across America. I am confident that the vision which animated its founding will continue to light the way.

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.)

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-409. A communication from the Chairman, Commodities Futures Trading Commission, transmitting, a draft of proposed legislation to amend the Commodity Exchange Act, as amended; to the Committee on Agriculture, Nutrition, and Forestry.

EC-410. A communication from the Secretary of Defense, transmitting, pursuant to law, a report certifying that the Navy has budgeted sufficient funds for fiscal years 1990 through 1994 to participate in the demonstration and validation program for the Advanced Tactical Fighter; and the Air Force has budgeted sufficient funds for fiscal years 1990 through 1994 to participate in the full-scale development of the Advanced Tactical Aircraft; pursuant to P.L. 100-180, referred jointly to the Committee on Armed Services and the Committee on Appropriations.

EC-411. A communication from the Chairman, Panama Canal Commission, transmitting, pursuant to law a report covering the operations of the Panama Canal during the fiscal year 1988; to the Committee on Armed Services.

EC-412. A communication from the Chairman, Securities and Exchange Commission, transmitting, a draft of proposed legislation to authorize new types of enforcement remedies; to the Committee on Banking, Housing, and Urban Affairs.

EC-413. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report extending for the period January 21, 1989 through January 20, 1990, certain report controls maintained for foreign policy purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC-414. A communication from the Deputy Secretary of Transportation, transmitting, pursuant to law, a report on the methods of air traffic control which might be utilized at the Grand Canyon Airport in Grand Canyon, Arizona; to the Committee on Commerce, Science, and Transportation.

EC-415. A communication from the Deputy Secretary of Transportation, transmitting, pursuant to law, a preliminary status report on the long-term airport capacity needs study; to the Committee on Commerce, Science, and Transportation.

EC-416. A communication from the Deputy Secretary of Transportation, transmitting, pursuant to law, a report describing the regulatory and research and development programs of the FAA to minimize the postcrash fire and explosion hazard for transport category airplanes, general aviation airplanes, and rotocraft; to the Committee on Commerce, Science, and Transportation.

EC-417. A communication from the Assistant Secretary (Land and Mineral Management), Department of the Interior, transmitting, pursuant to law, notice on leasing systems for the Central Gulf of Mexico, Sale 118, scheduled to be held in March 1989; to the Committee on Energy and Natural Resources.

EC-418. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, the Administration's annual report to Congress 1988; to the Committee on Energy and Natural Resources.

EC-419. A communication from the Secretary of Energy, transmitting, pursuant to law, the 1988 annual report of the Bonneville Power Administration; to the Committee on Energy and Natural Resources.

EC-420. A communication from the Chairman, National Critical Materials Council, Executive Office of the President, transmitting, pursuant to law, a copy of the Council's Advanced Materials Program Plan; to the Committee on Energy and Natural Resources.

EC-421. A communication from the Federal Highway Administrator, Department of Transportation, transmitting, pursuant to law, a report of the demonstration projects authorized under the Surface Transportation and Uniform Relocation Assistance Act of 1987, P.L. 100-17; to the Committee on Environment and Public Works.

EC-422. A communication from the Administrator, U.S. Environmental Protection Agency, transmitting, pursuant to law, a report on the New York Bight Plastics Study; to the Committee on Environment and Public Works.

EC-423. A communication from the Deputy Secretary of Transportation, transmitting, pursuant to law, the biennial report on the status of the nation's highways and bridges: conditions and performance; to the Committee on Environment and Public Works.

EC-424. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's third annual report on the impact of the Medicare Hospital Prospective Payment System; to the Committee on Finance.

EC-425. A communication from the Acting Chairman, U.S. International Trade Commission, transmitting, pursuant to law, the Commission's annual report for 1988; to the Committee on Finance.

EC-426. A communication from the Secretary of Education, transmitting, pursuant to law, the annual report of the Advocate for Competition for the Department of Education; to the Committee on Governmental Affairs.

EC-427. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the Department's Annual Report on Competition; to the Committee on Governmental Affairs.

EC-428. A communication from the Director, National Science Foundation, transmitting, pursuant to law, a report on the Foundation's system of internal accounting and administrative control; to the Committee on Government Affairs.

EC-429. A communication from the Secretary of Energy, transmitting, pursuant to law, the Department's 1988 report on competition; to the Committee on Government Affairs.

EC-430. A communication from the Secretary of Housing and Development, transmitting, pursuant to law, a report on the Department's internal control and financial systems; to the Committee on Government Affairs.

EC-431. A communication from the Chairman, National Critical Materials Council, transmitting, a draft of proposed legislation to amend the National Critical Materials Act of 1984, and for other purposes; to the Committee on Government Affairs.

EC-432. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the first annual report of the Interagency Council on the Homeless; to the Committee on Government Affairs.

EC-433. A communication from the Vice Chairman, Chief Financial Officer, Potomac Electric Power Company, transmitting, pursuant to law, a copy of the balance sheet of Potomac Electric Power Company as of December 31, 1988; to the Committee on Government Affairs.

EC-434. A communication from the Assistant Secretary for Administration, Department of Agriculture, transmitting, pursuant to law, the Department's fourth annual report; to the Committee on Government Affairs.

EC-435. A communication from the Chairman, U.S. Federal Trade Commission, transmitting, pursuant to law, the Commission's annual report; to the Committee on Government Affairs.

EC-436. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled Review of the University of the District of Columbia Contract Number GA/A88110 (Dow, Lohnes & Albertson); to the Committee on Government Affairs.

EC-437. A communication from the Executive Vice President, National Music Council, transmitting, pursuant to law, the Council's most recent audited financial report; to the Committee on Government Affairs.

EC-438. A communication from the Chairman, Board of Directors, Future Farmers of America, transmitting, pursuant to law, a report of the audit of the accounts of the Future Farmers of America for the period ending August 31, 1988; to the Committee on the Judiciary.

EC-439. A communication from the Secretary of Labor, transmitting, pursuant to law, the Department's annual report; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 38. An original resolution to provide for the appointment of a Committee to receive and to report evidence with respect to articles of impeachment against Judge Alcee L. Hastings (Rept. No. 101-1).

By Mr. BUMPERS, from the Committee on Small Business, without amendment:

S. Res. 33. An original resolution authorizing expenditures by the Committee on Small Business; referred to the Committee on Rules and Administration.

By Mr. BENTSEN, from the Committee on Finance, without amendment:

S. Res. 34. An original resolution authorizing expenditures by the Committee on Finance; referred to the Committee on Rules and Administration.

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 35. An original resolution authorizing expenditures by the Committee on Rules and Administration; referred to the Committee on Rules and Administration.

S. Res. 36. An original resolution providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library.

S. Con. Res. 12. An original resolution to allow another member of the Committee on Rules and Administration of the Senate to serve on the Joint Committee of Congress on the Library in place of the Chairman of the Committee.

By Mr. BYRD, from the Committee on Appropriations, without amendment:

S. Res. 41. An original resolution authorizing expenditures by the Committee on Appropriations; referred to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

Manuel Lujan, Jr., of New Mexico, to be Secretary of the Interior.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Michael J. Boskin, of California, to be a Member of the Council of Economic Advisers.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to

appear and testify before any duly constituted committee of the Senate.)

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Jack Kemp, of New York, to be Secretary of Housing and Urban Development.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BURDICK, from the Committee on Environment and Public Works:

William Kane Reilly, of Virginia, to be Administrator of the Environmental Protection Agency.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. DODD (for himself, Mr. JEFFORDS, Mr. MOYNIHAN, Mr. SIMON, and Mr. MATSUNAGA):

S. 322. A bill to establish the American Conservation Corps and Youth Service Corps, to provide for the education and training of participants in such Corps, to establish the Commission on National Service Opportunities, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. REID (for himself and Mr. BRYAN):

S. 323. A bill to provide duty-free treatment for three-dimensional cameras; to the Committee on Finance.

By Mr. WIRTH (for himself, Mr. BUMPERS, Mr. GORE, Mr. CRANSTON, Mr. HEINZ, Mr. FOWLER, Mr. PELL, Mr. BINGAMAN, Mr. LEAHY, Mr. MATSUNAGA, Mr. HOLLINGS, Mr. INOUYE, Mr. ADAMS, Mr. BREAUX, Mr. SANFORD, Mr. DASCHLE, Mr. JEFFORDS, Mr. D'AMATO, Mr. DODD, Ms. MIKULSKI, Mr. GORTON, Mr. SARBANES, Mr. MOYNIHAN, Mr. LIEBERMAN, Mr. SIMON, Mrs. KASSEBAUM, Mr. DECONCINI, Mr. SPECTER, Mr. BRYAN, Mr. BOSCHWITZ, and Mr. RIEGLE):

S. 324. A bill to establish a national energy policy to reduce global warming, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SANFORD:

S. 325. A bill to amend the Internal Revenue Code of 1986 to limit the interest deduction on corporate stock acquisition indebtedness; to the Committee on Finance.

By Mr. SHELBY:

S. 326. A bill to amend the Federal Election Campaign Act of 1971 to repeal a provision allowing use of excess contributions; to the Committee on Rules and Administration.

By Mr. BIDEN (for himself, Mr. MCCONNELL, Mr. SIMON, Mr. THURMOND, Mr. METZENBAUM, and Mr. DECONCINI):

S. 327. A bill to amend title 18 of the United States Code to punish corruption; to the Committee on the Judiciary.

By Mr. PRESSLER:

S. 328. A bill to amend title 38, United States Code, to modify the eligibility requirements for the mandatory furnishing of Department of Veterans Affairs hospital care to a veteran for a non-service-connected disibility; to the Committee on Veterans' Affairs.

By Mr. DIXON:

S. 329. A bill to amend the United States Warehouse Act to specifically allow States to require grain elevators with Federal warehouse licenses to participate in State grain indemnity funds or to require collateral security; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MCCONNELL (for himself, Mr. PACKWOOD, and Mr. HEINZ):

S. 330. A bill to amend the Federal Election Campaign Act of 1971 to prohibit direct contributions to candidates by multicandidate political committees, require full disclosure of attempts to influence Federal elections through "soft money" and independent expenditures, and correct inequities resulting from personal financing of campaigns; to the Committee on Rules and Administration.

By Mr. MCCONNELL:

S. 331. A bill to amend the Federal Election Campaign Act of 1971 to repeal public financing and spending limits in Presidential elections, prohibit contributions to Presidential candidates by multicandidate political committees, require disclosure of attempts to influence Presidential elections through "soft money" and independent expenditures, and correct inequities resulting from personal financing of Presidential campaigns; to the Committee on Rules and Administration.

By Mr. MCCONNELL:

S. 332. A bill to prohibit candidates in Federal elections from soliciting contributions to repay contributions or loans made by such candidate to his campaign; to the Committee on Rules and Administration.

By Mr. LEAHY (for himself and Mr. JEFFORDS):

S. 333. A bill entitled the Global Environmental Protection Act of 1989; to the Committee on Environment and Public Works.

By Mr. BINGAMAN (for himself and Mr. PELL):

S. 334. A bill to promote state-wide health promotion campaigns, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MCCAIN:

S. 335. A bill to amend title XVIII of the Social Security Act and other provisions of law to delay for 1 year the effective dates of the supplemental Medicare premium and additional benefits under Part B of the Medicare program, with the exception of the spousal impoverishment benefit; to the Committee on Finance.

By Mr. DODD:

S. 336. A bill to amend title 38, United States Code, to authorize certain additional medical services for veterans with service-connected disabilities; to the Committee on Veterans' Affairs.

By Mr. FORD:

S. 337. A bill for the relief of Ljubica Warren; to the Committee on the Judiciary.

By Mr. HARKIN (for himself and Mr. GRASSLEY):

S. 338. A bill to authorize the Secretary of the Interior to provide for the development of a trails interpretation center in the city of Council Bluffs, Iowa, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BRADLEY (for himself, Mr. RIEGLE, Mr. CHAFEE, Mr. MATSUNAGA, Mr. DURENBERGER, and Mr. MOYNIHAN):

S. 339. A bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the Medicaid program; to the Committee on Finance.

By Mr. PELL:

S. 340. A bill to amend the Presidential Election Fund Act to curtail negative campaign advertising; to the Committee on Finance.

By Mr. HOLLINGS (for himself, Mr. FORD, Mr. METZENBAUM, Mr. MCCAIN Mr. JEFFORDS, Mr. SANFORD, Mr. DODD, Mr. DIXON, Mr. THURMOND, Mr. DOMENICI, Mr. SIMON, Mr. DURENBERGER, Mr. HARKIN, Mr. PRYOR, Mr. MOYNIHAN, Mr. BINGAMAN, Mr. SHELBY, Mr. ADAMS, and Mr. LEVIN):

S. 341. A bill to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel; to the Committee on Commerce, Science, and Transportation.

By Mr. DANFORTH (for himself, Mr. MITCHELL, Mr. BOND, Mr. CHAFEE, Mr. HEINZ, Mr. PRYOR, Mr. BOREN, Mr. MCCAIN, Mr. COHEN, Mr. FOWLER, Mr. DASCHLE, Mr. SASSER, Mr. KENNEDY, and Mr. DODD):

S. 342. A bill to amend the Internal Revenue Code of 1986 to provide that certain credits will not be subject to the passive activity rules, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. BOREN):

S. 343. A bill to amend the Internal Revenue Code of 1986 to extend for 10 years the credit for producing fuel from a nonconventional source; to the Committee on Finance.

By Mr. NICKLES (for himself, Mr. BOREN, and Mrs. KASSEBAUM):

S. 344. A bill to require certain work on aircraft to be performed by a domestic repair station; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD (for himself, Mr. KENNEDY, Mr. PACKWOOD, Mr. METZENBAUM, Mr. HATFIELD, Ms. MIKULSKI, Mr. JEFFORDS, Mr. PELL, Mr. MOYNIHAN, Mr. KERRY, Mr. SIMON, Mr. ADAMS, Mr. INOUYE, Mr. BURDICK, Mr. BIDEN, Mr. ROCKEFELLER, Mr. GORE, Mr. WIRTH, Mr. LIEBERMAN, Mr. KOHL, and Mr. LAUTENBERG):

S. 345. A bill to grant employees family and temporary medical leave under certain circumstances, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WIRTH (for himself, Mr. LEAHY, Mr. ROTH, Mr. MOYNIHAN, Mr. HARKIN, Mr. REID, Mr. BURDICK, Mr. LUGAR, Mr. PELL, Mr. JEFFORDS, Mr. FOWLER, Mr. LIEBERMAN, Mr. KERRY, Mr. SANFORD, and Mr. GORE):

S. 346. A bill to amend the Alaska National Interest Lands Conservation Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KERRY (for himself, Mr. LUGAR, and Mr. LAUTENBERG):

S. 347. A bill to combat international terrorism and otherwise further the national

security and foreign policy interests of the United States; to the Committee on Foreign Relations.

By Mr. DECONCINI (for himself and Mr. DODD):

S.J. Res. 46. Joint resolution to designate the month of April 1989, as "National Child Abuse Prevention Month"; to the Committee on the Judiciary.

By Mr. PRESSLER:

S.J. Res. 47. Joint resolution to recognize the 75th anniversary of the Smith-Lever Act of May 8, 1914, and its role in establishing our Nation's system of State cooperative extension services; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mr. SPECTER, Mr. CRANSTON, Mrs. KASSEBAUM, Mr. ROTH, Mr. DECONCINI, and Mr. DODD):

S.J. Res. 48. Joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect Congressional and Presidential elections; to the Committee on the Judiciary.

By Mr. HARKIN:

S.J. Res. 49. Joint resolution proposing an amendment to the Constitution of the United States relating to the compensation of Senators and Representatives; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. BUMPERS, from the Committee on Small Business:

S. Res. 33. An original resolution authorizing expenditures by the Committee on Small Business; to the Committee on Rules and Administration.

By Mr. BENTSEN, from the Committee on Finance:

S. Res. 34. An original resolution authorizing expenditures by the Committee on Finance; to the Committee on Rules and Administration.

By Mr. FORD, from the Committee on Rules and Administration:

S. Res. 35. An original resolution authorizing expenditures by the Committee on Rules and Administration; to the Committee on Rules and Administration.

S. Res. 36. An original resolution providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library considered and agreed to.

By Mr. SIMON (for himself and Mr. PRESSLER):

S. Res. 37. A resolution requesting the Secretary of State to submit a report regarding United States assistance to Soviet Armenia; to the Committee on Foreign Relations.

By Mr. FORD, from the Committee on Rules and Administration:

S. Res. 38. An original resolution to provide for the appointment of a Committee to receive and to report evidence with respect to articles of impeachment against Judge Alcee L. Hastings; placed on the calendar.

S. Res. 39. An original resolution to provide for the filing and argument of motions by Judge Alcee L. Hastings to dismiss articles of impeachment; considered and agreed to.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 40. A resolution to prohibit the receipt of honoraria by Members, officers, or employees of the Senate on or after the first day that there takes effect any increase in the salaries of Members, officers, or employees of the Senate as reccommended by the Commission on Executive, Legislative, and Judicial Salaries and included in the budget transmitted by the President to the Congress.

By Mr. BYRD, from the Committee on Appropriations:

S. Res. 41. An original resolution authorizing expenditures by the Committee on Appropriations; to the Committee on Rules and Administration.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 42. A resolution to direct the Senate legal counsel to appear as amicus curiae in the name of the Senate in *American Foreign Service Association, et al.* v. *Steven Garfinkel, et al;* considered and agreed to.

By Mr. MITCHELL:

S. Res. 43. A bill to amend paragraphs 2 and 3(a) of rule XXV; considered and agreed to.

By Mr. MITCHELL:

S. Res. 44. A resolution to make majority party appointments to Senate committees under paragraph 2 of rule XXV for the One Hundred and First Congress; considered and agreed to.

By Mr. LOTT (for Mr. DOLE):

S. Res. 45. A resolution making minority party appointments to Senate committees for the 101st Congress; considered and agreed to.

By Mr. MITCHELL:

S. Res. 46. A resolution to make majority party appointments to Senate Committees under paragraphs 3 (a), (b), and (c) of rule XXV for the One Hundred First Congress; considered and agreed to.

By Mr. LOTT (for Mr. DOLE):

S. Res. 47. A resolution making minority party appointments to Senate committees for the 101st Congress; considered and agreed to.

By Mr. MITCHELL:

S. Res. 48. A resolution to amend paragraph 4 of Rule XXV of the Standing Rules of the Senate; considered and agreed to.

By Mr. LOTT (for Mr. DOLE):

S. Res. 49. A resolution to amend paragraph 4 of rule XXV of the Standing Rules of the Senate; considered and agreed to.

By Mr. FORD, from the Committee on Rules and Administration:

S. Con. Res. 12. An original resolution to allow another member of the Committee on Rules and Administration of the Senate to serve on the Joint Committee of Congress on the Library in place of the chairman of the Committee; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself, Mr. JEFFORDS, Mr. MOYNIHAN, Mr. SIMON, and Mr. MATSUNAGA):

S. 322. A bill to establish the American Conservation Corps and Youth Service Corps, to provide for the education and training of participants in such Corps, to establish the Commission on National Service Opportunities, and for other purposes; to the Committee on Labor and Human Resources.

AMERICAN CONSERVATION AND YOUTH SERVICE CORPS ACT

Mr. DODD. Mr. President, I rise today to introduce the American Conservation and Youth Service Corps Act of 1989 and am delighted to be joined by Senators JEFFORDS, MOYNIHAN, SIMON, and MATSUNAGA. The bill is a companion measure to the one Congressman PANETTA will be introducing in the House with 65 original cosponsors.

We join our colleagues and the administration in an effort to bolster a national volunteer service ethic. The challenge we face is two-fold. First and foremost, we need to convince youth that they should volunteer. Simultaneously, we need to encourage States to expand or develop a network of conservation and volunteer service corps.

We know youth will volunteer to make this a better country if they are encouraged to do so. When President Kennedy called on Americans to serve, thousands responded—I know, I was one of them. One of the earliest Peace Corps volunteers summed things up succinctly in 1962 when he said: "I'd never done anything political, patriotic or unselfish because no one ever asked me to. President Kennedy asked." It is time to ask again.

It is time to ask because today's youth are not mindful of their responsibility as citizens. Americans least likely to vote are 18 to 25 year olds. We need to encourage in our citizens a sense of shared responsibility in their community and Nation. People responded to President Kennedy—but in the 25 years since, no one has thought to ask again. Every President, Senator, Congressman, and Governor should ask.

We should ask because it is right and because we need them to help address the problems conforming this Nation—illiteracy, homelessness, a high school dropout rate of 40 percent, a shrinking pool of workers qualified to fill new jobs and poverty stricken communities. If we reactivevate the citizenry and develop a partnership between Federal and State volunteer programs, there is a good possibility that these problems can be greatly ameliorated.

We should ask because youth need to know they have an important role to play in the betterment of our Nation. Many youth want to serve. At the State and local level, over 50,000 youth are participating in conservation and urban volunteer programs. And these programs have proven successful. When I have asked high school students for a show of hands of those in favor of some form of national service, the enthusiasm has been tremendous.

Youth service has another component. In addition to meeting the needs of a State or community, participation

in a service would benefit the participant. Volunteers feel good about themselves when they participate in service corps. Their service duties teach those with no previous work experience a work ethic. Volunteers with 1 or 2 years of volunteer service develop skills they can later parlay into paying jobs. In some States, volunteers who are high school dropouts benefit from in-service education programs or incentives to help prepare for a high school equivalency test. The Connecticut Conservation Corps offers volunteers either $750 for passing their high school equivalency exam or $50 per credit hour for college courses taken and passed.

The operative mechanism of the American Conservation and Youth Service Corps bill would be the development of a Federal/State partnership. It would make Federal matching grants available to States for the development of volunteer programs tailored to meet their States' needs. Some States have already taken this step. Over 50 full and part-time conservation and volunteer service corps—with close to 50,000 volunteers—are in operation in 9 States, including New York, California, and my own State of Connecticut. These programs have reached thousands of disadvantaged youth. Our bill would encourage the same outreach efforts.

The legislation is designed to serve youth ages 16 to 25. It would make volunteer service available to a wide variety of youth, ranging from the most to the least fortunate. This way, service programs qualifying for Federal grants could provide a helpful transition to those youth who have fallen through the cracks of our society. Disadvantaged youth who would benefit considerably from volunteer service might include high school dropouts and youth aging out of foster care. Two years of service would add continuity to their lives. In-service education programs would further their knowledge, while volunteer responsibilities would generate a sense of commitment, pride and satisfaction in a job well done.

In addition to disadvantaged youth, the legislation encourages a flexibility that would allow youth to volunteer after they graduated from high school or college. Five percent of Federal funds would be earmarked for part-time volunteer opportunities that might be offered in the high schools.

If we are serious about encouraging a national service ethic, we need to encourage the grassroots efforts by State and local volunteer corps. The American Conservation and Youth Service Corps Act would lay the foundation for a cohesive partnership between Federal initiative and State and local programs. It is cost effective and would only authorize $152.4 million to provide one-to-one matching grants to States or local programs. In light of the current budget deficit and the successful service corps already in place, it is the most constructive way to encourage youth service at this time.

I urge my colleagues to join me in promoting youth service and look forward to working with those who have introduced their own service proposals.

Mr. President, I ask unanimous consent that the full 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. 322

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "American Conservation and Youth Service Corps Act of 1989".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Purpose.
Sec. 3. Definitions.

TITLE I—AMERICAN CONSERVATION CORPS

Sec. 101. Establishment.
Sec. 102. Allocation of authorized funds.

TITLE II—YOUTH SERVICE CORPS

Sec. 201. Youth service project grants.
Sec. 202. Service categories.

TITLE III—YOUTH SKILLS ENHANCEMENT

Sec. 301. Certification and academic credit.
Sec. 302. Training and education services.

TITLE IV—ADMINISTRATIVE PROVISIONS

Sec. 401. Grants to states.
Sec. 402. Approval of applications and supervision of programs.
Sec. 403. Preference for certain projects.
Sec. 404. Effect of earnings on eligibility for other Federal assistance.
Sec. 405. Enrollment.
Sec. 406. Coordination and participation with other entities.
Sec. 407. YSC State advisory boards.
Sec. 408. Federal and State employee status.
Sec. 409. Nonduplication and nondisplacement.
Sec. 410. Grievance procedure.
Sec. 411. Use of volunteers.
Sec. 412. Nondiscrimination provision.
Sec. 413. Labor market information.
Sec. 414. Review and reporting requirements.
Sec. 415. Authority of state legislature.
Sec. 416. Authorization of appropriations and other fiscal provisions.

TITLE V—COMMISSION ON NATIONAL SERVICE OPPORTUNITIES

Sec. 501. Findings and purposes.
Sec. 502. Commission.
Sec. 503. Reports and recommendations.
Sec. 504. Termination and effective date.

SEC. 2. PURPOSE.

It is the purpose of this Act—

(1) to provide opportunities for work and service to the Nation's youth that will—

(A) increase and maintain their educational skills and employability; and

(B) provide benefits to the Nation in meeting unmet human, environmental, and conservation needs (particularly needs related to poverty);

(2) to assure that such opportunities are conducted in coordination with other conservation, education, training, work, and service programs;

(3) to establish the American Conservation Corps to carry out a program to improve, restore, maintain, and conserve public lands and resources (including Indian lands and community lands) in the most cost-effective manner; and

(4) to establish the Youth Service Corps to encourage young persons to participate in voluntary national service and to provide matching grants to eligible public and private nonprofit agencies to administer programs conducted under such service.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ADMINISTERING SECRETARY.—The term "administering Secretary" means, for purposes of title I, the Secretary of the Interior (in the case of any lands or programs involving the Department of the Interior), or the Secretary of Agriculture (in the case of lands or programs involving the Department of Agriculture).

(2) APPLYING ENTITY.—The term "applying entity" means any program agency or any nonprofit organization which applies for a grant under section 402.

(3) CHIEF ADMINISTRATOR.—The term "chief administrator" means the head of any program agency.

(4) COMMERCIAL FOREST LAND.—The term "commercial forest land" means land in the National Forest System or land administered by the Secretary of the Interior through the Bureau of Land Management that is producing, or is capable of producing, 50 cubic feet per acre per year of industrial wood and which is not withdrawn from timber utilization by statute or administrative decision.

(5) CREW LEADER.—The term "crew leader" means an enrollee appointed under the authority of this Act for the purpose of assisting in the supervision of other enrollees engaged in work projects pursuant to this Act.

(6) CREW SUPERVISOR.—The term "crew supervisor" means the adult staff person responsible for supervising a crew of enrollees (including the crew leader).

(7) DISPLACEMENT.—The term "displacement" includes any partial displacement through reduction of nonovertime hours, wages, or employment benefits.

(8) ECONOMICALLY DISADVANTAGED.—The term "economically disadvantaged" with respect to youths has the same meaning given such term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

(9) EMPLOYMENT SECURITY SERVICE.—The term "employment security service" means the agency in each of the several States with responsibility for the administration of unemployment and employment programs and the oversight of local labor conditions.

(10) ENROLLEE.—The term "enrollee" means any individual enrolled in the ACC and Youth Service Corps in accordance with section 405.

(11) INDIAN.—The term "Indian" means an individual who is a member of an Indian tribe.

(12) INDIAN LANDS.—The term "Indian lands" means any real property owned by an Indian tribe, any real property held in trust by the United States for Indian tribes, and any real property held by Indian tribes which is subject to restrictions on alienation imposed by the United States.

(13) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other group that is recognized as an Indian tribe by the Secretary of the Interior. Such term also includes any Native village corporation, regional corporation, and Native group established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1701 et seq.).

(14) PROGRAM.—The term "program" means activities carried out under titles I or II.

(15) PROGRAM AGENCY.—The term "program agency" means—

(A) any Federal or State agency designated to manage any program in that State, or

(B) the governing body of any Indian tribe.

(16) PROJECT.—The term "project" means any activity (or group of activities) which result in a specific identifiable service or product that otherwise would not be done with existing funds, and which shall not duplicate the routine services or functions of the employer to whom enrollees are assigned.

(17) PUBLIC LANDS.—The term "public lands" means any lands or waters (or interest therein) owned or administered by the United States or by any agency or instrumentality of a State or local government.

(18) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

TITLE I—AMERICAN CONSERVATION CORPS

SEC. 101. ESTABLISHMENT.

(a) IN GENERAL.—There is hereby established the American Conservation Corps (hereinafter referred to in this act as the "ACC") to be administered in accordance with this section.

(b) FEDERAL COMPONENT.—

(1) IN GENERAL.—The Secretary of the Interior and the Secretary of Agriculture shall establish the Federal component of the ACC within their respective agencies to administer certain programs on Federal lands.

(2) APPLICATIONS.—Applications for participation in programs on Federal public lands authorized under paragraph (1) shall be submitted to the administering Secretary in the manner described in title IV and under regulations promulgated under subsection (e).

(3) USE OF FUNDS.—Funds provided for purposes of this title to any Federal agency shall be used to carry out projects on Federal lands and to provide for the Federal administrative costs of implementing this title.

(4) CONTRACTS AND AGREEMENTS.— In utilizing such funds, Federal agencies are encouraged to enter into contracts or other agreements with program agencies and with local governments and nonprofit organizations approved for participation under section 406(a).

(c) STATE COMPONENT.—

(1) GRANTS.—The Secretary of the Interior shall establish a program under which grants shall be made to States to administer the State component of the ACC that involves work on non-Federal public lands and waters within a given State.

(2) PROGRAM AGENCY.—The chief executive officer of each State shall designate a State program agency to administer the ACC program within the State.

(3) ESTABLISHMENT OF PROGRAM BY LOCAL GOVERNMENT.—If at the commencement of a fiscal year, the State agency has not been designated under paragraph (2), any local government within such State may establish a program agency to carry out the State component within the political subdivision under the jurisdiction of such local government.

(4) APPLICATION FOR GRANTS.— Any program agency designated under paragraph (2) may apply for a grant under this title in the manner described in section 401.

(d) LOCAL GOVERNMENT PARTICIPATION.—

(1) REQUIREMENTS AND ALLOCATION OF FUNDS.—

(A) REQUIREMENTS.—Any local government program agency shall be subject to the same requirements as a State program agency.

(B) ALLOCATION OF FUNDS.—Where more than one local government within a State has established a program agency under subsection (a)(3), the administering Secretary shall allocate funds between such agencies in such manner as such Secretary considers equitable.

(2) PARTICIPATION BY OTHERS.—Any State participating in the ACC program under this Act shall provide a mechanism under which local governments and nonprofit organizations within the State may participate in the ACC.

(e) REGULATIONS AND ASSISTANCE.—

(1) IN GENERAL.—Before the end of the 120-day period beginning on the date of the enactment of this Act, the Secretaries of the Interior and of Agriculture, after consultation with the Secretary of Labor, shall jointly promulgate regulations necessary to implement the ACC established under subsection (a).

(2) PUBLIC COMMENT AND REPORTING.—

(A) PUBLIC COMMENT.—Before the end of the 30-day period beginning on the date of the enactment of this Act, the Secretaries of the Interior and of Agriculture shall establish procedures to give program agencies and other interested parties (including the general public) adequate notice and opportunity to comment on and participate in the formulation of such regulations.

(B) REPORTING.—Regulations promulgated under this subsection shall include provisions to assure uniform reporting on—

(i) the activities and accomplishments of ACC programs,

(ii) the demographic characteristics of enrollees in the ACC, and

(iii) such other information as may be necessary to prepare the annual report required by section 414(a).

(f) PROJECTS INCLUDED.—The ACC established under this section may carry out projects that focus on—

(1) conservation, rehabilitation, and improvement of wildlife habitat, rangelands, parks, and recreational areas;

(2) urban revitalization and historical and cultural site preservation;

(3) fish culture and habitat maintenance and improvement and other fishery assistance;

(4) road and trail maintenance and improvement;

(5)(A) ercsion, flood, drought, and storm damage assistance and controls,

(B) stream, lake, and waterfront harbor and port improvement, and

(C) wetlands protection and pollution control;

(6) insect, disease, rodent, and fire prevention and control;

(7) the improvement of abandoned railroad bed and right-of-way;

(8) energy conservation projects, renewable resource enhancement, and recovery of biomass;

(9) reclamation and improvement of strip-mined land; and

(10) forestry, nursery, and cultural operations.

(g) LIMITATION TO PUBLIC LANDS.—Projects to be carried out under the ACC shall be limited to projects on public lands or Indian lands, except where a project involving other lands will provide a public benefit as determined by the administering Secretary. The regulations promulgated under subsection (e) shall establish the criteria necessary to make such determinations.

(h) CONSISTENCY.—All projects carried out under this title for conservation, rehabilitation, or improvement of any public lands or Indian lands shall be consistent with—

(1) the provisions of law and policies relating to the management and administration of such lands, and all other applicable provisions of law; and

(2) all management, operational, and other plans and documents which govern the administration of the area.

(i) PARTICIPATION BY OTHER CONSERVATION PROGRAMS.—Any land or water conservation program (or any related program) administered in any State under the authority of any Federal program shall use services available under this title to carry out its program.

SEC. 102. ALLOCATION OF AUTHORIZED FUNDS.

Of the amounts appropriated under section 416(b)(1)(A) to carry out this title in any fiscal year—

(1) 50 percent of such amounts shall be made available to the administering Secretary for expenditures by State program agencies that have been approved for participation in the ACC for work on State and county lands;

(2) 15 percent of such amounts shall be made available to the administering Secretary for expenditures by agencies within the Department of Agriculture, subject to section 416(d);

(3) 5 percent of such amounts shall be made available to the administering Secretary, under such terms as are provided for in regulations promulgated under section 101(e), for expenditure by other Federal agencies, subject to section 416(d);

(4) 25 percent of such amounts shall be made available to the administering Secretary for expenditure by agencies within the Department of the Interior, subject to section 416(d), and for demonstration projects or projects of special merit carried out by any program agency or by any nonprofit organization or local government that is undertaking or proposing to undertake projects consistent with the purposes of this title; and

(5) 5 percent of such amounts shall be made available to the administering Secretary for expenditure by the governing bodies of participating Indian tribes.

TITLE II—YOUTH SERVICE CORPS

SEC. 201. YOUTH SERVICE PROJECT GRANTS.

The Director of ACTION shall appoint a Deputy Director for Youth Service (hereinafter referred to in this Act as the "Deputy Director") who shall provide, to public and private nonprofit agencies determined to be eligible under section 402, grants for youth service projects, and who shall otherwise administer this title.

SEC. 202. SERVICE CATEGORIES.

(a) DESIGNATION OF SERVICE CATEGORIES.—The Deputy Director shall, by regulation, designate specific activities as service categories in which persons serving in youth

service projects may serve for purposes of this title.

(b) ELIGIBILITY REQUIREMENTS.—An activity may be designated as a service category under subsection (a) if the Deputy Director determines that—

(1) such activity is of a substantial social benefit in meeting unmet human, social, or environmental needs (particularly needs related to poverty) or in the community where service is to be performed;

(2) involvement of persons serving in youth service projects under this title in such activity will not interfere unreasonably with the availability and the terms of employment of employees of sponsoring organizations with positions available in such activity;

(3) persons serving in youth service projects under this title are able to meet the physical, mental, and educational qualifications that such activity requires; and

(4) such activity is otherwise appropriate for purposes of this title.

(c) SPECIFIC ELIGIBLE SERVICE CATEGORIES.—The service categories referred to in subsection (a) may include service in—

(1) State, local, and regional governmental agencies;

(2) nursing homes, hospices, senior centers, hospitals, local libraries, parks, recreational facilities, day care centers, and schools;

(3) law enforcement agencies, and penal and probation systems;

(4) private nonprofit organizations whose principal purpose is social service;

(5) the rehabilitation or improvement of public facilities, neighborhood improvements, literacy training that benefits educationally disadvantaged persons, weatherization of and basic repairs to low-income housing, energy conservation, including solar energy techniques, removal of architectural barriers to access by handicapped persons to public facilities, and conservation, maintenance, or restoration of natural resources on publicly held lands; and

(6) any other nonpartisan civic activities and services that the Deputy Director determines to be appropriate for purposes of this title.

(d) INELIGIBLE SERVICE CATEGORIES.—The service categories referred to in subsection (a) may not include any position in any—

(1) business organized for profit;

(2) labor union;

(3) partisan political organization;

(4) organization engaged in religious activities, unless such position does not involve any religious functions; or

(5) domestic or personal service company or organization.

(e) RELATED PROGRAMS.—Any program administered under the authority of the Secretary of Health and Human Services, that is operated for the same purpose as any program eligible under this title, is encouraged to use services available under this title to carry out its program.

TITLE III—YOUTH SKILLS ENHANCEMENT

SEC. 301. CERTIFICATION AND ACADEMIC CREDIT.

The administering Secretary or the Deputy Director (as appropriate) shall provide guidance and assistance to States in securing certification of training skills or academic credit for competencies developed under this Act.

SEC. 302. TRAINING AND EDUCATION SERVICES.

(a) ASSESSMENT OF SKILLS.—Each program agency shall, through programs and projects administered under this Act, maintain or enhance the educational skills of enrollees in the program. Each such agency shall assess the educational level of enrollees at the time of entrance into the program, using any available records or simplified assessment means or methodology.

(b) PROVISION OF IN-SERVICE TRAINING AND EDUCATION.—

(1) REQUIREMENT.—Program agencies receiving assistance under this Act shall use not less than 10 percent of the funds made available to such agency to provide in-service training and educational materials and services for enrollees and individuals serving in such projects and may enter into arrangements with academic institutions or education providers, including—

(A) local education agencies,

(B) community colleges,

(C) 4-year colleges,

(D) area vocational-technical schools, and

(E) community based organizations,

for academic study by enrollees and individuals serving in youth service projects during nonworking hours to upgrade literacy skills, to obtain a high school diploma (or its equivalency) or college degrees, or to enhance employable skills. Career counseling shall be provided to enrollees and persons serving in youth service projects during any period of in-service training.

(2) PRIORITY FOR ENROLLEES WITHOUT HIGH SCHOOL DIPLOMAS.—Enrollees and individuals serving in youth service projects who have not obtained a high school diploma or its equivalent shall have priority to receive services under this subsection.

(3) ASSIGNMENTS.—Whenever possible, an enrollee seeking study or training not provided at his or her assigned facility shall be offered assignment to a facility providing such study or training.

(c) POST-SERVICE EDUCATION AND TRAINING ASSISTANCE.—

(1) USE OF FUNDS.—Any program or project receiving funds under this Act shall use not less than 10 percent of such funds to provide the services described in subsection (b)(1) for post-service education and training assistance.

(2) AMOUNT OF ASSISTANCE.—The amount of assistance provided to any eligible individual under this subsection shall be based the period of time such person served in a program or project under this Act.

(3) ACTIVITIES.— The activities conducted under this section may include activities available to eligible enrollees under in-service education and training assistance programs, career and vocational counseling, assistance in entering a program under the Job Training Partnership Act, and assistance for other activities considered appropriate for the enrollee by the program agency and the advisory board.

(d) STANDARDS AND PROCEDURES.—Appropriate State and local officials shall certify that standards and procedures with respect to the awarding of academic credit and the certification of educational attainment in programs conducted under subsection (b) are consistent with the requirements of applicable State and local law and regulations. Such standards and procedures shall specify, among other things, that any individual serving in a program or project under this Act—

(1) who is not a high school graduate, shall participate in an educational component so such individual can progress toward a high school diploma or its equivalent; and

(2) may arrange to receive academic credit in recognition of learning and skills obtained from service satisfactorily completed.

TITLE IV—ADMINISTRATIVE PROVISIONS

SEC. 401. GRANTS.

(a) AWARDING OF GRANTS.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of appropriations legislation pursuant to this Act, any eligible entity may apply to the administering Secretary or the Deputy Director (as appropriate) for funds under this Act in the manner specified under titles I or II.

(2) AMOUNT OF AWARD.—In determining the amount of funds to be awarded to any applicant under this Act, the administering Secretary or the Deputy Director (as appropriate) shall consider—

(A) the proportion of the unemployed youth population of the area to be served; and

(B)(i) in the case of title I, the conservation, rehabilitation, and improvement needs on public lands within the State; and

(ii) in the case of title II, the unmet human, social, or environmental needs (particularly needs related to poverty) within the area to be served.

(b) MATCHING REQUIREMENT.—

(1) IN GENERAL.—To receive a grant under this Act, a State or program agency shall demonstrate to the satisfaction of the administering Secretary or the Deputy Director (as appropriate) that such State or agency will expend (in cash or in kind), for purposes of any project funded under this Act, an amount from public or private non-Federal sources (including the direct cost of employment or training services provided by State or local programs, private nonprofit organizations, and private for-profit employers) equal to the amount made available to such State or agency under this Act.

(2) EFFECTIVENESS.—To receive a grant under this Act a State or program agency shall demonstrate to the satisfaction of the administering Secretary or the Deputy Director (as appropriate) that the effectiveness of the program will be enhanced by the use of such Federal funds.

(c) PAYMENT TERMS.—Payments under grants awarded under this Act may be made in advance or by way of reimbursement and at such intervals and on such conditions as the administering Secretary or the Deputy Director (as appropriate) considers necessary.

(d) USE OF FUNDS; LIMITATIONS.—

(1) USE OF FUNDS.—The authority to make contracts under this Act shall be subject to the availability of appropriations. Funds provided under this Act shall only be used for activities that are in addition to those that would otherwise be carried out in the area in the absence of such funds.

(2) LIMITATION.—

(A) CAPITAL EQUIPMENT.—Not more than 10 percent of the amount of funds made available to any State or program agency under this Act for projects during each fiscal year may be used for the purchase of major capital equipment.

(B) ADMINISTRATIVE EXPENSES.—Not more than 15 percent of the amount of funds made available to any State or program agency under this Act may be used to cover administrative expenses.

(C) LOCAL GOVERNMENT.—In any case in which a grant is being awarded to a specific unit of local government rather than to a State, the State may not use more than 3 percent of such grant to cover administrative expenses, and the remainder of the grant shall be transferred to the relevant unit of local government.

(D) CONSERVATION PROGRAMS.—Not more than 5 percent of the amount of funds provided under this Act may be used for part-time service or conservation programs. For purposes of this paragraph the term "part-time" means unpaid service of not more than 15 hours per week.

SEC. 402. APPROVAL OF APPLICATIONS AND SUPERVISION OF PROGRAMS.

(a) APPLICATION.—

(1) SUBMISSION OF PLAN.—In order to be eligible for any grant under this section, an applying entity shall submit, in accordance with subsection (c), a plan that describes the existing or proposed program or project for which such grant is requested.

(2) EMPLOYMENT AND EDUCATION TRAINING.—Any entity that is eligible to provide employment and educational training under other Federal employment training programs may apply for a grant under this section.

(b) CONTENTS OF PLAN FOR ELIGIBILITY FOR GRANTS.—The plan referred to in subsection (a) shall include the following:

(1) GENERAL CONTENTS.—A comprehensive description of the objectives and performance goals for the program, a plan for managing and funding the program, and a description of the types of projects to be carried out, including a description of the types and duration of training and work experience to be provided.

(2) CERTIFICATION PROGRAM.—A plan for certification of the training skills acquired by enrollees and award of academic credit to enrollees for competencies developed from training programs or work experience obtained under this Act.

(3) ESTIMATES OF PERSONNEL NUMBERS.—An estimate of the number of enrollees and crew leaders necessary for the proposed projects, the length of time for which the services of such personnel will be required, and the services which will be required for their support.

(4) FACILITIES AND EQUIPMENT.—A description of the location and types of facilities and equipment to be used in carrying out the programs.

(5) LIST OF POSITIONS.—A list of positions from which any individual serving in such project may choose a service position, such list shall, to the extent practicable, identify a sufficient number and variety of positions so that any individual living within a program area who desires to serve in voluntary youth service may serve in a position that fulfills the needs of such individual.

(6) LIST OF REQUIREMENTS TO BE IMPOSED.—A list of requirements to be imposed on any sponsoring organization of any individual serving in a program or project under this Act, including a provision that any sponsoring organization that invests in any project under this Act by making a cash contribution or by providing free training of any individual participating in such project shall be given preference over any sponsoring organization that does not make such an investment.

(7) DESCRIPTION OF FACILITIES AND TRANSPORTATION.—With respect to the specified location and type of any facility to be used in carrying out the program, a description of—

(A) the proximity of any such facility to the work to be done;

(B) the cost and means of transportation available between any such facility and the homes of the enrollees who may be assigned to that facility;

(C) the participation of economically, socially, physically, or educationally disadvantaged youths; and

(D) the cost of establishing, maintaining, and staffing the facility.

(8) SUPERVISORY STAFF.—

(A) DESCRIPTION OF MANNER OF APPOINTMENT.—A provision describing the manner of appointment of sufficient supervisory staff by the chief administrator to provide for other central elements of a youth corps, such as crew structure and a youth development component. Supervisory staff may include enrollees who have displayed exceptional leadership qualities.

(B) ON SITE PRESENCE OF SUPERVISORY PERSONNEL.—A provision describing a plan to assure the on-site presence of knowledgeable and competent supervision at program facilities.

(9) DESCRIPTION OF NECESSITIES.—A description of the facilities, quarters, and board (in the case of residential facilities), limited and emergency medical care, transportation from administrative facilities to work sites, and other appropriate services, supplies, and equipment that will be provided by the agency.

(10) WORK STANDARDS.—A description of basic standards of work requirements, health, nutrition, sanitation, and safety, and the manner by which such standards shall be enforced.

(11) ASSIGNMENT OF YOUTH.—A description of the program's plan to assign youths to facilities as near to their homes as is reasonable and practicable.

(12) OTHER INFORMATION.—Such other information as the administering Secretary or the Assistant Director (whichever the case may be) may prescribe.

(c) PRELIMINARY APPROVAL OF TITLE I APPLICATIONS.—

(1) SUBMISSION OF APPLICATION TO STATE AGENCY.—An application for participation in the State component under title I shall first be submitted to the designated State agency for preliminary review and approval.

(2) SUBMISSION TO JOB TRAINING COORDINATING COUNCIL.—Such agency shall forward to the appropriate State job training coordinating council, if any (established under the Job Training Partnership Act (29 U.S.C. 1502 et seq.)), for further review and comment, any application it approves.

(3) SUBMISSION TO ADMINISTERING SECRETARY.—On the expiration of the 30-day review period referred to in subsection (e), the State agency shall submit any approved application, along with any comments by the job training coordinating council, to the administering Secretary.

(4) REVIEW AND COMMENT.—A State may submit any application for its own program under title I to the administering Secretary after complying with the review and comment requirement under subsection (e).

(5) APPEALS PROCEDURE.—The administering Secretary shall establish an appeals procedure (involving review and comment by the State job training council) for applying entities whose applications are disapproved under paragraph (1).

(d) TITLE II APPLICATIONS.—An application for participation under title II may be submitted by any public or private nonprofit entity to the administering Secretary of Deputy Director after review and comment under subsection (e).

(e) REVIEW AND COMMENT ON APPLICATIONS.—No application for participation under title I or II shall be submitted to the administering Secretary or the Deputy Director (as appropriate) before the end of the 30-day period for review and comment by the council under subsection (c) (except in the case of an appeal).

(f) CRITERIA FOR APPROVAL OF APPLICATIONS.—In approving an application under this section, the administering Secretary or the Deputy Director (as appropriate) shall consider the extent to which the specifics of the program or project (as described in the application) meet the goals of the program for which the grant is sought.

SEC. 403. PREFERENCE FOR CERTAIN PROJECTS.

In the approval of applications for programs and projects submitted under section 402, the Administering Secretary or the Deputy Director (as appropriate) shall give preference to those programs and projects that—

(1) will provide long-term benefits to the public;

(2) will instill in the enrollees a work ethic and a sense of public service;

(3) will be labor intensive, and involve youth operating in crews;

(4) can be planned and initiated promptly;

(5) will enhance the enrollees' educational level and opportunities, and skills development;

(6) in the case of a proposed title I project, will meet the unmet needs for conservation, rehabilitation, and improvement work on public lands within the State; and

(7) in the case of a proposed title II project, will meet human, social, and environmental needs (particularly needs related to poverty).

SEC. 404. EFFECT OF EARNINGS ON ELIGIBILITY FOR OTHER FEDERAL ASSISTANCE.

Earnings and allowances received under this Act by an economically disadvantaged youth, as defined in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)), shall be disregarded in determining the eligibility of the family of the youth for, and the amount of, any benefits based upon need under any program established under this Act.

SEC. 405. ENROLLMENT.

(a) CRITERIA.—

(1) AGE AND EDUCATION CRITERIA.—

(A) IN GENERAL.—Enrollment in the ACC and Youth Service Corps shall be limited to individuals who, at the time of enrollment, are—

(i) not less than 16 years or more than 25 years of age, except that programs limited to the months of June, July, and August may include individuals not less than 15 years and not more than 21 years of age at the time of their enrollment; and

(ii) citizens or nationals of the United States (including those citizens of the Northern Mariana Islands as defined in section 24(b) of the Act entitled "An Act to authorize $15,500,000 for capital improvement projects on Guam, and for other purposes.", approved December 8, 1983 (Public Law 98-213; 48 U.S.C. 1681 note) or lawful permanent resident aliens of the United States.

(B) ECONOMICALLY DISADVANTAGED INDIVIDUALS.—Special efforts shall be made to recruit and enroll individuals who, at the time of enrollment, are economically disadvantaged.

(C) SOCIALLY DISADVANTAGED INDIVIDUALS.—In addition to enrollment efforts required in subparagraph (B), the administering Secretary or the Deputy Director (as appropriate) shall make special efforts to recruit enrollees who are socially, physically, and educationally disadvantaged youths.

(D) HIGH SCHOOL DIPLOMA'S REQUIRED.—Any person who does not hold a high school

diploma or its equivalent may not be accepted for service in a program or project under this Act unless such person has not been enrolled as a high school student during the 3-month period before the date of such acceptance.

(E) SPECIAL SKILLS.—Notwithstanding subparagraph (A), a limited number of special corps members may be enrolled without regard to their age so that the corps may draw on their special skills which may contribute to the attainment of the purposes of this Act.

(2) HIGH SCHOOL STUDENTS.—Except in the case of a program limited to the months of June, July, and August, individuals who at the time of applying for enrollment have attained 16 years of age but not attained 19 years of age, and who are no longer enrolled in any secondary school shall not be enrolled unless they give adequate written assurances, under criteria to be established by the administering Secretary or the Deputy Director (as appropriate), that they did not leave school for the express purpose of enrolling. The regulations promulgated under section 101(e) shall provide such criteria.

(3) SELECTION OF ENROLLERS.—The selection of enrollees to serve in the ACC and Youth Service Corps shall be the responsibility of the chief administrator of the program agency. Enrollees shall be selected from those qualified persons who have applied to, or been recruited by, the program agency, a State employment security service, a local school district with an employment referral service, an administrative entity under the Job Training Partnership Act (29 U.S.C. 1502 et seq.), a community or community-based nonprofit organization, the sponsor of an Indian program, or the sponsor of a migrant or seasonal agricultural worker program.

(4) LENGTH OF ENROLLMENT.—

(A) IN GENERAL.—Except for a program limited to the months of June, July, and August, any qualified individual selected for enrollment may be enrolled for a period not to exceed 24 months. When the term of enrollment does not consist of one continuous 24-month term, the total of shorter terms may not exceed 24 months.

(B) AGE OF ENROLLEE.—No individual may remain enrolled in the ACC and Youth Service Corps after that individual has attained the age of 26 years, except as provided in paragraph (1)(D).

(C) PERFORMANCE OF SERVICE.—No enrollee shall perform services in any project for more than a 6 month-period.

(5) STANDARDS OF CONDUCT.—

(A) ESTABLISHMENT.—Within the ACC and Youth Service Corps the directors of programs shall establish and stringently enforce standards of conduct to promote proper moral and disciplinary conditions.

(B) VIOLATIONS.—Enrollees who violate these standards shall be transferred to other locations, or dismissed, if it is determined that their retention in that particular program, or in the Corps, will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees.

(C) APPEALS.—Such disciplinary measures shall be subject to expeditious appeal to the administering Secretary or the Deputy Director (as appropriate).

(b) REQUIREMENT OF PAYMENT FOR CERTAIN SERVICES.—

(1) IN GENERAL.—A reasonable portion of the costs of the rates for room and board provided at residential facilities may be deducted from amounts determined under subsection (c) and deposited into rollover funds administered by the appropriate program agency.

(2) EVALUATIONS.—The deductions and rates under paragraph (1) are to be established after evaluation of costs of providing the services.

(3) ROLLOVER FUNDS.—The rollover funds established pursuant to this section shall be used solely to defray the costs of room and board for enrollees.

(4) SURPLUS FOOD AND EQUIPMENT.—The administering Secretary, or the Deputy Director (as appropriate), and the Secretary of Defense may make available to program agencies any surplus food and equipment available from Federal programs.

(c) STIPENDS AND OTHER BENEFITS.—

(1) SCHEDULE OF STIPENDS.—The administering Secretary or the Deputy Director (as appropriate), shall devise a schedule providing an aggregate amount of stipends and other benefits, including education and training benefits (such as loans, scholarships, and grants) in an amount that is equal to not less than 100 percent and not more than 160 percent of the amount such enrollee would have earned if such person had been paid at a rate equal to the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) during the period of service of such enrollee.

(2) ALLOWANCE.—During the period of an enrollee's service, the enrollee shall receive, from amounts determined under paragraph (1), an allowance (in cash or in kind) of not less than 50 percent and not more than 100 percent of such minimum wage, to be paid to such person during such period of service.

(3) DETERMINATION OF AMOUNTS.—In any case in which enrollees would perform services substantially similar to the duties and responsibilities of a regular employee employed by the employer to whom such enrollee is assigned, the program agency shall ensure that the amount determined under paragraph (1) shall be based on a rate not less than the highest of—

(A) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938;

(B) the minimum wage under the applicable State or local mininum wage law; or

(C) the prevailing rates of pay for such regular employees of the employer.

(d) FACILITIES, SERVICES, AND SUPPLIES.—

(1) PROGRAM AGENCY.—The program agency shall provide facilities, quarters, and board (in the case of residential facilities), limited and emergency medical care, transportation from administrative facilities to work sites, and other appropriate services, supplies, and equipment.

(2) ADMINISTERING SECRETARY OR DEPUTY DIRECTOR.—

(A) IN GENERAL.—The administering Secretary or the Deputy Director (as appropriate) may provide services, facilities, supplies, and equipment to any program agency carrying out projects under this Act.

(B) LOGISTICAL SUPPORT.—Whenever possible, the administering Secretary or the Deputy Director (as appropriate) shall make arrangements with the Secretary of Defense to have logistical support provided by a military installation near the work site, including the provision of temporary tent centers where needed, and other supplies and equipment.

(e) HEALTH AND SAFETY STANDARDS.—The administering Secretary or the Deputy Director (as appropriate), along with the program agency, shall establish standards and enforcement procedures concerning enrollee health and safety for all projects, consistent with Federal, State, and local health and safety standards.

(f) GUIDANCE AND PLACEMENT.—Program agencies shall provide such job guidance and placement information and assistance for enrollees as may be necessary. Such assistance shall be provided in coordination with appropriate State, local, and private agencies and organizations.

SEC. 406. COORDINATION AND PARTICIPATION WITH OTHER ENTITIES.

(a) AGREEMENTS.—Program agencies may enter into contracts and other appropriate arrangements with local government agencies and nonprofit organizations for the operation or management of any projects or facilities under the program.

(b) COORDINATION.—The administering Secretary or the Deputy Director (as appropriate) and the chief administrators of program agencies carrying out programs under this Act shall coordinate the programs with related Federal, State, local, and private activities.

(c) JOINT PROJECTS INVOLVING THE DEPARTMENT OF LABOR.—

(1) DEVELOPMENT.—The administering Secretary or the Deputy Director (as appropriate) may develop, jointly with the Secretary of Labor, regulations designed to allow, where appropriate, joint projects in which activities supported by funds authorized under this Act are coordinated with activities supported by funds authorized under employment and training statutes administered by the Department of Labor (including the Job Training Partnership Act (29 U.S.C. 1502 et seq.)).

(2) STANDARDS.—Regulations promulgated under paragraph (1) shall provide standards for approval of joint projects which meet both the purposes of this Act and the purposes of such employment and training statutes under which funds are available to support the activities proposed for approval.

(3) APPROVAL.—Regulations promulgated under paragraph (1) shall establish a single mechanism for approval of joint projects developed at the State or local level.

SEC. 407. AMERICAN CONSERVATION AND YOUTH SERVICE CORPS STATE ADVISORY BOARDS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—On the approval of a project within a State, the State job training coordinating council within the State shall appoint an advisory board for the purpose of conducting regular oversight and review of projects within the State.

(2) CERTIFICATION.—The advisory board shall certify that the project satisfies the requirements and limitations under this Act, including limitations respecting the displacement of existing employees and the types of projects and responsibilities appropriate for enrollees.

(3) ADMINISTRATION.—Members of the advisory board shall provide guidance and assistance for the development and administration of projects.

(b) COMPOSITION.—

(1) IN GENERAL.—Each advisory board shall be composed of not less than seven individuals, of whom—

(A) two individuals who shall be representatives of organized labor (one of each representing the State and local levels); and

(B) five individuals, one each of whom is a representative of the business community, community based organizations, State government (or an appropriate State agency),

local elected office, and State or local school administration.

(2) ADDITIONAL MEMBERS.—If more than 7 individuals are appointed to the advisory board, the representation scheme described in paragraph (1) shall be met, to the extent practicable.

(c) ANNUAL MEETINGS.—Each advisory board shall meet not less often than twice annually.

SEC. 408. FEDERAL AND STATE EMPLOYEE STATUS.

(a) IN GENERAL.—Enrollees, crew leaders, and volunteers are considered as being responsible to, or the responsibility of, the program agency administering the project on which they work.

(b) NOT FEDERAL EMPLOYERS.—Except as otherwise specifically provided in the following paragraphs, enrollees and crew leaders in projects for which funds have been authorized pursuant to section 415 shall not be considered Federal employees and should not be subject to the provisions of law relating to Federal employment:

(1) TITLE 5.—For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to the compensation of Federal employees for work injuries, enrollees and crew leaders serving American Conservation and Youth Service Corps program agencies shall be considered employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provision of that subchapter shall apply, except—

(A) the term "performance of duty" shall not include any act of an enrollee or crew leader while absent from his or her assigned post of duty, except while participating in an activity authorized by or under the direction and supervision of a program agency (including an activity while on pass or during travel to or from such post of duty); and

(B) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee's or crew leader's employment is terminated.

(2) TITLE 22.—For purposes of chapter 171 of title 28, United States Code, relating to tort claims procedure, enrollees and crew leaders on ACC and Youth Service Corps projects shall be considered employees of the United States within the meaning of the term "employee of the Government" as defined in section 2671 of such title.

(3) ALLOWANCE FOR QUARTERS.—For purposes of section 5911 of title 5, United States Code, relating to allowances for quarters, enrollees and crew leaders shall be deemed employees of the United States within the meaning of the term "employee" as defined in that section.

SEC. 409. NONDUPLICATION AND NONDISPLACEMENT.

(a) NONDUPLICATION.—

(1) IN GENERAL.—Funds provided pursuant to this Act shall be used only for activities that do not duplicate and that are in addition to programs and activities that are otherwise available in the local area. States shall certify that proposed projects shall not duplicate ongoing programs.

(2) STATE OR LOCAL ACTIVITIES.—No funds made available under this Act may be provided to any private nonprofit entity to conduct activities that are the same or substantially equivalent to activities provided by the State or local government in the local area unless the level of State or local government employees working in the same or substantially equivalent activities is maintained at the levels specified in sections 409(c)(4), (5), and (6).

(b) LIMITATIONS ON CERTAIN PROJECTS AND ACTIVITIES.—

(1) DISPLACEMENT PROHIBITED.—Projects conducted under this Act shall be designed by the project grantee, along with any labor organization representing employees engaged in the same or substantially similar work, to achieve the objective of avoiding the displacement of regular jobs and employees.

(2) INVOLVEMENT OF LABOR ORGANIZATION.—Any labor organization identified in paragraph (1) shall, if it so elects, assist in supervising the project.

(3) ACHIEVING NONDISPLACEMENT.—To achieve such objective, the Deputy Director or appropriate official of the State or local government shall take into account the following factors in determining whether to approve a proposed project that complement existing services:

(A) The number of projects in the local area that would complement existing employment services.

(B) The imposition of a limitation on the maximum length of time projects are conducted within the local area.

(C) The number of enrollees participating in any ongoing project extending beyond a specific period determined by the State.

(D) The number of service years (or months) allowed for participation in such projects.

(E) The transfer of enrollees to different types of projects.

(c) NONDISPLACEMENT.—

(1) PROHIBITION.—No currently employed worker or position shall be displaced by any enrollee (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(2) LAYOFFS OR TERMINATIONS.—

(A) LAYOFFS.—No enrollee under this Act shall be employed or placed in a position in any case in which an individual is on layoff from the same or any substantially equivalent position.

(B) TERMINATIONS.—No enrollee under this Act shall be placed in a position of service when, following the submission of a project proposal for the local area, the employer terminates the employment of any regular employee in the same or any substantially equivalent position job or otherwise reduces the number of regular employees in any such position.

(3) PROMOTIONAL ACTIVITIES.—No jobs shall be created in a promotional line that will infringe in any way on the promotional opportunities of currently employed individuals.

(4) AGENCIES OR ORGANIZATIONS.—No enrollee under this Act shall be assigned to any local agency or organization unless the number of employees in such agency or organization is at least equal to the number of regular employees who were employed in the local workforce of such agency or organization in the two years preceding the application submitted under this Act.

(5) INCREASE IN POSITIONS.—No enrollee under this Act shall be assigned to any position if the rate of increase in the number of regular local employees in substantially equivalent positions is less than the rate of increase of regular local employees in all positions of the employer in the two years preceding the calendar quarter in which the project application is submitted and in each succeeding calendar quarter.

(6) INCREASE IN POSITIONS AT DEPARTMENT OR AGENCIES.—No enrollee under this Act shall be assigned to any State or local government department or agency if the rate of increase in the number of regular employees in such department or agency is less than the rate of increase of regular employees in all of the departments or agencies of such State or local government in the calendar year preceding the calendar quarter in which the application for a project is submitted and in each succeeding two year period.

(d) LABOR IMPACT REPORTS.—

(1) REQUIREMENT.—Any recipient of a grant made under this Act shall transmit an annual report to any local labor organization representing government employees who are engaged in similar work to that performed by enrollees in a local project.

(2) CONTENTS.—Each report submitted under paragraph (1) shall, with respect to each relevant position, organization, and relevant government department or agency in which enrollees serve under a project, describe—

(A) the number of all regular employees in each such position, organization, and department or agency affected by such enrollees

(i) during the year to which such report applies, and

(ii) during the quarter preceding the enactment of this Act; and

(B) the number of enrollees performing services in such position, organization, and department or agency during each such quarter.

(e) USE OF FUNDS IN CONNECTION WITH UNION ORGANIZING.—Each recipient of funds under this Act shall provide to the Secretary assurances that none of such funds will be used to assist, promote, or deter union organizing.

(f) REVIEW OF PROPOSED PROJECTS BY LABOR ORGANIZATIONS.—In any case in which services performed by enrollees under a proposed project would be similar to employment performed by employees represented by a labor organization, such organization shall be afforded an opportunity to review the proposed project. If such organization determines that the proposed project would not satisfy the nondisplacement and nonduplication protections under this section, the project shall be revised by the program agency in order to satisfy such protections.

SEC. 410. GRIEVANCE PROCEDURE.

(a) COMPLAINTS.—

(1) IN GENERAL.—Each program agency shall establish and maintain a grievance procedure for grievances and complaints about its projects from enrollees and, labor organizations and other interested persons.

(2) HEARINGS.—Hearings on any grievance shall be conducted not later than 30 days after the filing of a grievance and decisions shall be made not later than 60 days after such filing.

(3) LIMITATION.—Except for complaints alleging fraud or criminal activity, complaints shall be made not later than 1 year after the date of the alleged occurrence.

(b) INVESTIGATION BY THE ADMINISTERING SECRETARY OR THE DEPUTY DIRECTOR.—On exhaustion of a grievance proceeding without decision, or where the administering Secretary or the Deputy Director (as appropriate) has reason to believe that the program agency is failing to comply with the requirements of this Act or the terms of a project, the administering Secretary or the Deputy Director (as appropriate) shall investigate the allegation or belief within the complaint and determine, not later than 129 days after receiving the complaint, whether such allegation or belief is true.

SEC. 411. USE OF VOLUNTEERS.

Where any program agency has the authority to use volunteer services in carrying out the functions of the agency, such agency may use volunteer services for purposes of assisting projects carried out under this Act and may expend funds made available for those purposes to the agency, including funds made available under this Act, to provide for services or costs incidental to the utilization of such volunteers, including transportation, supplies, lodging, recruiting, training, and supervision. The use of volunteer services permitted by this section shall be subject to the condition that such use does not result in the displacement of any enrollee.

SEC. 412. NONDISCRIMINATION PROVISION.

(a) IN GENERAL.—No individual shall on the ground of race, creed, belief, color, national origin, sex, handicap, or political affiliation, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or project for which any State receives assistance under this Act.

(b) CONSTRUCTION UNDER CIVIL RIGHTS ACT OF 1964.—For purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), any program or project for which any State is receiving assistance under this Act shall be considered to be receiving Federal financial assistance.

SEC. 413. LABOR MARKET INFORMATION.

The Secretary of Labor shall make available to the administering Secretary or to the Deputy Director (as appropriate) and to any program agency under this Act such labor market information as is appropriate for use in carrying out the purposes of this Act.

SEC. 414. REVIEW AND REPORTING REQUIREMENTS.

(a) REPORT TO THE PRESIDENT AND CONGRESS.—The administering Secretary or the Deputy Director (as appropriate) shall prepare and submit to the President and to the appropriate committees of Congress, at least annually, a report detailing the activities carried out under this Act during the preceding fiscal year. Such report shall be submitted not later than December 31 of each year following the date of the enactment of this Act.

(b) OVERSIGHT.—

(1) REQUIREMENT.—Each recipient of a grant made under section 402 shall provide oversight of service by any person in an ACC and Youth Service Corps project under this Act, and of the operations of any employer of such person, in accordance with procedures established by the administering Secretary or the Deputy Director (as appropriate).

(2) PROCEDURES.—Procedures established under paragraph (1) shall include fiscal control, accounting, audit, and debt collection procedures to ensure the proper disbursal of, and accounting for, funds received under this Act.

(3) ACCESS TO INFORMATION.—In order to carry out this section, each such recipient shall have access to such information concerning the operations of any sponsoring organization as the administering Secretary or the Deputy Director (as appropriate) determines to be appropriate.

(c) ANNUAL REPORT TO THE SECRETARY.—Any recipient of a grant made under this Act shall prepare and submit an annual report to the administering Secretary or the Deputy Director (as appropriate) on such date as the Secretary shall determine to be appropriate. Such report shall include—

(1) a description of activities conducted by program or project for which such grant was awarded during the year involved;

(2) characteristics of the individuals serving in such program or project;

(3) characteristics of the positions held by such individuals;

(4) a determination of the extent to which relevant standards, as determined by the administering Secretary or the Deputy Director (as appropriate), were met by such individuals and their sponsoring organizations;

(5) a description of the post-service experiences, including employment and educational achievements, of individuals who have served, during the year that is the subject of the report, in projects under this Act; and

(6) any additional information that the administering Secretary or the Deputy Director (as appropriate) determines to be appropriate for purposes of this Act.

(d) RESEARCH AND EVALUATION.—The administering Secretary or the Deputy Director (as appropriate) shall provide for research and evaluation to—

(1) determine the costs and benefits, tangible and otherwise, of the work performed under this Act and of training and employable skills and other benefits gained by enrollees; and

(2) identify the options for improving program productivity and youth benefits, that may include alternatives for—

(A) organization, subjects, sponsorship, and funding of work projects;

(B) recruitment and personnel policies;

(C) siting and functions of facilities;

(D) work and training regimes for youth of various origins and needs; and

(E) cooperative arrangements with programs, persons, and institutions not covered under this Act.

(e) TECHNICAL ASSISTANCE.—Each administering Secretary or the Deputy Director (as appropriate) shall provide technical assistance to the States, to local governments, nonprofit entities and other entities eligible to participate under this Act.

SEC. 415. AUTHORITY OF STATE LEGISLATURE.

Nothing in this Act shall be interpreted to preclude the enactment of State legislation providing for the implementation, consistent with this Act, of the programs administered under this Act. In any case in which the participant activities overlap with the routine services or functions of an employer, no participant shall work in the same project for more than 6 months.

SEC. 416. AUTHORIZATION OF APPROPRIATIONS AND OTHER FISCAL PROVISIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act, $152,400,000 for fiscal year 1990 and such sums as may be necessary for succeeding fiscal years.

(b) FISCAL YEAR 1990.—

(1) ALLOCATIONS.—Of amounts appropriated for fiscal year 1990—

(A) $70,000,000 shall be allocated to carry out title I (the American Conservation Corps);

(B) $50,000,000 shall be allocated to carry out title II (the Youth Service Corps);

(C) $15,240,000 shall be allocated for in-service education and $15,240,000 for post-service education as authorized under this Act; and

(D) $1,000,000 shall be allocated to carry out title V (relating to the Commission), and an additional $1,000,000 shall be authorized to be appropriated for fiscal year 1991 for such purpose.

(2) AVAILABILITY.—Funds appropriated under this section shall remain available until expended.

(c) LIMITATION ON APPROPRIATIONS.—Of amounts appropriated to carry out this Act, funds shall first be made available for part A of title I of the Domestic Volunteer Service Act in an amount necessary to provide the number of service years required for authorized fiscal year under such Act.

(d) LIMITATIONS ON ADMINISTRATIVE EXPENSES.—The regulations promulgated under this Act shall establish appropriate limitations on the administrative expenses incurred by Federal agencies carrying out programs under this Act, including a cost reimbursement system under which the administrative expenses are paid under this Act through reimbursement.

(e) CARRYOVER.—Funds obligated for any program year may be expended by each recipient during that program year and the two succeeding program years and no amount shall be deobligated on account of a rate of expenditure which is consistent with the program plan.

TITLE V—COMMISSION ON NATIONAL SERVICE OPPORTUNITIES

SEC. 501. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) national service in a variety of areas represents a vast and essentially untapped resource that can and should be used to meet national and local needs;

(2) greater leadership is needed on the part of the Federal government to encourage the people of the United States to serve and to encourage State and local authorities to provide opportunities for meaningful service;

(3) the United States faces numerous challenges which can be better met if we draw on the creative energies of young people and others through a program of national service;

(4) the people of the United States could benefit from improving the quality of, and expanding the number of, opportunities for young people to perform voluntary national service;

(5) an expansion in the number of opportunities for young people to perform voluntary national service could—

(A) take advantage of the huge reservoir of talent among young people;

(B) give young people the opportunity to experience and perform public service before they choose a definite career path; and

(C) contribute to the educational and personal growth of young people;

(6) disagreement exists among the people of the United States regarding the best method to implement and administer programs designed to offer young people the opportunity to perform voluntary national service; and

(7) a high-level commission is needed to—

(A) make recommendations to the President and the Congress concerning the effectiveness of existing national service programs and the costs and benefits of alternative types of national service programs;

(B) focus national attention on the desirability of improving the quality of, and expanding the number of, opportunities for voluntary national service; and

(C) make recommendations to the President and the Congress regarding the best method to improve and expand such opportunities;

(b) PURPOSES.—It is the purpose of this title to—

(1) establish a commission to examine the issues associated with national service, including the American Conservation Service (established under title I) and the Youth Service Corps (established under title II);

(2) focus national attention on the need for and benefits of national service, on opportunities that exist for such service, and on alternative types of national service programs that may help the United States to meet a broad range of national and local needs;

(3) explore and assess alternative methods for providing the people of the United States with the incentives and the opportunities to provide useful service to the community and the United States; and

(4) provide the President, the Congress, and the people of the United States with an overview and assessment of existing opportunities for national service (including Federal government, State government, and local government programs) and a series of options for alternative types of national service programs designed to help the United States deal with youth unemployment, conservation of natural and cultural resources, protection of the environment, reconstruction of the inner cities, education, services for older Americans and handicapped individuals, and personnel requirements for a wide variety of Federal, State, and local programs and agencies.

SEC. 502. COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on National Service Opportunities (hereinafter in this title referred to as the "Commission").

(b) DUTIES.—

(1) STUDY.—The Commission shall conduct a study relating to the opportunities for young people to perform voluntary national service and the effect of improving the quality of, and expanding the number of, such opportunities on Federal and other employees. The Commission shall include in such study an assessment of—

(A) existing service opportunities in the public and private sectors of the United States and the effectiveness of such opportunities in meeting national and local needs, in building a sense of commitment to the community and the United States, and in instilling in the participants a sense of accomplishment and pride;

(B) existing and potential incentives to encourage service in the public and private sectors of the United States;

(C) alternative types of national service programs and the relative costs and benefits of such national service programs, including the desirability, feasibility, and cost of providing to young people who volunteer to perform public service in the Federal government—

(i) a stipend; and

(ii) travel expenses and health insurance benefits similar to the travel expenses and health insurance benefits available to Federal employees;

(D) the need for and the desirability, feasibility, and cost of expanding existing service opportunities and incentives and establishing any of the alternative types of national service programs;

(E) the extent to which such improvement and expansion could—

(i) help participants develop a sense of commitment to their communities and the United States;

(ii) enhance the personal growth and education of participants; and

(iii) improve future employment opportunities for more participants;

(F) the feasibility of improving the quality of, and expanding the number of, voluntary national service opportunities in the Federal Government that are available to participants without—

(i) displacing Federal employees;

(ii) displacing other volunteers; or

(iii) curtailing employment opportunities with the Federal Government;

(G) the desirability and feasibility of allowing Federal agencies, at the request of a State or local government, to assign participants to State and local projects and programs;

(H) the impact of potential changes in the incentives for service, and of various alternative types of national service programs, on existing institutions (including educational institutions, labor organizations, private and public service programs, and Federal youth, jobs, and training programs);

(I) the cost effectiveness of both alternative and existing voluntary service programs and the feasibility and desirability of incorporating these programs into a comprehensive national service program;

(J) the need for and the desirability, feasibility, and cost of establishing and carrying out a program of mandatory national service;

(K) the role of all individuals (regardless of age, sex, income, and education) in existing service programs and in the alternative types of national service programs;

(L) the ways in which existing service programs and alternative types of national service programs will provide participants with a sense of accomplishment and pride and an opportunity to contribute to the welfare of the society by responding to unmet needs of the community and the United States; and

(M) alternative ways to furnish educational assistance to participants in national service programs and assess the cost of furnishing assistance in each such way.

(2) CONSULTATION AND MEETINGS.—As part of the study conducted under paragraph (1), the Commission shall—

(A) consult with young people and representatives of groups most likely to be adversely affected by improving the quality of, and expanding the number of, opportunities for participants to perform voluntary national service; and

(B) conduct meetings, hearings, and conferences in various regions and localities in the United States to gather the opinions of a wide variety of people, particularly young people and those people and groups most likely to be affected by any changes in existing service programs or the establishment of a program of national service.

(c) MEMBERSHIP, APPOINTMENT, PAY, AND MEETINGS.—

(1) MEMBERSHIP.—The Commission shall be composed of 21 members to be appointed as follows:

(A) PRESIDENT.—Eleven members shall be appointed by the President from among individuals who are broadly representative of private volunteer organizations, secondary and higher education, business, organized labor, the military, social service and civil liberty organizations, Federal, State, and local governments, and groups with a primary interest in service opportunities for youth, handicapped individuals, and older Americans, of which not fewer than three such members shall be individuals who are not less than 17 years of age and not more than 25 years of age on the date of their appointment to the Commission.

(B) SPEAKER OF THE HOUSE.—Five members shall be appointed by the Speaker of the House of Representatives, in consultation with the minority leader of the House of Representatives, of which two such members shall be Members of the House of Representatives and one such member shall be an individual who is not less than 17 years of age and not more than 25 years of age on the date of the individual's appointment to the Commission.

(C) MAJORITY LEADER OF THE SENATE.—Five members shall be appointed by the majority leader of the Senate, in consultation with the minority leader of the Senate, of which two such members shall be Senators and one such member shall be an individual who is not less than 17 years of age and not more than 25 years of age on the date of the individual's appointment to the Commission.

(2) CONTINUED SERVICE.—If any member of the Commission who was appointed to the Commission as a Member of the Congress leaves that office, such member may continue as a member of the Commission until a successor is appointed.

(3) VACANCY.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) TERM OF SERVICE.—Members of the Commission shall be appointed for the life of the Commission.

(5) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), members of the Commission shall each be paid at a rate equal to the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of the duties of the Commission.

(B) EXPENSES.—Members of the Commission shall be paid per diem and reimbursed for travel and transportation expenses in connection with the performance of the functions and duties of the Commission as provided in sections 5702 and 5703 of title 5, United States Code.

(C) LIMITATION.—Members of the Commission who are officers or employees of the United States or Members of the Congress shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(6) QUORUM.—Eleven members of the Commission shall constitute a quorum, but a smaller number of members may hold hearings.

(7) CHAIRPERSON.—Not later than 45 days after the effective date of this section, the President shall designate the Chairperson of the Commission from among those individuals appointed by the President under paragraph (1)(A).

(8) MEETINGS.—The first meeting of the Commission shall be held not later than 60 days after the designation of the Chairperson under paragraph (7). The Commission shall meet at least once every 3 months after its first meeting. The date and time of all meetings of the Commission shall be at the call of the Chairman or a majority of its members.

(d) EXECUTIVE DIRECTOR AND STAFF.—

(1) IN GENERAL.—The Commission shall have an Executive Director who shall be appointed by the Chairperson of the Commission and who shall be paid at a rate determined by the Chairperson. The rate of pay may not exceed the annual rate of basic pay payable for GS-18 of the General Schedule.

(2) OTHER PERSONNEL.—Subject to such rules as may be prescribed by the Commis-

sion, the Chairperson of the Commission may appoint and fix the rate of pay of such additional personnel as the Chairperson considers appropriate. A rate of pay fixed pursuant to this subsection may not exceed the annual rate of basic pay payable for GS-18 of the General Schedule.

(3) COMPENSATION.—The Executive Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code (governing appointments in the competitive service), and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

(4) TEMPORARY SERVICES.—Subject to such rules as may be prescribed by the Commission, the Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay payable for GS-18 of the General Schedule.

(5) DETAILING OF PERSONNEL.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.

(e) POWERS.—

(1) HEARINGS, ETC.—The Commission may, for the purpose of carrying out this section, hold such hearings and conferences, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) ACTION.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) INFORMATION.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(4) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(5) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(7) CONTRACTS.—The Commission, through its Chairperson, may enter into any contract which the Commission considers necessary to carry out this section.

SEC. 503. REPORTS AND RECOMMENDATIONS.

(a) COMMISSION REPORTS.—The Commission may transmit to the President and to each House of the Congress such interim reports as the Commission considers appropriate and shall transmit a final report to the President and to each House of the Congress not later than 15 months after the date of the first meeting of the Commission. The final report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(b) EXECUTIVE AGENCY RECOMMENDATIONS.—After the final report is transmitted to the President and each House of the Congress pursuant to subsection (a), each executive department and agency affected by the final report, as determined by the President, shall submit to the President recommendations for implementing the final report.

(c) PRESIDENTIAL INTERIM REPORT.—

(1) IN GENERAL.—Not later than 90 days after the final report is transmitted by the Commission to each House of the Congress pursuant to subsection (a), the President shall transmit to each House of the Congress an interim report containing a detailed statement on—

(A) the desirability, feasibility, and cost of implementing each of the recommendations of the Commission, and the actions taken or planned with respect to the implementation; and

(B) recommendations with respect to any legislation proposed by the Commission and the need for any alternative or additional legislation to implement the recommendations of the Commission.

(2) FINAL REPORT.—Not later than 90 days after the interim report is transmitted to each House of the Congress under paragraph (1), the President shall transmit to each House of the Congress a final report containing a detailed statement on any actions taken to implement the recommendations of the Commission, together with any further recommendations for legislation or administrative actions.

SEC. 504. TERMINATION AND EFFECTIVE DATE.

(a) TERMINATION.—The Commission shall terminate 180 days after its final report is transmitted to the President and each House of the Congress under section 503(a).

(b) EFFECTIVE DATE.—This title shall become effective on October 1, 1989.●

● Mr. MOYNIHAN. Mr. President, I rise today as an original cosponsor of the American Conservation Corps and Youth Service Act of 1989, introduced by my good friend, Senator DODD. This bill is sorely needed to help eliminate the nagging problem of teen unemployment, to foster a healthier brand of citizenship, and to provide needed social and environmental services across the country.

As we are all painfully aware, youth unemployment remains intolerably high despite the economic recovery of the last few years. In my own State of New York, more than 54,000 youths aged 16 to 19 were unemployed in the first 9 months of 1988. Teens were almost three times as likely to be unemployed as all New Yorkers. This reflects a pattern of youth unemployment that plagues the country. Nationwide, in December 1988, 15 percent of Americans 16 to 19 were unemployed; 29.6 percent of black teenagers were unemployed; 1.2 million teens wanted but could not find work last month. This must not continue.

I have long proposed the establishment an American Conservation Corps as a method of providing youth employment. Such a corps, like its predecessor the Civilian Conservation Corps of the 1930's, would also provide an opportunity for disadvantaged youth to perform much needed conservation and reclamation work. I have introduced the American Conservation Corps Act five times in the last 8 years—most recently last Wednesday—and have seen it pass the Senate twice.

The bill Senator DODD and Representative LEON PANETTA introduced today would establish a Conservation Corps, and contain two other important features. First, in addition to the ACC, the bill establishes a Youth Service Corps to assist public and private nonprofit groups in providing human service assistance to their communities.

Second, the bill contains provisions encouraging local education facilities to provide in-service and postservice education and job-training. The corps will therefore provide more than just experience. It will provide an opportunity for participants to improve their literacy and to become more productive members of society.

The idea of a national public service program is enjoying something of a renaissance. And with good reason. The call to "ask what you can do for your country" spoken by President Kennedy at his inauguration, and echoed by President Bush in his, still has great resonance. Because few callings are more valuable than those that enrich one's own experience while enriching the Nation.●

By Mr. WIRTH (for himself, Mr. BUMPERS, Mr. GORE, Mr. CRANSTON, Mr. HEINZ, Mr. FOWLER, Mr. PELL, Mr. BINGAMAN, Mr. LEAHY, Mr. MATSUNAGA, Mr. HOLLINGS, Mr. INOUYE, Mr. ADAMS, Mr. BREAUX, Mr. SANFORD, Mr. DASCHLE, Mr. JEFFORDS, Mr. D'AMATO, Mr. DODD, Ms. MIKULSKI, Mr. GORTON, Mr. SARBANES, Mr. MOYNIHAN, Mr. LIEBERMAN, Mr. SIMON, Mrs. KASSEBAUM, Mr. DECONCINI, Mr. SPECTER, Mr. BRYAN, Mr. BOSCHWITZ, and Mr. RIEGLE):

S. 324. A bill to establish a national energy policy to reduce global warming, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL ENERGY POLICY ACT

Mr. WIRTH. Mr. President, I send to the desk, for appropriate reference, an omnibus global warming bill entitled "The National Energy Policy Act of 1989."

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

Mr. WIRTH. Mr. President, the time has come to stop our assault on the atmosphere and to wage a new battle to protect the global environment. Citizens of our country and people around the world are becoming increasingly concerned and in fact alarmed about our global environmental systems, many of which are today stretched to the breaking point.

Last summer's stories of needles on the beaches of New Jersey told us about the absorptive capacity of the ocean and the problems of ocean dumping. Air pollution problems which infect our cities, infect our relationships with our neighbors to the north and infect European countries and countries around the world continue to plague us. Toxic waste issues and garbage disposal are too familiar to us all. The problems of ozone depletion are becoming well known. Overpopulation plagues many areas in the world. We are rapidly destroying extraordinarily precious rain forests in South America and elsewhere, and we are on a course toward rapidly warming our globe.

This last issue, global warming, may be the most important issue of them all. The world is getting warmer. The theory of global warming is well-established. We do not have to debate that any longer. The facts of global warming are also becoming increasingly clear. The trend is increasingly apparent and it is up. As we examine the upward trend, we come to understand that the impacts of global warming could be appalling and very dangerous for us all—in the area of agriculture, it could dry out our soils and dramatically change the face of agriculture in the United States and around the world; our oceans, expanding with increased warmth, could expand in a fashion that will have very deleterious effects on our coasts and coasts around the world; the availability of water is threatened in areas like my own where we are dependent upon capturing scarce spring runoff; and the survival of species could be in danger. All of these are impacts of global warming, and there are many others.

So it is time for us now, Mr. President, to act, to act decisively, clearly, and comprehensively.

The legislation that I am introducing this afternoon is exactly that kind of a broad, ambitious, and comprehensive bill. The fact that this issue is important and has reached the Senate is reflected in the 26 cosponsors of the legislation, running all the way from the chairman of the Commerce Committee, Senator HOLLINGS and his colleague, Senator GORE—one of the Senate's longest and most persistent leaders on these matters—to the chairman of the Foreign Relations Committee, Senator PELL; the majority whip, Senator CRANSTON; the ranking member of the Energy Committee, Senator BUMPERS; many Members on the other side of the aisle, including Senator HEINZ, Senator D'AMATO, Senator KASSEBAUM, and many, many others who are joining me today in introducing this important piece of legislation.

The specifics of the bill range all the way from energy conservation, steps that should be taken immediately which are going to be good for the economy anyway and which are imperative for us to take on the issue of global warming; alternative energy and energy research programs, ranging all the way from clean coal technologies, conversion of natural gas where possible, development of solar energy, starting all over again on nuclear power; questions of forestation and deforestation which we must undertake immediately; examination of and recommitting ourselves to addressing worldwide population growth and developing the overall international institutions and scientific capabilities which we will need to fashion a precise response to this enormous global issue.

These measures and others are outlined in the legislation which I am introducing today.

Mr. President, during the past year, concern about our global environment has risen steadily here in the United States and throughout the world. Foremost among those concerns, and perhaps the most important issue for our future, is the prospect of global warming.

In an extraordinary address Monday, the new Secretary of State, James Baker, issued a challenge to the nations of the world to get to work on this issue. He urged the nations of the world to act now.

Our challenge lies in finding innovative strategies to power the economic institutions of the developed and developing nations in ways that will reduce the risks and potential costs of issues like global warming. And it has been well documented that the costs of climate change could be staggering.

Climate is our ally. We base our social and economic institutions on the climates in which we live. The Dutch plan their institutions based on their fragile relationship with the sea—and they know very well how rising sea levels could affect their society. And we in the United States—the breadbasket of the world—plan our activities around a set of predictable climatic conditions.

A fine example of the degree to which we rely on the predictability of our climate is well known to all Coloradans. Each year, from November 1 to May 1, we know that Trail Ridge Road in Rocky Mountain National Park will be closed by snow. So like so many others, Wren and I make plans to pass over the Nation's highest paved road during the summer and early fall months. We make our plans around the weather.

But the world's leading scientists are now telling us that we are threatening the predictability of our climate by man's effect on the so-called greenhouse effect. The greenhouse effect is well understood. Without the water vapor and other gases in our atmosphere, our planet would be about 60-degrees cooler than it is—possibly making life on this planet impossible. There is no controversy about the greenhouse effect, it is very well understood. However, scientists are concerned that man is altering the composition of the atmosphere and could threaten the delicate balance that influences climate by warming the globe.

The concentration of the so-called greenhouse gases are rising in the atmosphere. Carbon dioxide is increasing at the rate of one-half a percent a year; CFC's are increasing at the rate of 5 percent a year and gases such as methane and nitrous oxide are increasing by 1 percent each year. And the scientific record indicates that temperatures around the globe are rising. Over the last 100 years, the Earth's global average temperature has risen by about 1 degree. During the past decade, the thermostat has been turned up rapidly. The 5 warmest years on record have all occurred during the 1980's.

The Environmental Protection Agency and others have also shown that the impacts of a warming world could be staggering. Scientists currently predict that at present emissions rates, the Earth will warm by 3 to 8 degrees early in the next century. What does that mean? Consider that 10,000 years ago, at the height of the last little ice-age, thick ice covered New York and Michigan. For our future, the consensus prediction of a 3- to 8-degree rise in global temperatures could raise sea levels, change precipitation patterns and alter agriculture productivity in regions around the world. In my home State of Colorado that could seriously stress the persistent Western dilemma of providing water for our farms and communities.

The majority of the greenhouse gas emissions are the result of the growth of modern society, and, in large part, can be traced to the burning of fossil fuels—the engine of economic development. That is why I am introducing a comprehensive bill, today with 26 of my colleagues, focusing on energy policy, that will help slow down this assault on the atmosphere.

It is now clear that energy policies and environmental policies are inextricably linked. We cannot talk about one without also discussing the other. And I believe that good energy policy can be good environmental policy and good economic policy.

This bill sets as a goal, a 20-percent reduction from 1988 CO_2 emission levels by the year 2000. And it goes on to lay out energy strategies that will help us realize that aim.

The top priority of our effort stresses the need for this Nation to use energy more efficiently. Through a strong program of research and development, and with new initiatives to encourage efficiency in all sectors of our

economy—especially in the building and transportation sectors—we can save energy, reduce emissions of the greenhouse gases and address the rising level of our oil imports and trade deficit.

Second, this bill proposes an accelerated examination of alternative sources of energy. Solar, wind and geothermal energy have the potential to meet the energy demand of the future in a more environmentally benign manner. Solar photovoltaic technologies, for example, are rapidly becoming cost-competitive and we have to go the extra mile to ensure that these kinds of promising technologies make it to the marketplace.

Also among the alternatives to fossil fuels, the bill proposes a reexamination of the nuclear option to see if it is possible to develop a new generation of nuclear that is cost-effective and safe, and that addresses such concerns as waste disposal and proliferation. Unless we meet those basic criteria, nuclear will not pass the critical test of public acceptability.

We also are proposing suggestions about ways to increase the use of natural gas in this country. Natural gas is the cleanest burning of the fossil fuels and we should do all that we can to encourage the development of unconventional reserves and to develop alternative fuel vehicles that can utilize our vast natural gas resources. At the same time, we should be looking for new ways to burn coal more efficiently to reduce CO_2 emissions from that resource.

In addition to these energy strategies, this bill frames a number of other issues that must be addressed if we are to get a handle on this problem. This is a global issue and will require unprecedented levels of international cooperation. The bill proposes that the United States seek an international agreement that establishes at least the 20-percent goal we set for ourselves.

While the developed nations—who are responsible for about 75 percent of greenhouse gas emissions—work together to minimize their collective contribution to the problem, we also have an enormous task ahead to help the Third World reconcile the dilemma of achieving their development goals without fouling the global commons.

That is why we propose some creative strategies that would lend our assistance and expertise to halt the troubling deforestation of the world's tropical rainforests—responsible for some 20 percent of global CO_2 emissions. We must lend similar assistance and provide alternatives to these nations to help them develop with clean sources of energy.

And we address the tremendous challenge of trying to get a handle on world population growth. There are troubling demographic trends that could overwhelm any other steps we might take to address the global warming issue. We suggest that our contribution to international family planning programs be increased to help ensure that counseling services are available to those who want them around the world.

Finally, there remains a large science agenda in order for us to better understand the Earth's processes and its delicate relationship with the atmosphere. These efforts will help us improve the precision of our response. I know that Senator HOLLINGS, Senator GORE, and others on the Science Committee will be vigorously pursuing this agenda in the coming months.

I expect that this issue will require the attention of virtually every committee in the Senate. And I am encouraged that so many Senators have expressed to me a deep concern about this issue and their commitment to begin now to examine the public policy implications of global warming. The implications of this issue are so vast that we must work together, here in the Senate, with the Federal agencies and with the other nations of the world, if we are to develop effective measures to prevent global warming.

Let me conclude by saying that it is time for us to stop the war we are waging on this planet's atmosphere. The United States must lead the world, as it has so often in the past, to wage a new battle to protect the global environment. Working with the new administration, which has pledged to get to work on this issue, with this bill we are committing to firing the first shots. It is an enormous task, but we must act now with the same urgency currently given to such issues as nuclear arms control. It seems to me that the stakes are that high.

If the Earth's history is compressed into just 100 years, the dinosaurs came and left about 1 year ago. Man arrived only 2 short weeks ago. We began widespread use of fossil fuels at the start of the industrial revolution only 5 minutes ago. But the legacy of those 5 minutes is large. In those brief 5 minutes we have upset more than 99 years of development of the Earth's environment. If we are to protect the predictability of our climate for future generations, we must act in the next few seconds.

I trust that we are up to the task, and I look forward to working with my colleagues on this issue during the 101st Congress.

Mr. President, I ask unanimous consent that a copy of this legislation, a summary and cost analysis, a copy of an article from the Washington Post about Secretary Baker's remarks and an amendment to this bill offered by Senator HEINZ and me be printed in the RECORD at the appropriate point.

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

S. 324

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

SHORT TITLE AND TABLE OF CONTENTS

SEC. 1. SHORT TITLE.—(a) This Act may be referred to as the "National Energy Policy Act of 1989."

(b) TABLE OF CONTENTS.—

Title I. National Energy Plan
Title II. Office of Climate Protection
Title III. Energy Efficiency
Title IV. Energy Research and Development Priorities
Title V. State Energy Conservation Programs
Title VI. Renewable Energy
Title VII. Advanced Civilian Reactor Programs
Title VIII. Fusion
Title IX. Coal
Title X. Natural Gas
Title XI. Natural Resource Policy
Title XII. Basic Science Initiatives
Title XIII. Development Assistance
Title XIV. International Activities
Title XV. Moderating World Population Growth

FINDINGS AND PURPOSES

SEC. 2. (a) FINDINGS.—The Congress finds that:

(1) The earth's atmosphere is being altered by the generation of carbon dioxide and other trace gases (methane, tropospheric ozone, chlorofluorocarbons, and nitrous oxide);

(2) These gases are, in large part, the result of human activities including the widespread use of fossil fuels, population growth, deforestation, agricultural practices, and use of chlorofluorocarbons;

(3) Current scientific understanding predicts that continued alteration of the global atmosphere will cause widespread temperature extremes and sea level rise which will, in turn, have serious implications for the earth's ecosystems, agricultural production, water supply, human health, wetlands, and climate;

(4) Shifts in regional precipitation, growing seasons, sea level, and possible increases in the severity and frequency of storms and hurricanes will cause major disruptions in the economic, political, social, and ecological systems of all nations;

(5) Energy and natural resources policies must be designed to reduce carbon dioxide and trace gas generation including reduction in the combustion of fossil fuels through energy efficiency, fuel switching, and conservation; use of safe nuclear, innovative clean coal and renewable energy technologies; and reforestation policies;

(6) In the near-term, increasing the nation's energy efficiency can make the largest and least costly contribution to reducing carbon dioxide and trace gas production and reliance on imported oil;

(7) Development of affordable solar energy technologies, particularly solar photovoltaics, promises to provide major new means of energy production and use that can reduce dependence on fossil fuels;

(8) Policies are urgently needed for reducing deforestation and increasing reforestation; and for promoting economic growth and development through sustainable devel-

opment at the national and international levels;

(9) In so far as some degree of further atmospheric change is inevitable, the Federal government must take immediate steps to devise and implement adaptive strategies for coping with the environmental and economic impacts of climate change; and

(10) Adoption and implementation of these energy and natural resources policies will help promote national and international economic growth and development, achieve a secure energy supply, and protect the national and global environment.

(b) PURPOSES.—The overall purpose of this Act is to establish a national energy policy that will reduce generation of carbon dioxide and trace gases as quickly as is feasible in order to reduce to the maximum extent practicable, risks associated with an atmospheric warming and global climate change. The specific purposes are:

(1) to require the Secretary of Energy, hereinafter referred to as the "Secretary", to prepare a least-cost National Energy Plan;

(2) to establish an Office of Climate Protection in the Department of Energy;

(3) to provide for the establishment and financing of energy efficiency research and development projects;

(4) to establish criteria to be used by the Secretary to determine priorities in energy research and development and, to consider global climate change in all research and development policies;

(5) to require states to update their energy conservation plans and establish new targets for conservation;

(6) to commercially develop solar; fuel cell, hydrogen, and other renewable energy technologies;

(7) to provide for the establishment and financing of an advanced passively safe nuclear reactor research program;

(8) to provide for the preparation of a comprehensive report on research, development and demonstration technology for the production of electricity from thermonuclear fusion;

(9) to provide for the preparation of a comprehensive report on the Clean Coal program's implications for global climate change;

(10) to provide financial assistance for demonstration projects for natural gas-powered vehicles;

(11) to study the natural resources that would be affected by global climate change;

(12) to expand financial support for ongoing and new research initiatives at NOAA, NASA, NSF, USGS, and NIST;

(13) to require an interagency study of the contribution international deforestation and reforestation play in global climate change;

(14) to call for the convening of international conferences on nuclear power, a strengthening of the Montreal Protocol, and a special office at UNEP and WMO to monitor global carbon dioxide production; and

(15) to address world population growth by establishing a policy and providing financial assistance for international family planning and information services.

SEC. 3 NATIONAL GOAL.—The Congress hereby establishes as national goals—

(a) that the introduction into the atmosphere of CO_2 from the United States of America shall be reduced from 1988 levels by at least 20 percent by the year 2000 through a mix of Federal and State energy policies that are designed to mitigate the costs and risks, both economic and environmental, associated with meeting national energy needs while reducing the generation of carbon dioxide and trace gases and sustaining economic growth and development; and

(b) the establishment of an International Global Agreement on the Atmosphere by 1992.

TITLE I—NATIONAL ENERGY PLAN

(a) Not later than 18 months after the enactment of this Act, the Secretary, and the Administrator of the Environmental Protection Agency, in consultation with the Secretary of the Interior, the National Academy of Sciences and other agencies, shall prepare and after public review and comment, transmit to Congress a "Least-Cost National Energy Plan" for meeting the national goal set out in section 3 of this Act.

For puproses of the Plan, (1) "energy resources" shall be defined as those sources of additional energy supply involving either the production of additional energy or additional improvements in the efficiency of energy processing and end use.

(2) "Cost-effective" shall be defined as those resources projected to be reliable and available within a needed time frame, and that could be used to meet anticipated energy needs at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative measure or resource, or any combination thereof. (3) "System costs" shall be defined as all direct costs of a resource over its effective life, including, if applicable, the cost of distribution and transmission to the consumer and, also including among other factors, waste disposal costs and fuel costs (including projected increases), and such quantifiable environmental and national security costs and benefits as the Secretary and the Administrator determine are directly attributable to such resources. (4) "Estimated incremental system cost" of such conservation resources is in excess of at least 110 per centum of the incremental system cost of the other resource.

(b) The Plan shall include—

(1) an assignment of the priorities among energy resources that the Secretary determines to be cost-effective, according to their impact on the global climate;

(2) a range of national energy demand forecasts for the short-, medium-, and long-term (at least 50 years), reflecting plausible high and low economic growth scenarios, and assuming no improvements in current average efficiencies of energy use in new buildings, machines, and vehicles;

(3) a comprehensive inventory of resource availability and system cost, taking into account all sectors of energy use and production which shall include but not limited to—

(i) coal, including clean coal technologies and underground coal gasification;

(ii) energy efficiency, including existing technologies for increased efficiency and end use, as well as the potential of further research and development;

(iii) efficiency improvements and technological gains in electrical energy generation and transmission and energy extraction;

(iv) other alternative energy sources such as renewable resources, solar, nuclear fission, nuclear fusion, geothermal, fuel cells, and hydroelectric power; and

(v) improvements in the fuel efficiency of automobiles and light trucks.

(4) targets for the cost-effective resource acquisitions that will be needed to ensure that the nation can meet short-, medium-, and long-term energy needs without exceeding the national goal for carbon dioxide generation;

(5) a Two-Year Action Plan for meeting the Plan's resource acquisition targets, including, but not limited to, all practicable actions within the Secretary's and other Federal agencies' current legislative authority;

(6) a Research and Development Plan for investigating promising but unproven technologies identified in the planning process as potentially significant future contributors to meeting the Plan's goals;

(7) recommendations for any new Federal legislation that may be needed to meet the Plan's goals, including estimates of accompanying carbon dioxide and trace gases generation;

(8) recommendations for any new State agency or legislative actions that are needed to meet the Plan's goals, and for any new Federal policies that are needed to encourage such actions, including estimates of accompanying carbon dioxide and costs impacts of such actions.

(c) Immediately following submission to Congress of the Least-Cost National Energy Plan, the Department of Energy shall implement the provisions of its Action Plan to the maximum extent practicable; and

(d) The Plan, its Action Plan, and its Research and Development Plan shall be revised and resubmitted to the Congress every two years.

TITLE II—OFFICE OF CLIMATE PROTECTION

SEC. 201.—In order to elevate the priority attached to climate change considerations within the Department of Energy, there is hereby established the Office of Climate Protection. The Director of the Office shall be appointed by the President, by and with the consent of the Senate, and shall report directly to the Deputy Secretary. This office shall be responsible for:

(a) the Department of Energy's participation in studies, environmental assessments and other work being conducted by the various domestic and international agencies involved in global climate change analysis; and

(b) monitoring United States' energy policies for atmospheric and global warming effects and providing an annual report on these effects to Congress.

TITLE III—ENERGY EFFICIENCY

Subtitle A

SEC. 301.—The Secretary in conjunction with appropriate Federal agencies shall—

(a) give a high priority to improvements in energy efficiency in Departmental planning, research and development programs, private assistance programs, and to improvements in buildings and equipment of the Department;

(b) submit to Congress within one year after the enactment of this Title, and every three years thereafter, a report evaluating the policy options that would be necessary to produce a decrease of two through four per centum per year in the energy use per unit of GNP in the United States through the year 2005. These policy options and programs shall be ranked according to their cost effectiveness.

SEC. 302. (a) The President's budget request for fiscal years 1991 through 1993 shall include the Secretary's recommendations of amounts to be set aside for new initiatives in energy efficiency research, development, and demonstration. Funds made available for new initiatives shall supplement and not supplant funds available to complete on-going energy efficiency re-

search and development projects supported in whole or in part by the Secretary during the fiscal year 1990. Funds made available for new initiatives shall be used by the Secretary to support the most promising and deserving new ideas in energy efficiency research and development brought to the attention of the Secretary during the previous fiscal year.

(b)(1) There is hereby authorized to be appropriated to the Secretary for the energy efficiency research, development, and demonstration programs of the Secretary, an amount not to exceed $209,181,000 in fiscal year 1991, of which $6,000,000 shall be available for new initiatives, as set forth below:

(A) for transportation energy efficiency research, development, and demonstration there is authorized to be appropriated to the Secretary an amount not to exceed $65,460,000 of which $2,000,000 shall be made available for new initiatives;

(B) for industrial energy efficiency research, development, and demonstration there is authorized to be appropriated to the Secretary an amount not to exceed $46,740,000, of which $1,000,000 shall be available for new initiatives;

(C) for buildings and community systems energy efficiency research, development, and demonstration there is authorized to be appropriated to the Secretary an amount not to exceed $58,100,000 of which $2,000,000 shall be available for new initiatives;

(D) for multi-sector energy efficiency research, development, and demonstration there is authorized to be appropriated to the Secretary an amount not to exceed $37,050,000, of which $1,000,000 shall be available for new initiatives; and

(E) for energy efficiency research, development, and demonstration policy and management, there is authorized to be appropriated to the Secretary an amount not to exceed $1,797,000.

(2) There is hereby authorized to be appropriated to the Secretary for the energy efficiency research, development, and demonstration programs of the Secretary, an amount not to exceed $253,000,000 in fiscal year 1992, of which $7,000,000 shall be available for new initiatives as set forth below:

(A) for transportation energy efficiency research, development, and demonstration there is authorized to be appropriated to the Secretary an amount not to exceed $84,000,000, of which $3,000,000 shall be made available for new initiatives;

(B) for industrial energy efficiency research, development, and demonstration there is authorized to be appropriated to the Secretary an amount not to exceed $45,000,000 of which $1,000,000 shall be available for new initiatives;

(C) for buildings and community systems energy efficiency research, development, and demonstration there is authorized to be appropriated to the Secretary an amount not to exceed $55,000,000 of which $2,000,000 shall be available for new initiatives;

(D) for multi-sector energy efficiency research, development, and demonstration there is authorized to be appropriated to the Secretary an amount not to exceed $64,000,000 of which $1,000,000 shall be available for new initiatives; and

(E) for energy efficiency research, development, and demonstration policy and management, there is authorized to be appropriated to the Secretary an amount not to exceed $5,000,000.

(3) There is hereby authorized to be appropriated to the Secretary for the energy efficiency research, development, and demonstration programs of the Secretary, an amount not to exceed $301,000,000 in fiscal year 1993, of which $8,000,000 shall be available for new initiatives, as set forth below:

(A) for transportation energy efficiency research, development, and demonstration there is authorized to be appropriated to the Secretary an amount not to exceed $98,000,000 of which $3,000,000 shall be made available for new initiatives;

(B) for industrial energy efficiency research, development, and demonstration there is authorized to be appropriated to the Secretary an amount not to exceed $50,000,000, of which $2,000,000 shall be available for new initiatives;

(C) for buildings and community systems energy efficiency research, development, and demonstration there is authorized to be appropriated to the Secretary an amount not to exceed $65,000,000, of which $2,000,000 shall be available for new initiatives;

(D) for multi-sector energy efficiency research, development, and demonstration there is authorized to be appropriated to the Secretary an amount not to exceed $83,000,000, of which $1,000,000 shall be available for new initiatives; and

(E) for energy efficiency research, development, and demonstration policy and management, there is authorized to be appropriated to the Secretary an amount not to exceed $5,000,000.

SEC. 303. (a) As used in this section and in section 304 the term "joint research and development venture" has the meaning given such term in the National Cooperative Research Act of 1984 (98 Stat. 1815).

(b)(1) The Secretary shall solicit proposals in accordance with the provisions of this section for joint research and development ventures for the commercial demonstration of energy efficiency technologies that show significant promise for cost-effective commercial application and that can contribute significantly to reducing the rate and scope of carbon dioxide and trace gas generation. Each joint research and development venture under this section shall include manufacturing firms, investors, and such other participation as the Secretary deems appropriate to achieve the purposes of this section;

(2) Not later than 120 days after the date of the enactment of this section the Secretary shall publish plans to implement this section, provide opportunity for public comment on such plans, and report to Congress on the plans;

(3)(A) Not later than one year after the date of the enactment of this subsection the Secretary shall issue a general request for proposals under this subsection. Such general request shall contain a description of the criteria the Secretary will use in awarding financial assistance under this subsection. The primary criterion shall be the probability of significant near-term impact of the proposal on the rate of carbon dioxide and trace gas generation. The secondary criterion shall be the probability of significant near-term impact of the proposal on reduction of oil imports. The Secretary may include such other criteria as the Secretary finds appropriate, including the net cost under the proposal in Federal financial assistance and the likelihood of early commercial application of technology demonstrated under the proposal;

(B) Proposals shall be submitted to the Secretary within 120 days after such general solicitation is published in the Federal Register; and

(C) The Secretary shall not provide Federal financial assistance for more than 50 per centum of the costs of any proposal under this subsection as estimated by the Secretary at the time of acceptance of such proposal. For purposes of this subsection, other Federal funds, existing facilities, equipment and supplies, and previously expended research and development funds are not cost sharing.

(4) The Secretary shall issue general requests for proposals under this subsection on the first and second anniversaries of the issuance under paragraph (3).

(5)(A) The Secretary may provide technical assistance to persons developing proposals under this subsection.

(B) The Secretary may provide technical and financial assistance in accordance with this subsection to proposals that have been accepted by the Secretary under this subsection.

(C) There is authorized to be appropriated to the Secretary for purposes of this subsection not more than $50,000,000 for each of the fiscal years 1991, 1992, and 1993, such amounts to remain available until expended.

SEC. 304. (a) The Secretary shall establish and provide financial assistant to joint research and development ventures with such specialized private firms and investors as the Secretary deems appropriate in order to establish at least five regional centers for energy-intensive industries. The centers shall conduct basic and applied research and development on common industrial processes. The centers shall focus their efforts on changes to industrial processes that may result in improved energy efficiency. The centers may also conduct research on other improvements of benefit to industry so long as energy efficiency improvements are an integral part of that research. In locating the regional centers under this section, the Secretary shall consider the regional distribution of energy-intensive industries. The research centers shall be established in the region in which the Secretary determines each energy-intensive industry is located.

(b) The regional centers under this paragraph shall carry out research and development efforts to reduce the production of CO2 and trace gases into the atmosphere by improving the quality and energy efficiency of industrial processes.

(c) The research and development strategy under this paragraph shall be guided by—

(1) a detailed characterization of the needs of domestic manufacturing industries;

(2) a close working relationship with all sectors of the domestic manufacturing industry; and

(3) coordination among the centers to pool and conserve resources.

(d) There is authorized to be appropriated to the Secretary $5 million for fiscal year 1991, $15 million for fiscal year 1992, and $25 million for fiscal year 1993. Industries for which the centers are established shall contribute matching funds starting in 1992.

SEC. 305. (a) As used in this section, the term "Federal building" has the meaning given such term in section 521 of the National Energy Conservation Policy Act and includes facilities used in connection with such Federal building.

(b)(1) The Secretary shall establish a Federal Energy Analysis Team to analyze, and make recommendations with respect to energy efficiency and the use of renewable energy in, specific Federal buildings selected by the Secretary under this section. The Team shall be made up of individuals—

(A) engaged in research on energy efficiency or the use of renewable energy in buildings at the National Laboratories of the Department of Energy; and

(B) nominated by the Secretary of Defense, the Administrator of the General Services Administration and the Director of the National Institute of Standards and Technology, respectively, on the basis of their expertise in energy efficiency and the use of renewable forms of energy in buildings. Persons who serve on the Team shall be transferred to the Team for purposes of this section without loss of salary or benefits.

(2) The Team shall conduct an analysis of energy use in Federal buildings designated by the Secretary under paragraph (3) to determine the potential for the use of renewable forms of energy and for improved energy efficiency in such buildings and make recommendations for cost-effective renewable energy and energy efficiency improvements in such buildings. For purposes of this section an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the life or remaining term of lease of the building;

(3) The Secretary shall designate buildings to be analyzed by the Team so as to obtain a sample of buildings of the types and in the climates that is representative of the Federal buildings owned or leased by Federal agencies in the United States that consume the major fraction of the energy consumed in Federal buildings;

(4) The Secretary shall submit a plan for implementing this subsection to Congress within six months after the date of the enactment of this section;

(5) The Team shall report its findings and recommendations based on the analyses carried out under paragraph (2) to the Secretary and to the head of the agency owning or leasing each building analyzed within eighteen months after the date of the enactment of this section.

(b)(1) The Secretary shall use the results of the analyses under subsection (a) to develop goals for 1995 for energy efficiency and the use of renewable energy in Federal buildings generally and in the categories identified by the Secretary under subsection (a)(3). Goals developed under this subsection shall be submitted to Congress within twenty four months after the date of the enactment of this section;

(2) Any agency that chooses not to implement promptly the recommendations of the Team with respect to a Federal building analyzed under subsection (a)(2) shall provide Congress with a written explanation of the reasons for such choice;

(3) Any agency that implements the recommendations of the Team with respect to a Federal building analyzed under subsection (a)(2) may retain for purposes of furthering the objectives of the agency one half of the dollar savings realized as a result of such recommendations. The Secretary shall consult with the heads of the appropriate Federal agencies to insure that the maximum dollar savings under this section are realized;

(c) There is hereby authorized to be appropriated to the Secretary for purposes of carrying out this section $2,500,000.

SEC. 306. REPEAL OF PROHIBITIONS ON SUPPLY AND INSTALLATION OF RESIDENTIAL ENERGY CONSERVATION MEASURES BY UTILITIES.—Section 216 of the National Energy Conservation Policy Act (42 U.S.C. 8217) is repealed and subsequent sections are renumbered accordingly.

SEC. 307. HOME ENERGY EFFICIENCY RATINGS.—Title II of the National Energy Conservation Policy Act is amended by adding a new Part 6 as follows:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATINGS

"SEC. 271. (a) Within 12 months after the date of the enactment of this section the Secretary in consultation with the Secretary of Housing and Urban Development and State governments shall by rule promulgate guidelines for regulations to be formulated and implemented by State governments that would require the assignment of an energy efficiency rating to residential buildings.

"(b) The rule under subsection (a) shall—

"(1) provide for a numerical rating of the efficiency with which any residential building may be supplied with heating and cooling energy on an annual basis, and evaluate the practicality of including major energy consuming appliances in such rating;

"(2) provide that all residential buildings receive a rating at time of sale;

"(3) ensure that the rating is prominently communicated to potential buyers and renters; and

"(4) ensure that the rating system is designed to facilitate its use by the secondary mortgage markets to promote energy efficiency;

"(c) Within twelve months of the date of enactment of this Act, the Secretary shall establish a program to provide technical and managerial support for State and local governments adopting energy efficiency rating systems or building codes. The program shall utilize the Federal government's experience in developing Federal building energy performance standards and shall provide compliance methods, educational materials for builders and code officials, and other technical support.

"(d) For puposes of the rule under subsection (a) supply of energy to any residential building from the level of the contribution of renewable sources shall not result in a reduction in the energy efficiency rating of such building.".

SEC. 308. ENERGY EFFICIENCY LABELS FOR MAJOR APPLICATIONS OF INCANDESCENT AND FLUORESCENT LAMPS.—Part B of Title III of the Energy Policy and Conservation Act, as amended, is further amended—

"(a) in section 322(a) by striking paragraph (14) and inserting in lieu thereof new paragraphs (14), (15) and (16) as follows:

"(14) Incandescent Lamps—which are the predominant consumers of energy used for lighting in the commercial, industrial, and residential sectors.

"(15) Fluorescent Lamps—which are the predominant consumers of energy used for lighting in the commercial, industrial, and residential sectors.

"(16) Any other type of consumer product that the Secretary classifies as a covered product under subsection (b)."

(b)(1) in section 324(a)(1) by inserting after the phrase "through (12)", "(14) and (15)"; and

"(2) in the remaining provisions of section 324 by striking the phrase "paragraph (14)" everywhere it appears and inserting in lieu thereof the phrase "paragraph (16)".

(c)(1) in section 325(i) by striking the phrase "paragraph (14)" everywhere it appears and inserting in lieu thereof the phrase "paragraph (16)".

(2) by adding at the end of subsection 325(i) a new paragraph (4) as follows:

"(4) The Secretary, before January 1, 1990, shall prescribe an energy conservation standard for each of the covered products specified in paragraphs (13) and (14) of section 322(a). Concurrent with the Secretary's prescription of such standards the Secretary shall also prescribe test procedures."

SEC. 309. ENERGY EFFICIENCY LABELS FOR WINDOWS.—Within 18 months of the date of enactment of this Act, the Secretary, after consultation with the National Institute of Standards and Technology, shall establish labels for thermal and optical properties and performance for windows and window systems.

SEC. 310. REVIEW.—The Secretary shall periodically review standards and labels established under sections 308 and 309 at least every three years and strengthen the standards for the products or any other energy-consuming device that the Secretary deems justified.

Subtitle B.—Amendments to Public Utility Regulatory Policies Act of 1978

SEC. 311. ENCOURAGEMENT OF LEAST COST INVESTMENT.—The Public Utility Regulatory Policies Act of 1978, P. L. 95-617 (November 9, 1978), as amended, is further amended by inserting the following new section after section 113 and renumbering the sections accordingly:

"SEC. 114. LEAST COST INVESTMENT.—

"(a) ADOPTION OF STANDARDS.—Not later than two years after the date of enactment of this section, each State regulatory authority (with respect to each gas utility and electric utility for which it has ratemaking authority) shall provide public notice and conduct a hearing respecting the standard established by subsection (b) and, on the basis of such hearing, shall adopt and implement the standard established by subsection (b) if, and to the extent, such authority determines that such adoption and implementation is appropriate and consistent with otherwise applicable State law. For purposes of any determination made on the basis of such hearing and any review of such determination in any court in accordance with section 125, the purposes of this Title supplement otherwise applicable State law.

"(b) ESTABLISHMENT.—The following Federal standard is hereby established:

The rates permitted to be charged by a gas utility or electric utility shall be such that the implementation of least cost supply measures permits the utility to realize higher earnings than would be realized from the implemenation of other supply measures. For purposes of this standard, the term "implementation of least cost supply measures" shall mean action (including, but not limited to, conservation and other means of demand reduction) taken to provide adequate and reliable service to consumers with the incurrence of lowest total costs to society, such costs to include costs incurred by the utility and its customers, and environmental costs.

"(c) PROCEDURAL REQUIREMENTS.—Each State regulatory authority (with respect to each gas utility and electric utility for which it has ratemaking authority) within the two year period specified in subsection (a), shall (1) adopt and implement, pursuant to subsection (a), the standard established by subsection (b) or, (2) if the standard is not adopted and implemented, such authority shall state in writing that it has determined not to adopt and implement such standard, together with the reasons for such determinations. Such statement of reasons shall be available to the public.

"(d) DEFINITIONS.—(1) For purposes of this section, the term 'gas utility'; means any person who is engaged in the local distribution and sale of natural gas to any ultimate consumer and over whom a State regulatory authority has ratemaking authority.

"(2) For purposes of this section, the term "electric utility" means any person who is engaged in the local distribution and sale of electricity to any ultimate consumer and over whom a State regulatory authority has ratemaking authority.

"SEC. 115. LEAST COST INVESTMENT FOR NONREGULATED UTILITIES.

"(a) ADOPTION OF STANDARDS.—Not later than two years after the date of enactment of this section, each nonregulated electric utility and nonregulated gas utility shall provide public notice and conduct a hearing respecting the standard established by subsection (b) and, on the basis of such hearing, shall adopt and implement the standard established by subsection (b) if, and to the extent, such utility determines that such adoption and implementation is appropriate and consistent with otherwise applicable State law. For purposes of any determination made on the basis of such hearing and any review of such determination in any court in accordance with section 125, the purposes of this Title supplement otherwise applicable State law.

"(b) ESTABLISHMENT.—The following Federal standard is hereby established:

Each nonregulated gas utility and nonegulated electric utility shall implement least cost supply measures. For purposes of this standard, the phrase "implement least cost supply measures" shall mean actions (including, but not limited to, conservation and other means of demand reduction) taken to provide adequate and reliable service to consumers with the incurrence of lowest costs to society, such costs to include costs incurred by the utility and its customers, and environmental costs.

"(c) PROCEDURAL REQUIREMENTS—Each nonregulated electric utility and nonregulated gas utility shall, within the two year period specified in subsection (a), (1) adopt and implement, pursuant to subsection (a), the standard established by subsection (b) or, (2) if the standard is not adopted and implemented, such utility shall state in writing that it has determined not to adopt and implement such standard, together with the reasons for such determination. Such statement of reasons shall be available to the public.

"(d) DEFINITIONS.—(1) For purposes of this action, the term 'nonregulated gas utility' means any person who is engaged in the local distribution and sale of natural gas to any ultimate consumer and over whom a State regulatory authority does not have ratemaking authority.

"(2) For purposes of this section, the term 'nonregulated electric utility' means any person who is engaged in the local distribution and sale of electricity to any ultimate consumer and over whom a State regulatory authority does not have ratemaking authority.".

SEC. 312. DEFINITIONS.—Section 3 of the Federal Power Act, as amended, (16 U.S.C. 796 *et seq.*) is further amended by inserting the following definitions after the definition of "qualifying cogenerator" and renumbering the definitions accordingly:

"(19)(A) 'qualifying conservation' means any reduction at any time in the demand for electric energy by the customers of a utility, which reduction—

"(i) would not occur but for payment received by a qualifying conservation entity; and

"(ii) the Commission determines, by rule, meets such requirements as the Commission may, by rule, prescribe;

"(B) 'qualifying conservation entity' means a person who—

"(i) the Commission determines, by rule, meets such requirements as the Commission may, by rule, prescribe;

"(ii) is not primarily engaged in the generation or sale of electric power (other than electric power from cogeneration facilities or small production facilities);".

SEC. 313. PURCHASES OF QUALIFYING CONSERVATION BY UTILITIES.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a-3), as amended, is further amended by:

(a) inserting the following new subsection after subsection (a) and relettering the remaining subsections accordingly:

"(b) CONSERVATION RULES.—Not later than 1 year after the date of enactment of this subsection, the Commission shall prescribe, and from time to time thereafter revise, such rules as it determines necessary to encourage the achievement of qualifying conservation. Such rules shall require electric utilities to offer to purchase qualifying conservation from qualifying conservation entities under such terms as the Commission may prescribe and shall include provisions concerning verification of the achievement of qualifying conservation. Such rules shall be prescribed, after consultation with representatives of Federal and State regulatory agencies having ratemaking authority for electric utilities, and after public notice and a reasonable opportunity for interested persons (including State and Federal agencies) to submit oral as well as written data, views, and arguments.";

(b) striking subsection (b) and inserting the following in lieu thereof:

"(c) RATES FOR PURCHASES BY ELECTRIC UTILITIES.—The rules prescribed under subsections (a) and (b) shall insure that, in requiring any electric utility to offer to purchase electric energy from any qualifying cogeneration facility or qualifying small power production facility, or to purchase qualifying conservation from a qualifying conservation entity, the rates for such purchase—

"(1) shall, in the case of purchases from qualifying cogeneration facilities and qualifying small power production facilities, be just and reasonable to the electric consumers of the electric utility;

"(2) shall be in the public interest; and

"(3) shall not discriminate against qualifying cogenerators, qualifying small power producers, or qualifying conservation entities. No such rule prescribed under subsection (a) shall provide for a rate which exceeds the incremental cost to the electric utility of alternative electric energy. Rules prescribed under subsection (b) shall give State regulatory authorities and nonregulated electric utilities the option of restricting the rate paid for qualifying conservation to an amount no greater than:

"(A) the incremental cost of alternative electric energy; or

"(B) the amount by which the incremental cost of alternative electric energy exceeds the price for the generation of electric energy paid by the customers whose demand for electric energy is reduced as a result of qualifying conservation."; and

(c) adding the following at the end of subsection (d): "The term 'incremental cost of alternative electric energy' means, with respect to purchases of qualifying conservation from qualifying conservation entities, the cost to the purchasing electric utility for the electric energy which, but of the purchase from such conservation entity, such utility would generate or purchase from another source.".

SEC. 314. CONFORMING CHANGES.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a-3), as amended, is further amended—

(a) in subsection (f) by striking "subsection (a) of this section or revised under such subsection" in each place it appears and substituting "subsection (a) or (b) of this section or revised under such subsections" in lieu thereof;

(b) in subsection (g) by striking "subsection (a)" and substituting "subsection (a) or (b)" in lieu thereof;

(c) in subsection (g) by striking "or qualifying cogenerator" and inserting "qualifying cogenerator, or qualifying conservation entity" in lieu thereof;

(d) in paragraph (2) of subsection (h) by striking "or qualifying small power producer" and substituting "qualifying small power producer, or qualifying conservation entity" in lieu thereof;

(e) in subsection (j) by striking "and 'qualifying cogenerator'" and substituting "'qualifying cogenerator', 'qualifying conservation', and 'qualifying conservation entity'" in lieu thereof; and

(f) in subsection (j) by striking "3(17) and 3(18)" and substituting "3(17), 3(18) and 3(19)" in lieu thereof.

TITLE IV—ENERGY RESEARCH AND DEVELOPMENT PRIORITIES

SEC. 401. The Secretary of Energy shall establish priorities, using the following criteria in order of importance, for research and development programs:

(1) potential to reduce generation of carbon dioxide and trace gases sooner than alternative projects;

(2) the projected cost effectiveness of the energy ultimately to be produced or saved, including an evaluation of the likelihood of success of the research;

(3) the environmental and public health impacts of the energy ultimately to be produced or saved by the specific research;

(4) the national security impact of the energy produced or saved, including its projected reduction of oil imports and contribution to the diversity of the fuel mix;

(5) the obstacles inherent in private industry's development of new energy technologies and steps necessary for establishing or restoring technical leadership in the area of renewable energy technologies, including, but not limited to, solar, fuel cells, and hydrogen;

(6) the impact of given research in the area of fundamental scientific inquiry; and

(7) the impact of the research on special or targeted populations, including low-income or aged persons.

TITLE V—STATE ENERGY CONSERVATION PROGRAM

SEC. 501. STATE ENERGY CONSERVATION GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

"ENERGY CONSERVATION GOALS

"SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after October 1, 1990, shall contain a goal consisting of a reduction, as a result of the imple-

mentation of such plan, of 10 percent or more in the amount of energy consumed in such State in the year 2000 from the projected energy consumption, as of October 1, 1990, for such State in the year 2000.".

SEC. 502. REQUIRED STATE ENERGY CONSERVATION PLAN ELEMENTS AND CONSOLIDATION OF ENERGY EXTENSION SERVICE.—(a) In General.—Section 362(c) of the Energy Policy and Conservation Act (42 U.S.C. 6322(c)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph 5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs;

"(6) and energy emergency planning program for an energy supply disruption which shall include a specific implementation strategy regional coordination and may include planning for petroleum, electricity, natural gas, coal, and nuclear power supply and delivery disruptions;

"(7) procedures for ensuring that effective coordination exists among various local, State, and Federal energy conservation programs within the State, including any program administered within the Office of State and Local Assistance Programs of the Department of Energy as of December 31, 1987, and the Low Income Energy Assistance Program administered by the Department of Health and Human Services; and

"(8) programs to implement all the functions of the Energy Extension Service, as provided by law on the day before the date of enactment of the State Energy Conservation Programs Improvement Act of 1989, which shall—

"(A) include programs for identification, development, and demonstration of energy efficiency opportunities, techniques, methods, materials, and equipment (including those that are responsive to local needs or resources) and alternative energy technologies such as solar heating and cooling for agricultural, commercial, and small business operations, individual energy consumers, and new existing residential, commercial, and agricultural buildings or structures;

"(B) provide for technical assistance, instructions, information dissemination, and practical demonstrations with respect to energy efficiency opportunities;

"(C) provide, to the maximum extent practicable within personnel and funding limitations, active outreach energy extension assistance (including information on end-user technology requirements) at the local level through appropriate offices (including metropolitan offices) and through county agents and technical staff assistants;

"(D) make maximum use of existing outreach or delivery mechanisms or programs and include, to the maximum extent practicable, any State, local, university, college, or other organization's programs for energy information, education, or technology transfer which have activities or purposes similar to those of this part; and

"(E) establish and implement policies and procedures designed to assure that assistance provided under this part does not replace or supplant the expenditure of other Federal or State or local funds for the same purposes, but instead supplements such funds and increases the expenditure of such State or local funds to the maximum extent practicable.".

(b) ELIMINATION OF EES.—The National Energy Extension Service Act (Title V of Public Law 95-39) is repealed.

OPTIONAL STATE ENERGY CONSERVATION PLAN ELEMENTS AND CONSOLIDATION OF SUPPLEMENTAL STATE ENERGY CONSERVATION PLAN

SEC. 503. (a) IN GENERAL.—Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

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

"(6) programs for financing energy efficiency and renewable energy capital investments, projects, and programs—

"(A) which may include loan programs and performance contracting programs for leveraging of additional public and private sector funds, and programs which allow rebates, grants, or other incentives for the purchase and installation of energy efficiency and renewable energy measures; or

"(B) in addition to or in lieu of programs described in subparagraph (A), which may be used in connection with public or nonprofit buildings owned and operated by a State, a political subdivision of a State or an agency or instrumentality of a State, or an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(7) programs to increase transportation energy efficiency, including programs to accelerate the use of alternative transportation fuels for State government vehicles, fleet vehicles, taxis, mass transit and privately owned vehicles;

"(8) programs for encouraging and for carrying out energy audits with respect to buildings and industrial plants within the State;

"(9) programs to promote the adoption of integrated energy plans which provide for—

"(A) periodic evaluation of State's energy needs, available energy resources (including greater energy efficiency), and energy costs; and

"(B) utilization for reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost;

"(10) programs to promote energy efficiency in residential housing, such as—

"(a) programs for development and promotion of energy efficiency rating systems for newly constructed housing and existing housing so that consumers can compare the energy efficiency of different housing; and

"(b) programs for the adoption of incentives for builders, utilities, and mortgage lenders to build, service, or finance energy efficient housing; and

"(11) programs to protect consumers from any unfair or deceptive acts or practices which relate to the implementation of energy efficiency measures and renewable resource energy measures.".

(b) ELIMINATION OF SSECP.—Section 367 of the Energy Policy and Conservation Act (42 U.S.C. 6327) is repealed.

AUTHORIZATION OF APPROPRIATIONS

SEC. 504.—(a) State Plan Program.—Section 365(F) of the Energy Policy and Conservation Act (42 U.S.C. 6325(F) of the Energy Policy and Conservation Act (42 U.S.C. 6325(F) is amended to read as follows:

"(f) For the purpose of carrying out this part, there are authorized to be appropriated $25,000,000 for fiscal year 1991, $35,000,000 for fiscal year 1992, and $45,000,000 for fiscal year 1993."

(b) ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS.—Section 397 of the Energy Policy and Conservation Act (42 U.S.C. 6371(a)) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated $40,000,000 for fiscal year 1991, $50,000,000 for fiscal year 1992, and $60,000,000 for fiscal year 1993.".

(c) WEATHERIZATION ASSISTANCE.—Section 422 of the Energy Conservation Production Act (42 U.S.C. 6872) is amended tor ead as follows;

AUTHORIZATION OF APPROPRIATIONS

SEC. 422. There are authorized to be appropriated for purposes of carrying out the weatherization program under this part $200,000,000 for fiscal year 1991 and such sums as may be necessary for 1992 and 1993.

SEC. 505. STATE ENERGY ADVISORY BOARD.—Seciton 365 of the Energy Policy and Conservation Act (42 U.S.C. 6325) is amended by adding at the end the following:

"(g)(1) There is hereby established within the Department of Energy a State Energy Advisory Board (hereafter in this subsection referred to as the 'Board') which shall consist of not less than 10 nor more than 15 members appointed by the Secretary. Not less than one-half of the members of the Board shall be persons who serve as directors for the State agency, or a division of such agency, responsible for developing State energy conservation plans pursuant to section 362. At least one member of the Board shall be a director of a State weatherization assistance programs. Other members shall be appointed from other persons, including those who have experience in energy efficiency or renewable energy programs for the private sector, consumer interest groups, utilities, public utility commission, educational institutions or research institution.

"(2) The Board shall—

"(A) make recommendations with respect to the energy efficiency objectives of the programs carried out under this part, part G of this Title, and under part A of Title IV of the Energy Conservation and Production Act to the Assistant Secretary for Conservation and Renewable Energy, the Director of the Office of State and Local Assistance Programs, and the Director of the Building and Community Systems Office within the Department of Energy;

"(B) serve as a liaison between the States and such Department on energy efficiency and renewable energy resource programs;

"(C) recommend changes to State and Federal energy policies; and

"(D) encourage technology transfer of the results of research and development activities carried out by the Federal Government with respect to energy efficiency and renewable energy resources.

"(3) The Secretary shall designate one of the members of the Board to serve as its chairman and one to serve as its vice-chairman. The chairman and vice-chairman shall serve in those offices no longer than two years.

"(4) The Secretary shall provide the Board with such services and facilities as may be necessary for the performance of its functions.

"(5) The Board shall be nonpartisan.

"(6) The Board may adopt administrative rules and procedures and may elect one of its members Secretary of the Board.

"(7) The Secretary shall reimburse members of the Board for expenses (including travel expenses) necessarily incurred by them in the performance of their duties.

"(8) The Board shall meet at least annually and shall submit an annual report to the Secretary and the Congress on the activities carried out by the Board in the previous fiscal year, including any recommendations it may have for administrative or legislative changes."

UPDATE OF ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS

SEC. 506. (a) Non-Federal Share of a Project—Section 396(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6371e(b)(1) is amended by adding at the end thereof the following: "The non-Federal share of the costs of any such energy conservation project may be provided by using programs of innovative financing for energy conservation projects, including loan programs and performance contracting.".

(b) DEFINITION—Section 391(1) of such Act (42 U.S.C. 6371(1)) is amended by striking "April 20, 1977" and inserting in lieu thereof "December 31, 1984"

WEATHERIZATION ASSISTANCE FOR LOW-INCOME

SEC. 507. (a) WAIVER OF 40-PERCENT REQUIREMENT.—Section 415(a) of the Energy Conservation and Production Act (42 U.S.C. 6865(a)) is amended—

(1) in the first sentence, by striking "An average" and inserting in lieu thereof "(1) Except as provided in paragraph (2), an average"; and

(2) by adding at the end the following:

"(2)(A) The Secretary may approve a State application to waive the 40-percent requirement established in paragraph (1) if the State includes in the State's plan—

"(i) an energy evaluation which establishes priorities for selection of weatherization measures bases on their contribution to energy efficiency; and

"(ii) a standard for determining whether to invest in individual measures based on a rate of return that will ensure that investment in each measure is an appropriate use of funds.

"(B) For States applying for a waiver under this paragraph, the Secretary shall establish standards for determining whether the energy audit techniquese of each such State measure—

"(i) the energy requirement of individual dwellings;

"(ii) the rate of return of each conservation investment; and

(iii) the interaction between conservation measures. State applications for waivers shall be judged on these standards.

"(c) The Secretary shall make information on energy evaluation instruments available to States applying for a waiver under this paragraph and shall provide training for State and local agencies in the implementation for such instruments.:.

(b) DWELLING UNIT LIMITATION.—Section 415(c) of such Act (42 U.S.C. 6865(c)) is amended—

(1) in paragraph (1), by striking "The expenditure" and inserting in lieu thereof "except as provided in paragraphs (3) and (4), the expenditure"; and

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

"(3) Beginning with fiscal year 1991, the $1,600 per dwelling unit limitation provided in paragraph (1) shall be adjusted annually by increasing the limitation amount by an amount equal to the percentage increase in the Consumer Price Index for the previous fiscal year multiplied by the limitation amount for such previous fiscal year. The increase under the preceding sentence for any fiscal year shall not exceed three percent.

"(4)(A) In addition to the average per dwelling unit limitation applicable in a State under paragraphs (1) and (3), the Secretary may, upon application by a State, establish an average per dwelling unit limitation for dwelling units in such State—

"(i) which conform to program requirements;

"(ii) which, in addition to any other weatherization modifications, have furnace efficiency modifications made under this part; and

"(iii) for which a determination is made pursuant to regulations prescribed by the Secretary that such furnace efficiency modifications are a cost-effective use of funds.

"(B) The average per dwelling unit limitation applicable in a State to units described in subparagraph (A) shall not exceed an amount equal to—

"(i) the amount permitted for the expenditure of financial assistance for labor, weatherization materials, and related matters for dwelling units in such State under paragraphs (1) and (3), plus

"(ii) an amount determined by the Secretary to be the average amount that is appropriate for furnace efficiency modifications of dwelling units of the type assisted under this part in such State."

TITLE VI.—RENEWABLE ENERGY

Subtitle A

SHORT TITLE

SEC. 601.—This subtitle may be cited as the Solar Development Initiative Act of 1989.

FINDINGS AND PURPOSE

SEC. 602. (a) The Congress finds that—

(1) a diversified and balanced energy resource base is important for the nation's economic growth;

(2) renewable energy sources, including solar energy, can make a significant contribution toward minimizing the potential for undue dependence on any single energy source;

(3) recent energy trends, including increased imports of foreign oil, increased consumption of petroleum and declining domestic production of petroleum, have reaffirmed the importance of continued Federal support for, and encouragement of, solar energy technologies; and

(4) the international competitiveness of domestic solar thermal and photovoltaics industries depends upon maintaining our technological lead and providing development and marketing assistance to exporters of solar technologies.

(b) PURPOSE.—The purpose of this subtitle is to—

(1) establish multi-year funding levels for a Federal solar research and development program that will maintain current efforts and provide funding stability; and

(2) reaffirm existing federal policies and establish new policies which promote and encourage investments in solar energy technologies by the private and public sectors.

SOLAR AND RENEWABLE ENERGY RESEARCH PROGRAM

SEC. 603.—(a) The Secretary of Energy is directed to consult with the solar energy industry to develop a complimentary program of solar and renewable research, development, and demonstration projects which:

(1) have near-term commercial applications; and

(2) will enhance the international competitiveness of the solar and renewable energy industries.

(b) The Secretary shall include the funding necessary to implement this program in the fiscal year 1991 budget.

FEDERAL SOLAR BUILDINGS DEMONSTRATION PROGRAM

SEC. 604. (a) PROGRAM SUCCESSFULLY IMPLEMENTED.—Congress finds that the Secretary of Energy, in consultation with the Administrator of the General Services Administration, has successfully implemented a program to demonstrate in federal buildings the application of solar heating and solar heating and cooling technology pursuant to part 2 of Title V of the National Energy Conservation Policy Act Public Law 95-619).

(b) INFORMATION ABOUT FEDERAL SOLAR BUILDINGS PROGRAM.—In order to more widely disseminate information about the Federal solar buildings program and the benefits of solar heating and solar heating and cooling technology, the Secretary of Energy shall establish a program to disseminate such information for Federal procurement officers and Federal loan officers which shall include site visits and technical briefings. The Secretary shall utilize existing funds for this program.

INTERNATIONAL MARKET ENHANCEMENT

SEC. 605. (a) CONTINUATION OF ACTIVITIES BY THE COMMITTEE ON RENEWABLE ENERGY, COMMERCE, AND TRADE.—The Committee of Renewable Energy, Commerce, and Trade established by section 256(d) of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.) shall continue its activities to coordinate the actions and programs of the Federal government affecting commerce in renewable energy products and services.

(b) COMMERCE PROGRAMS.—It is the sense of the Congress that the programs established by the Secretary of Commerce under section 256(c)(1) of the Energy Policy and Conservation Act should be funded through the Department of Energy at a minimum of $1,500,000 in fiscal years 1991, 1992, and 1993.

(c) AMENDMENT TO CARIBBEAN BASIN ECONOMIC RECOVERY ACT.—Section 212(c)(7) of the Caribbean Basin Economic Recovery Act (97 Stat. 387; 19 U.S.C. 2703(c)(7)) is amended to read as follows:

"(7) the degree to which such country is under-taking self-help measures to promote its own economic development and energy self-sufficiency using locally available renewable resources;".

FEDERAL PROCUREMENT

SEC. 606. (a) SECRETARY OF DEFENSE.—Section 2857(b)(1) of Title 10, United States Code, is amended by inserting after "has the potential for" the following: "reduced energy costs".

(b) UTILIZATION OF SOLAR ENERGY BY OTHER FEDERAL AGENCIES.—The Secretary of State, the Secretary of Energy, the Secretary of Housing and Urban Development, the Director of the General Services Administration, and the Commissioner of the United States Postal Service shall require that the design of all new Federal facilities built under their respective jurisdictions shall include consideration of energy systems using solar energy or other renewable forms of energy in those cases in which use of such form of energy has the potential for

significant savings of fossil-fuel-derived energy.

AMENDMENT TO THE EXPORT-IMPORT BANK ACT OF 1945

SEC. 607. Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635e) is amended by adding at the end thereof the following:

"(c) Not less than .025 percent of the loan authority of the Bank shall be available only for solar and renewable energy loans.".

SPECIAL ACTIVITIES OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 608. Section 234(e) of the Foreign Assistance Act of 1961 is amended—

(1) in the first sentence, by inserting after "cooperatives" the following: "and including the initiation of incentives, grants, and studies for renewable energy and other small business activities"; and

(2) by adding at the end thereof the following new sentence: "Administrative funds may not be made available for incentives, grants, and studies for renewable energy and other small business activities.".

AMENDMENT TO THE SMALL BUSINESS ACT

SEC. 609. (a) Section 7(1) of the Small Business Act (15 U.S.C. 636(1) is repealed.

(b) Section 7(a)(12) of such Act (15 U.S.C. 636(a)(12) is amended to read as follows:

"(12) the Administrator may provide loans under this subsection to assist any small business concern, including startup, to enable such concern to design architecturally or engineer, manufacture, distribute, market, install, or service energy measures. Proceeds of loans under this paragraph shall not be used for research and development. Not less than .025 percent of the loan authority provided under this subsection shall be available only for loans under this paragraph. The Administrator shall include a list of solar and renewable energy loans in an annual report to the Congress.".

(c) Section 7(a)(14) of such Act (15 U.S.C. 636(a)(14)) is amended to read as follows:

"(14) The Administrator under this subsection may provide extentions and revolving lines of credit for export purposes to enable small business concerns to develop foreign markets and for preexport financing. No such extension or revolving line of credit may be made for a period or periods exceeding 18 months. A bank or participating lending institution may establish the rate of interest in extensions and revolving lines of credit as may be legal and reasonable. The Administrator shall give due consideration to the export potential of solar and renewable energy products in implementing his authorities under this subsection and shall include a list of solar and renewable energy loan guarantees in an annual report to the Congress.".

Subtitle B

This subtitle may be cited as the "Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989".

PURPOSE

SEC. 610. It is the purpose of this Title to direct the Secretary of Energy, acting in accordance with authority contained in the Federal Non-nuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901-5920) and other law applicable to the Secretary, to pursue an aggressive national program of research, development, and demonstration of renewable energy technologies in order to ensure a stable and secure future energy supply by—

(1) providing a long-term stable environment for renewable energy technology research and development activities through the establishment of long-term goals and multi-year funding levels;

(2) directing the Secretary to undertake initiatives to hasten the commercialization in the near term of renewable energy technologies; and

(3) fostering collaborative research and development efforts involving the private sector through government support of a vigorous program of innovative joint research and development venture projects.

DEFINITIONS

SEC. 611. As used in this Title the term

(a) "Secretary" means the Secretary of Energy; and

(b) "joint research and development venture" means a joint research and development venture under the National Cooperative Research Act of 1984 (98 Stat. 1815).

NATIONAL GOALS AND MULTI-YEAR FUNDING FOR FEDERAL WIND, PHOTOVOLTAICS AND SOLAR THERMAL PROGRAMS

SEC. 612. (a) NATIONAL GOALS.—The following are declared to be the national goals for the wind, photovoltaics and solar thermal energy programs currently being carried out by the Secretary under existing law:

(1) WIND.—(A) In general, the goals for the Wind Energy Research Program include improving design methodologies and developing more reliable and efficient wind turbines to increase the cost competitiveness of wind energy. Research efforts shall emphasize—

(i) activities that address near-term technical problems and permit exploitation of current market opportunities of the wind energy industry;

(ii) developing advanced airfoils and variable speed generators to increase wind turbine output and reduce maintenance costs by decreasing structural stress and fatigue;

(iii) increasing the basic knowledge of aerodynamics, structural dynamics, fatigue, and electrical systems interactions as applied to current wind energy technology; and

(iv) improving the compatibility of electricity produced from windfarms with conventional utility needs.

(B) Specific goals for the Wind Energy Research Program shall be to—

(i) reduce average wind energy costs to 3 to 5 cents per kilowatt hour by 1995;

(ii) reduce capital costs of new wind energy systems to $500 to $750 per kilowatt of installed capacity by 1995;

(iii) increase installed wind generating capacity to 4000 to 8000 megawatts by 1995;

(iv) reduce operation and maintenace costs for wind energy systems to less than 1.0 cents per kilowatt hour by 2000; and

(v) increase capacity factors for new wind energy systems to 25 to 30 percent by 1995.

(2) PHOTOVOLTAICS.—(A) In general, the goals of the Photovoltaic Energy Systems Program shall include improving the reliability and conversion efficiencies and lowering the costs of photovoltaic conversion. Research efforts shall emphasize advancements in the performance, stability and durability of photovoltaic materials.

(B) Specific goals of the Photovoltaic Energy System Program shall be to—

(i) improve operational reliability of photovoltaic modules to 30 years by 1995:

(ii) increase photovoltaic conversion efficiency of new photovoltaic amorphous silicon modules to 15 percent by 1995;

(iii) decrease new photovoltaic module direct manufacturing costs to $800 per kilowatt by 1995; and

(iv) increase installed capacity of photovoltaic electric power production capacity to 100 to 200 megawatts by 1992.

(3) SOLAR THERMAL.—(A) In general, the goal of the Solar Thermal Energy Systems Program shall be to advance research and development to a point where solar thermal technology is cost-competitive with conventional energy sources and to promote the integration of this technology into the production of industrial process heat and the conventional utility network. Research and development shall emphasize development of a thermal storage technology to provide capacity for shifting power to periods of demand when full insolation is not available; improvement in receivers, energy conversion devices, and innovative concentrators using stretch membranes, lenses and other materials; and exploration of advanced manufacturing techniques.

(B) Specific goals of the Solar Thermal Energy Systems Program shall be to—

(i) reduce solar thermal costs for industrial process heat to $9.00 per million Btu; and

(ii) reduce average solar thermal costs for electricity to 4 to 5 cents per kilowatt hour.

(C) The President's budget request for fiscal year 1991 shall contain the Secretary's recommendations for specific cost, installed capacity, and other pertinent goals for 1995 for Department of Energy research, development, and demonstration programs in Biofuels Energy Systems, Solar Buildings Energy Systems, Ocean Energy Systems and Geothermal Energy.

(b) AMENDED GOALS.—Whenever the Secretary determines that any of the goals established under this section are no longer appropriate, he shall notify Congress of the reason for the determination and provide an amended goal that is consistent with the purposes of this Title.

(c) AUTHORIZATIONS.—There is authorized to be appropriated to the Secretary—

(1) for the Wind Energy Research Program, an amount not to exceed $19,000,000 in fiscal year 1991; $22,000,000 in fiscal year 1992; and $26,000,000 in fiscal year 1993;

(2) for the Photovoltaic Energy Systems Program, an amount not to exceed $43,100,000 in fiscal year 1991; $45,000,000 in fiscal year 1992; and $50,000,000 in fiscal year 1993;

(3) for the Solar Thermal Energy Systems Program, an amount not to exceed $28,700,000 in fiscal year 1991; $32,000,000 in fiscal year 1992; and $35,000,000 in fiscal year 1993;

(4) for the Biofuels Energy Systems Program, an amount not to exceed $32,100,000 in fiscal year 1991; $35,100,000 in fiscal year 1992; and $40,000,000 in fiscal year 1993:

(5) for the Solar Buildings Energy Systems Program, an amount not to exceed $8,000,000 in fiscal year 1991; $9,000,000 in fiscal year 1992; and $10,000,000 in fiscal year 1993:

(6) for the Ocean Energy Systems Program, an amount not to exceed $5,000,000 in fiscal year 1991; $5,000,000 in fiscal year 1992; and $5,000,000 in fiscal year 1993; and

(7) for the Geothermal Program, an amount not to exceed $34,900,000 in fiscal year 1991; $35,700,000 in fiscal year 1992; and $38,700,000 in fiscal year 1993.

(d) REPORT ON OPTIONS.—On or before May 1, 1991, the Secretary shall submit to Congress a report analyzing options available to the Secretary under existing law to accelerate the timely commercialization of wind, photovoltaic, solar thermal, biofuels, biomass, solar buildings, ocean and geothermal renewable energy technologies through

emphasis on development and demonstration assistance to specific technologies in the research, development, and demonstration programs of the Department of Energy that are near commercial application.

JOINT RESEARCH AND DEVELOPMENT VENTURES

SEC. 614.—(a) FINDINGS.—For purposes of this section, Congress finds that joint research and development ventures can—

(1) improve coordination in technology development among firms in industries attempting to commercialize renewable energy technologies;

(2) assist in setting national standards to improve the operation of markets for these technologies; and

(3) enhance the ability of domestic firms to compete with foreign enterprises in sales of renewable energy technologies.

(b) PURPOSE.—The purpose of this section is to direct the Secretary of Energy to make use of joint research and development ventures to further commercialization of renewable energy technologies.

(c) ESTABLISHMENT.—(1) The Secretary shall establish seven joint research and development ventures in accordance with the provisions of this section. Each joint research and development venture under this section shall include manufacturing firms, investors, an advisory committee appointed in accordance with this section, and such other participation as the Secretary deems appropriate to achieve the purposes of this section. Any facilities constructed under this section shall be located in the United States, Puerto Rico, the Virgin Islands, or the territories and possessions of the United States.

(2) The Secretary shall require that at least 30 per centum of all costs of any joint research and development venture under this section be provided from non-Federal sources.

(3) Before establishing the joint research and development ventures under paragraph (1), the Secretary shall consult with, and take into consideration the recommendations of, the Advisory Committee on Renewable Energy and Energy Efficiency Technology under paragraph (4).

(4)(A) The Secretary shall appoint members to an Advisory Committee on Renewable Energy and Energy Efficiency Technology (hereafter referred to as the 'Advisory Committee') to assist the Secretary in carrying out his responsibilities under this section. The Advisory Committee shall include at least one member representing each of the following—

(i) the Secretary of Commerce;

(ii) the Secretary of Housing and Urban Development;

(iii) the Solar Energy Research Institute;

(iv) the Electric Power Research Institute;

(v) the National Institute of Building Sciences;

(vi) associations of firms in each of the major renewable energy manufacturing industries; and

(vii) associations of firms in each of the major energy efficiency manufacturing industries.

(B) The Advisory Committee, within 120 days after its formation, provide the Secretary with recommendations for the establishment of joint ventures under paragraph (1) and shall advise the Secretary from time to time about the implementation of such ventures. Recommendations of the Advisory Committee shall be available to the public.

(5) The Secretary shall establish at least one joint research and development venture in accordance with subsection (d) to develop technology and expertise in each of the following areas—

(A) photovoltaics technology;

(B) wind energy technology;

(C) solar thermal technology;

(D) factory-made housing;

(E) advanced district cooling technology;

(F) renewable energy and energy efficiency technology exports; and

(G) fuel cell energy systems.

(6) Not later than 180 days after the date of the enactment of this section the Secretary shall publish plans to implement this section and report to Congress on such plans.

PHOTOVOLTAICS TECHNOLOGY

(d) VENTURES. (1)

(A) The Secretary shall establish and provide financial assistance to a joint research and development venture for the demonstration of photovoltaic conversion of solar energy in accordance with the provisions of this paragraph.

(B) The purpose of the venture under subparagraph (A) shall be to design, test and demonstrate systems employing critical enabling technologies for photovoltaic conversion of solar energy so as to achieve, to the maximum extent practicable, the goals of the Photovoltaic Energy Systems Program set forth in section 613(a)(2), as those goals may be amended under section 613(b). The venture under this paragraph may emphasize production, distribution, storage, or end use of electricity from photovoltaic conversion of solar energy or any combination thereof.

(C) In soliciting proposals for the joint research and development venture under this paragraph, the Secretary shall consider the recommendations of the Advisory Subcommittee on Photovoltaic Energy Technology under subparagraph (D).

(D) The Secretary shall appoint members to an Advisory Subcommittee on Photovoltaic Energy Technology to assist the Secretary in carrying out his responsibilities with respect to the joint venture under this paragraph. Such subcommittee shall include such members of the Advisory Committee as the Secretary deems appropriate and, in addition, at least one member representing each of the following—

(i) firms in the photovoltaic manufacturing industry;

(ii) the Director of the Agency for International Development; and

(iii) the Director of the Export-Import Bank.

(E) There is authorized to be appropriated to the Secretary a total of not more than $1,200,000 for each of the fiscal years 1991, 1992 and 1993 to carry out the purposes of this paragraph.

WIND ENERGY TECHNOLOGY

(2) (A) The Secretary shall establish and provide financial assistance to a joint research and development venture for the demonstration of the conversion of wind energy in accordance with the provisions of this paragraph.

(B) The purpose of the venture under subparagraph (A) shall be to design, test and demonstrate systems employing critical enabling technologies for the conversion of wind energy so as to achieve, to the maximum extent practicable, the goals of the Wind Energy Research Program set forth in section 613(a)(1), as those goals may be amended under section 613(e). The venture under this paragraph may emphasize production, distribution, storage, or end use of wind energy or any combination thereof and may include systems employing other sources of energy in addition to wind energy.

(C) In soliciting proposals for the joint research and development venture under this paragraph, the Secretary shall consider the recommendations of the Advisory Subcommittee on Wind Energy Technology under subparagraph (D).

(D) The Secretary shall appoint members to an Advisory Subcommittee on Wind Energy Technology to assist the Secretary in carrying out his responsibilities with respect to the joint venture under this paragraph. Such subcommittee shall include such members of the Advisory Committee as the Secretary deems appropriate and, in addition, at least one member representing each of the following—

(i) firms in the wind energy equipment manufacturing industry;

(ii) the Director of the Agency for International Development; and

(iii) the Director of the Export-Import Bank.

(E) There is authorized to be appropriated to the Secretary a total of not more than $1,200,000 for each of the fiscal years 1991, 1992 and 1993 to carry out the purposes of this paragraph.

SOLAR THERMAL TECHNOLOGY

(3) (A) The Secretary shall establish and provide financial assistance to a joint research and development venture for the demonstration of the use of solar thermal energy in accordance with the provisions of this paragraph.

(B) The purpose of the venture under subparagraph (A) shall be to design, test and demonstrate critical enabling technologies for the use of solar thermal energy so as to achieve, to the maximum extent practicable, the goals of the Solar Thermal Energy Systems Program set forth in section 613(a)(3), as those goals may be amended under section 613(b). The venture under this paragraph may emphasize production, distribution, storage, or end use of solar thermal energy or any combination thereof and may include systems employing other sources of energy in addition to solar thermal energy.

(C) In soliciting proposals for the joint research and development venture under this paragraph, the Secretary shall consider the recommendations of the Advisory Subcommittee on Solar Thermal Energy Technology under subparagraph (D).

(D) The Secretary shall appoint members to an Advisory Subcommittee on Wind Energy Technology to assist the Secretary in carrying out his responsibilities with respect to the joint venture under this paragraph. Such subcommittee shall include such members of the Advisory Committee as the Secretary deems appropriate and, in addition, at least one member representing each of the following—

(i) firms in the solar thermal manufacturing industry;

(ii) the Director of the Agency for International Development;

(iii) the Director of the Export-Import Bank; and

(iv) the Gas Research Institute.

(E) There is authorized to be appropriated to the Secretary a total of not more than $900,000 for each of the fiscal years 1991 through 1993 to carry out the purposes of this paragraph.

FACTORY MADE HOUSING

(4) (A) The Secretary shall establish and provide financial assistance to a joint re-

search and development venture with such specialized private firms and investors as the Secretary deems appropriate in order to establish at least three regional projects to demonstrate techniques to improve the energy performance of factory-made housing offered by United States firms. In locating the projects under this paragraph, the Secretary shall consider regional differences in housing needs, housing design, construction technique, marketing practices, and construction materials.

(B) The projects under this paragraph shall be designed to demonstrate state-of-the-art product quality, energy efficiency, and adaptability to renewable forms of energy of factory-made housing offered for sale in the United States. The projects shall be structured to demonstrate improvements in housing design, fabrication, delivery systems, construction processes, marketing, and product export techniques.

(C) The demonstration strategy under this paragraph shall be guided by—

(i) a detailed characterization of the needs of the home building industry;

(ii) a close working relationship with all sectors of the home building industry; and

(iii) coordination among the projects to pool and conserve resources.

(D) In selecting projects under this section, the Secretary shall consider the recommendations of the Advisory Subcommittee on Energy Performance in Factory-Made Housing established under subparagraph (E).

(E) The Secretary shall appoint members to an Advisory Subcommittee on Energy Performance in Factory-Made Housing to assist the Secretary in carrying out his responsibilities with respect to the joint research and development venture established under this paragraph. Such subcommittee shall include such members of the Advisory Committee as the Secretary deems appropriate and, in addition, at least one member representing each of the following—

(i) the National Association of Home Builders;

(ii) the National Laboratories of the Department of Energy; and

(iii) the National Institute of Standards and Technolgoy.

(F) There is authorized to be appropriated to the Secretary a total of not more than $5,000,000 for each of the fiscal years 1991 through 1993 to carry out the purposes of this paragraph.

ADVANCED DISTRICT COOLING TECHNOLOGY

(5)(A)(i) The Secretary shall establish and provide financial assistance to a joint research and development venture with such specialized private firms and investors as the Secretary deems appropriate in order to develop advanced district cooling technologies that are applicable in cities with high cooling loads.

(ii) The purpose of the joint venture under this paragraph is to develop technical strategies for decreasing the capital cost and increasing the energy efficiency of major district heating and cooling system components and to assist in making district heating and cooling available to local governments.

(B) The Secretary shall select three cities for application of advanced district cooling technologies developed by the joint venture under this paragraph. The activities to be carried out in such application shall include district cooling assessment, feasibility, and engineering design studies.

(C) In selecting the cities under subparagraph (B), the Secretary shall consider the recommendations of the Advisory Subcommittee on Advanced District Cooling Technology established under subparagraph (D).

(D) The Secretary shall appoint members to an Advisory Subcommittee on Advanced District Cooling Technology to assist the Secretary in carrying out his responsibilities with respect to the joint research and development venture under this paragraph. Such subcommittee shall include such members of the Advisory Committee as the Secretary deems appropriate and, in addition, at least one member representing each of the following:

(i) firms manufacturing district cooling equipment; and

(ii) the National League of Cities.

(E) There is authorized to be appropriated for each of the fiscal years 1991 through 1993 not more than $1,000,000 per year to carry out the purposes of this paragraph.

EXPORT TECHNOLOGY PROJECTS

(6)(A) For purposes of this paragraph Congress finds that—

(i) the United States has several advanced energy efficiency and renewable energy technologies that lack only sufficient coordination, support, and emphasis to become important export items capable of reducing the United States' trade deficit;

(ii) a major barrier to export of energy efficiency and renewable energy technology is the lack of information on overseas markets and technology development by foreign competitors;

(iii) the industry that markets energy efficiency technology is highly fragmented, and the renewable energy industry is comprised of small firms that lack the necessary resources to identify and target overseas markets; and

(iv) a joint research and development venture is needed to bring together a broad array of manufacturing firms, financial institutions, and Federal agencies to identify and develop promising technologies and export markets for energy efficiency and renewable energy technologies.

(B) The Secretary shall establish and provide financial assistance to a joint research and development venture with such specialized private firms and investors as the Secretary determines appropriate for the purpose of commercializing and marketing domestically-developed energy efficiency and renewable energy technologies in order to enhance sales of products developed from such technologies relative to foreign-made products.

(C) In designing the joint venture under subparagraph (B), the Secretary shall consider the recommendations of the Advisory Subcommittee on Renewable Energy and Energy Efficiency Technology Exports established under subparagraph (D).

(D) The Secretary shall appoint members to an Advisory Subcommittee on Renewable Energy and Energy Efficiency Technology Exports to assist the Secretary in carrying out his responsibilities with respect to the joint research and development venture under this paragraph. Such subcommittee shall include such members of the Advisory Committee as the Secretary deems appropriate and, in addition, at least one member representing each of the following—

(i) the Director of the Agency for International Development;

(ii) the Director of the Export-Import Bank;

(iii) the United States Export Council for Renewable Energy;

(iv) the National Laboratories of the Department of Energy.

(E) There is authorized to be appropriated to the Secretary to carry out the purposes of this paragraph a total amount for each of the fiscal years 1991 through 1993 not to exceed $5,000,000 with respect to renewable energy activities under this paragraph and $5,000,000 with respect to energy efficiency activities under this paragraph.

(e) SECRETARIAL DISCRETION—(1) If the Secretary, based on the recommendations of the Advisory Committee under subsection (c)(4)(B) with respect to a joint research and development venture described under subsection (d), determines, in consultation with the Advisory Committee, that—

(A) there is insufficient private sector interest in such venture to satisfy the requirement of subsection (c)(2);

(B) carrying out the venture will not further the purposes of this Title; or

(C) timely commercialization of the technology to be demonstrated will not be advanced by the venture, then the Secretary shall not be subject to the requirements of subsection (d) with respect to the technology to be demonstrated by the joint research and development venture.

(2) The Secretary shall notify Congress of any determination under paragraph (1) and provide a written explanation of the reasons for the determination. Immediately thereafter, the Secretary shall consult with the Advisory Committee, and, based on the recommendations of such Committee, shall promptly transmit to Congress a plan for the establishment of a substitute joint research and development venture to demonstrate, consistent with this section, an alternative renewable energy or energy efficiency technology so as to accomplish the purposes of this Title. Any unexpended funds authorized to be appropriated under subsection (d) for the joint research and development venture with respect to which a determination is made under paragraph (1) may be used for a substitute joint research and development venture established under this subsection.

(3) When 30 calendar days have elapsed after transmittal of the plan under paragraph (2), the Secretary shall proceed with the joint research and development venture described in his plan as if such venture were required under subsection (d).

(f) ADDITIONAL COMMERCIALIZATION PROJECTS.—(1) The President's budget request for fiscal year 1992 shall include the Secretary's recommendations for at least one proposed proof-of-concept or near-commercial demonstration project in each of the categories represented by section 3(a)(1), (2) and (3). Each proposed project shall be described in sufficient detail to support congressional authorization and solicitation of bids for construction of necessary facilities.

(2) A list and description of alternative project plans under this subsection shall be submitted in President's fiscal year 1991 budget request. Such plans shall require funding or in-kind contributions from private sources in support of at least thirty per centum of total project costs.

(3) In selecting proposed projects under this subsection, the Secretary shall take into account the extent to which such projects will contribute to earlier commercialization of key technologies within such categories than might occur without Federal support under this subsection and the extent to which such projects will contribute to the competitiveness of U.S. firms engaged in international trade in renewable energy technologies.

RENEWABLE ENERGY EXPORTS

SEC. 615. (a) FINDINGS AND PURPOSES.—(1) For purposes of this section, Congress finds that—

(A) among the major problems in promoting exports of renewable energy technology are the lack of available information on overseas markets and the absence of financing for the purchase of the technologies; and

(B) the Committee on Renewable Energy, Commerce, and Trade ("CORECT") established under the Renewable Energy Industry Development Act (Public Law 98-370) currently coordinates Federal government activities to promote renewable energy exports.

(2) The purpose of this section is to evaluate current efforts to promote exports of renewable energy technology, to establish a joint government-industry plan to identify promising technologies and increase the financing available for exports of renewable energy technologies, to target potential markets for these technologies, and to authorize funding of these activities.

(b) ANNUAL REPORT.—The Committee on Renewable Energy, Commerce, and Trade shall annually report to Congress.

(c) AGENCY ACTIONS.—Each report submitted under subsection (b) shall describe the actions of each agency represented by a member of the Committee on Renewable Energy, Commerce, and Trade taken during the previous fiscal year to achieve the purposes of such Committee and of this section. Such repost shall describe the exports of renewable energy technology that have occurred as a result of such agency actions.

(d) PLAN.—The Committee on Renewable Energy, Commerce, and Trade shall—

(1) establish a joint government-industry plan to maintain or increase the market share of the United States in international trade in renewable energy technologies, including technologies for production of alcohol fuels, biomass energy, geothermal energy, wood energy and in technologies for fuel cell energy conversion, passive solar energy conversion, photovoltaics, solar thermal energy conversion and wind energy conversion. Such plan shall include guidelines for agencies that are members of the Committee with respect to the financing of exports of such renewable energy technologies;

(2) develop, in consultation with representatives of affected industries, administrative guidelines for Federal export loan programs to simplify application by firms seeking export assistance for renewable energy technologies from agencies implementing such programs; and

(3) target renewable energy technology markets for primary emphasis by Federal export loan programs, development programs, and private sector assistance programs.

(e) The Committee on Renewable Energy, Commerce, and Trade shall include a description of the plan under paragraph (1) in no later than the second report submitted under subsection (b), and shall include in subsequent reports a description of any modifications to such plan and of the progress in implementing the plan.

(f) AUTHORIZATIONS.—There is hereby authorized to be appropriated to the Secretary for activities of the Committee on Renewable Energy, Commerce, and Trade an amount not to exceed—

(1) $1,200,000 in fiscal year 1991;

(2) $1,500,000 in fiscal year 1992; and

(3) $1,800,000 in fiscal year 1993.

RENEWABLE ENERGY

SEC. 616. (a) DISSEMINATION OF INFORMATION.—Section 523 of the National Energy Conservation Policy Act (42 U.S.C. 8243) is amended by adding a new subsection (d) as follows:

"(d) In order to more widely disseminate information about the program under this part and under part 3 and the benefits of solar heating and solar heating and cooling technology, the Secretary shall establish a program to disseminate such information for Federal procurement officers and Federal loan officers that shall include site visits and technical briefings. The Secretary shall utilize available funds for the program under this subsection.".

(b) DEPARTMENT OF DEFENSE HOUSING.—Section 2857(b)(1) of Title 10, United States Code, is amended by inserting after "has the potential for" the following: "reduced energy costs".

(c) OVERSEAS PRIVATE INVESTMENT CORPORATION LOANS.—Section 234(e) of the Foreign Assistance Act of 1961 is amended—

(1) in the first sentence, by inserting after "cooperatives" the following: "and including the initiation of incentives, grants, and studies for renewable energy and other small business activities"; and

(2) by adding at the end thereof the following new sentence: "Administrative funds may not be made available for incentives, grants, and studies for renewable energy and other small business activities.".

REPORTS

SEC. 617(a). REPORT BY THE SECRETARY.—One year after the date of the enactment of this Title and annually thereafter, the Secretary shall report to Congress on the programs, projects, and joint research and development ventures conducted under this Title and the progress being made towards accomplishing the goals and purposes set forth in this Title, including the national goals set forth in section 613(a).

(b) NATIONAL ENERGY POLICY PLAN REPORT.—Each annual submission of the National Energy Policy Plan under Title VIII of Public Law 95-91 shall be accompanied by a three-year strategic plan for energy technology research, development, and demonstration. Such plan shall address the role of Federally-assisted research, development, and demonstration projects in the achievement of the national policy goals of the National Energy Policy Plan and shall assess both the level of support for energy research, development, and demonstration reasonably necessary to achieve these goals and the basis for allocating the support recommended by the President among the available alternatives. At a minimum, these alternatives shall include energy efficiency and renewable energy technologies.

Subtitle C

RENEWABLE ENERGY/FUEL CELL SYSTEMS INTEGRATION AND UTILIZATION

SEC. 618. FINDINGS.—The Congress finds that—

(a) while the Federal government has invested substantially in fuel cell technology through research and development during the past ten years, additional research on technologies that enable fuel cells to use alternative fuel sources needs to be undertaken in order to fulfill the conservation promise of fuel cells as an energy source;

(b) there is no national policy for acting upon the findings of this research and development; and

(c) if such a national policy were developed, the public investment in fuel cell technology would be realized through reduced dependency on imported oil and the subsequent improvement in the international trade accounts of the United States.

RESEARCH PROGRAMS

SEC. 619. (a) PROGRAM AUTHORIZATION.—The Secretary shall implement and carry out a research program for the purposes of:

(1) exploring the operation of fuel cells employing methane gas generated from various forms of biomass;

(2) developing technologies to use renewable energy sources, including wind and solar energy, to produce hydrogen for use in fuel cells; and

(3) determining the technical requirements for employing fuel cells for electric power production as backup spinning reserve components to renewable power systems in rural and isolated areas.

(b) GRANTS.—In carrying out the research program authorized in subsection (a), the Secretary may make grants to, or enter into contracts with, private research laboratories.

(c) REPORT TO CONGRESS.—The Secretary shall transmit to the Congress on or before September 30, 1991, a comprehensive report on research carried out pursuant to this Act.

(d) AUTHORIZATION.—There are hereby authorized to be appropriated $5,000,000 for fiscal year 1991 to the Secretary to be used to conduct research as provided in this Act.

SEC. 620. INCLUSION OF FUEL CELLS AS A FUEL CONSERVATION TECHNOLOGY UNDER REIDA.—Section 256 of the Energy Policy and Conservation Act is amended by inserting at the end thereof the following:

"(e) For purposes of this section, the term 'domestic renewable energy industry' shall include industries using fuel cell technology.".

SEC. 621. ENVIRONMENTAL PROTECTION AGENCY GUIDELINES FOR THE USE OF FUEL CELL TECHNOLOGIES.—Within 180 days of the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall prepare Federal guidelines for cities and municipalities specifying environmental and safety standards for the use of fuel cell technology. In the preparation of the guidelines, the Administrator shall utilize the successful experience of the New York City Fire Department in the use of fuel cell technologies.

SEC. 622. DEPARTMENT OF COMMERCE INVESTIGATION OF EXPORT MARKET POTENTIAL FOR INTEGRATED FUEL CELL SYSTEMS.—Within 180 days of the date of enactment of this Act, the Secretary of Commerce shall assess and report to Congress concerning the export market potential for integrated systems of fuel cells with renewable power technologies.

Subtitle D

HYDROGEN RESEARCH AND DEVELOPMENT ACT

SEC. 623. FINDINGS AND PURPOSE.—(a) The Congress finds that—

(1) due to the limited quantities of naturally occurring petroleum-based fuels, viable alternative fuels and feedstocks must be developed;

(2) priority should be given to the development of alternative fuels with universal availability;

(3) hydrogen is one of the most abundant elements in the universe, with water, a primary source of hydrogen, covering three-fourths of the Earth;

(4) hydrogen appears promising as an alternative to environmentally damaging fossil fuels;

(5) hydrogen can be transported more efficiently and at less cost than electricity over long distances;

(6) renewable energy resources are potential energy sources that can be convert hydrogen from its naturally occurring states into high quality fuel, feedstock, and energy storage media; and

(7) it is in the national interest to accelerate efforts to develop a domestic capability to economically produce hydrogen in quantities which will make a significant contribution toward reducing the Nation's dependence on conventional fuels.

(b) The purpose of this title is to—

(1) direct the Secretary of Energy to prepare and implement a comprehensive five-year plan and program to accelerate research and development activities leading to the realization of a domestic capability to produce, distribute, and use hydrogen economically within the shortest time practicable; and

(2) develop renewable energy resources as primary energy sources to be used in the production of hydrogen.

COMPREHENSIVE MANAGEMENT PLAN

SEC. 624. (a) The Secretary shall prepare a comprehensive five-year program management plan for research and development activities which shall be conducted over a period of no less than five years and shall be consistent with the provisions of sections 625 and 626. In the preparation of such plan, the Secretary shall consult with the Administrator of the National Aeronautics and Space Administration, the Secretary of Transporatation, the Hydrogen Technical Advisory Panel established under section 628, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate. Such plan shall be structured to permit the realization of a domestic hydrogen production capability within the shortest time practicable.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within six months after the date of the enactment of this Act—

(1) the research and development priorities and goals to be achieved by the program;

(2) the program elements, management structure, and activities, including program responsibilities of individual agencies and individual institutional elements;

(3) the program strategies including technical milestones to be achieved toward specific goals during each fiscal year for all major activities and projects;

(4) the estimated costs of individual program items, including current as well as proposed funding levels for each of the five years of the plan for each of the participating agencies;

(5) a description of the methodology of coordination and technology transfer; and

(6) the proposed participation by industry and academia in the planning and implementation of the program.

(c) Concurrently with the submission of the President's annual budget to the congress for each year after the year in which the comprehensive five-year plan is initially transmitted under subsection (b), the Secretary shall transmit to the Congress a detailed description of the current comprehensive plan, setting forth appropriate modifications which may be necessary to revise the plan as well as comments on, and recommendations for, improvements in the comprehensive program management plan made by the Hydrogen Technical Advisory Panel established under section 628.

RESEARCH AND DEVELOPMENT

SEC. 625. (a) The Secretary shall establish, within the Department of Energy, a research and development program, consistent with the comprehensive five-year management plan under section 624, to ensure the development of a domestic hydrogen fuel production capability within the shortest time practicable.

(b)(1) The Secretary shall initiate research or accelerate existing research in areas which may contribute to the development of hydrogen production and use.

(2) Areas researched shall include production, liquefaction transmission, distribution, storage, and use. Particular attention shall be given to developing an understanding and resolution of all potential problems of introducing hydrogen production and use into the marketplace.

(c) The Secretary shall give priority to those production techniques that use renewable energy resources as their primary energy source.

(d) The Secretary shall, for the purpose of performing his responsibilities pursuant to this Title, solicit proposals for and evaluate any reasonable new or improved technology, a description of which is submitted to the Secretary in writing, which could lead or contribute to the development of hydrogen production technology.

(e) The Secretary shall conduct evaluations, arrange for tests and demonstrations, and disseminate to developers information, data, and materials necessary to support efforts undertaken pursuant to this section.

DEMONSTRATION AND PLAN

SEC. 626. (a)(1) The Secretary shall conduct demonstrations of hydrogen technology, preferable in self-contained locations, so that technical and non-technical parameters can be evaluated to best determine commercial applicability of the technology.

(2) Concurrently with activities conducted pursuant to section 624, the Secretary shall conduct small-scale demonstrations of hydrogen technology at self-contained sites.

(b) The Secretary shall, in consultation with the Secretary of Transportation, the Administrator of the National Aeronautics and Space Administration, and Hydrogen Technical Advisory Panel established under section 628, prepare a comprehensive larger-scale hydrogen demonstration plan with respect to demonstrations carried out pursuant to subsection (a)(1). Such plan shall include—

(1) a description of the necessary research and development activities that must be completed before initiation of a large-scale hydrogen production demonstration program;

(2) an assessment of the appropriateness of a largest-scale demonstration immediately upon completion of the necessary research and development activities; and

(3) an implementation schedule with associated budget and program management resource requirements.

COORDINATION AND CONSULTATION

SEC. 627. (a) The Secretary shall have overall management responsibility for carrying out the program under this Title. In carrying out such program, the Secretary, consistent with such overall management responsibility—

(1) shall use the expertise of the National Aeronautics and Space Administration and the Department of Transportation; and

(2) may use the expertise of any other Federal agency in accordance with subsection (b) in carrying out any activities under this title, to the extent that the Secretary determines that any such agency has capabilities which would allow such agency to contribute to the purpose of this Title.

(b) The Secretary may, in accordance with subsection (a), obtain the assistance of any department, agency or instrumentality of the Executive branch of the Federal government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Secretary deems necessary to carry out any duty under this Title.

(c) The Secretary shall consult with the Administrator of the National Aeronautics and Space Administration, the Administrator of the Environmental Protection Agency, the Secretary of Transportation, and the Hydrogen Technical Advisory Panel established under section 628 in carrying out his authorities pursuant to this Title.

TECHNICAL PANEL

SEC. 628. (a) There is hereby established a technical panel of the Energy Research Advisory Board, to be known as the Hydrogen Technical Advisory Panel, to advise the Secretary on the program under this Title.

(b)(1) The technical panel shall be appointed by the Secretary and shall be comprised of such representatives from domestic industry, universities, professional societies, Government laboratories, financial, environmental, and other organizations as the Secretary, in consultation with the Chairman of the Energy Research Advisory Board, deems appropriate based on his assessment of the technical and qualifications of such representatives. Appointments to the technical panel shall be made within ninety days after the enactment of this Act. The technical panel shall have a chairman, who shall be elected by the members from among their number.

(2) Members of the technical panel need not be members of the full Energy Research Advisory Board.

(c) The activities of the technical panel shall be in compliance with any laws and regulations guiding the activities of technical and fact-finding groups reporting to the Energy Research Advisory Board.

(d) The heads of the departments, agencies, and instrumentalities of the Executive branch of the Federal government shall cooperate with the technical panel in carrying out the requirements of this section and shall furnish to the technical panel such information as the technical panel deems necessary to carry out this section.

(e) The technical panel shall review and make any necessary recommendations to the following items, among others—

(1) the implementation and conduct of the program under this Title; and

(2) the economic, technological, and environmental consequences of the deployment of hydrogen production and use systems.

(f) The technical panel shall prepare and submit annually to the Energy Research Advisory Board a written report of its findings and recommendations with regard to the program under this Title. The report shall include—

(1) a summary of the technical panel's activities for the preceding year;

(2) an assessment and evaluation of the status of the program; and

(3) comments on and recommendations for improvements in the comprehensive five-year program management plan required under section 624.

(g) After consideration of the technical panel report and within thirty days after its receipt, the Energy Research Advisory Board shall submit the report, together with any comments which the Board deems appropriate, to the Secretary.

(h) The Secretary shall provide such staff, funds, and other support as may be necessary to enable the technical panel to carry out the functions described in this section.

DEFINITIONS

SEC. 629. As used in this title—

(a) the term "Secretary" means the Secretary of Energy; and

(b) the term "capability" means proven technical ability.

AUTHORIZATION OF APPROPRIATIONS

SEC. 630. There is hereby authorized to be appropriated to carry out the purpose of this Title (in addition to any amounts made available for such purpose pursuant to other Acts)—

(a) $10,000,000 for the fiscal year beginning October 1, 1991;

(b) $15,000,000 for the fiscal year beginning October 1, 1992;

(c) $20,000,000 for the fiscal year beginning October 1, 1993;

(d) $25,000,000 for the fiscal year beginning October 1, 1994;

(e) $30,000,000 for the fiscal year beginning October 1, 1995;

HYDROGEN-FUELED AIRCRAFT RESEARCH AND DEVELOPMENT

SEC. 631. FINDINGS AND PURPOSE.—(a) The Congress finds that—

(1) long-term future decreases in petroleum-based fuel availability will seriously impair the operation of the world's air transport fleets;

(2) hydrogen appears to be an attractice alternative to petroleum in the long-term to fuel commercial aircraft;

(3) it is therefore in the national interest to accelerate efforts to develop a domestic hydrogen-fueled supersonic and subsonic aircraft capability; and

(4) the use of liquid hydrogen as a commercial air transport fuel has sufficient long-term promise to justify a substantial research, development demonstration program.

(b) The purpose of this Title is to—

(1) direct the Administrator of the National Aeronautics and Space Administration to prepare and implement a comprehensive five-year plan and program for the conduct of research, development, and demonstration activities leading to the realization of a domestic hydrogen-fueled aircraft capability within the shortest time practicable.

(2) establish as a goal broad multinational participation in the program; and

(3) provide a basis for public, industry, and certifying agency acceptance of hydrogen-fueled aircraft as a mode of commercial air transport.

COMPREHENSIVE MANAGEMENT PLAN

SEC. 632. (a) The Administrator shall prepare a comprehensive five-year program management plan for research, development, and demonstration activities consistent with the provisions of sections 633, 634, and 635. In the preparation of such plan, the Administrator shall consult with the Secretary of Energy, the Secretary of Transportation, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate. Such plan shall be structured to permit the realization of a domestic hydrogen-fueled aircraft capability within the shortest time practicable.

(b) The Administrator shall transmit the comprehensive five-year program management plan to the Committee on Science, Space, and Technology of the House of Representatives and the Committees on Commerce, Science, and Transportation and Energy and Natural Resources of the Senate within six months after the date of the enactment of this Act. The plan shall include, but not necessarily be limited to—

(1) the research and development priorities and goals to be achieved by the program;

(2) the program elements, management structure, and activities, including program responsibilities of individual agencies and individual institutional elements;

(3) the program strategies including detailed technical milestones to be achieved toward specific goals during each fiscal year for all major activities and projects;

(4) The estimated costs of individual program items, including current as well as proposed funding levels for each of the five years of the plan for each of the participating agencies;

(5) a description of the methodology of coordination and technology transfer; and

(6) the proposed participation by industry and academia in the planning and implementation for the program.

(c) Concurrently the submission of the President's annual budget to the Congress for each year after the year in which the comprehensive five-year plan is initially transmitted under subsection (b), the Administrator shall transmit to the Congress a detailed description of the current comprehensive plan, setting forth appropriate modifications which may be necessary to revise the plan as well as comments on and recommendations for improvements in the comprehensive program management plan made by the Hydrogen-Fueled Aircraft Advisory Committee established under section 637.

RESEARCH AND DEVELOPMENT

SEC. 633. (a) The Administrator shall establish, within the National Aeronautics and Space Administration, a research and development program consistent with the comprehensive five-year program management plan under section 632 to ensure the development of a domestic hydrogen-fueled aircraft capability within the shortest time practicable.

(b) The Administrator shall initiate research or accelerate existing research in areas which may contribute to the development of a hydrogen-fueled aircraft capability.

(c) In conducting the program pursuant to this section, the Administrator shall encourage the establishment of domestic industrial capabilities to supply hydrogen-fueled aircraft systems or subsystems to the commercial marketplace.

(d) The Administrator shall, for the purpose of performing his responsibilities pursuant to this Act, solicit proposals for and evaluate any reasonable new or improved technology, a description of which could lead or contribute to the development of hydrogen-fueled aircraft technology.

(e) The Administrator shall conduct evaluations, arrange for tests and demonstrations and disseminate to developers information, data, and materials necessary to support efforts undertaken pursuant to this section.

FLIGHT DEMONSTRATION

SEC. 634. (a) Concurrent with the activities carried out pursuant to section 633, the Administrator shall, in consultation with the Secretary of Transportation, the Secretary of Energy, and the Hydrogen-Fueled Aircraft Advisory Committee established under section 637, prepare a comprehensive flight demonstration plan, the implementation of which shall provide confirmation of the technical feasibility, economic viability, and safety of liquid hydrogen as a fuel for commercial transport aircraft. The comprehensive flight plan shall include—

(1) a description of the necessary research and development activities that must be completed before initiation of a flight demonstration program;

(2) the selection of a domestic site where demonstration activities can lead to early commercialization of the concept;

(3) an assessment of a preliminary flight demonstration to occur concurrently with the later states of research and development activities; and

(4) an implementation schedule with associated budget and program management resource requirements

(b) The Administration shall transmit such comprehensive flight demonstration plan to the Congress within two years after the date of the enactment of this Act.

HYDROGEN PRODUCTION AND GROUND FACILITIES

SEC. 635. (a) The Administrator, in consultation with the Secretary of Transportation and the Secretary of Energy, shall define the systems, subsystems, or components associated with the production, transportation, storage, and handling of liquid hydrogen that are specifically required for and unique to the use of such fuel for commercial aircraft application.

(b) The Administrator shall structure the research and development program pursuant to section 633 to allow the development of the systems, subsystems, or components defined pursuant to subsection (a) of this section.

(c) The research and development program for hydrogen production, transportation, and storage systems, subsystems, and components which are suitable for inclusion as part of fully integrated hydrogen-fueled aircraft system, but which are not being specifically developed for such application shall be the responsibility of the Secretary of Energy. Such activities shall be included as part of the program established pursuant to Title I of this Act, and shall be so conducted as to ensure compliance with dydrogen-fueled aircraft system constraints.

COORDINATION AND CONSULTATION

Sec. 636. (a) The Administrator shall have overall management responsibility for carrying out the program under this Title. In carrying out such program, the Administrator, consistent with such overall management responsibility—

(1) shall utilize the expertise of the Departments of Transportation and Energy to the extent deemed appropriate by the Administrator, and

(2) may utilize the expertise of any other Federal agency in accordance with subsection (b) in carrying out any activities under

this Title, to the extent that the Administrator determines that any such agency has capabilities which would allow such agency to contribute to the purposes of this Title.

(b) The Administrator may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the Executive branch of the Federal government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Administrator deems necessary to carry out any duty under this Title.

(c) The Administrator shall consult with the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of Transportation, and the Hydrogen-Fueled Aircraft Advisory Committee established under section 207 in carrying out his authorities pursuant to this Title.

ADVISORY COMMITTEE

SEC. 637. (a) There is hereby established a Hydrogen Fueled Aircraft Advisory Committee, which shall advise the Administrator on the Program under this title.

(b) The Committee shall be appointed by the Administrator and shall be composed of at least seven members from industrial, academic, financial, environmental, and legal organizations and such other entities as the Administrator deems appropriate. Appointments to the Committee shall be made within ninety days after the enactment of this Act. The Committee shall have a chairman, who shall be elected by the members from among their number.

(c) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal government shall cooperate with the Committee in carrying out the requirements of this section and shall furnish to the Committee such information as the Committee deems necessary to carry out this section.

(d) The Committee shall meet at least four times annually, notwithstanding subsections (e) and (f) of section 10 of Public Law 92-463.

(e) The Committee shall review and make any necessary recommendations on the following items, among others—

(1) the implementation and conduct of the program under this Title; and

(2) the economic, technological, and environmental consequences of developing a hydrogen-fueled aircraft capability.

(f) The Committee shall prepare and submit annually to the Administrator a written report of its findings and recommendations with regard to the program under this Title. The report shall include—

(1) a summary of the Committee's activities for the preceding year;

(2) an assessment and evaluation of the status of the program; and

(3) comments on the recommendations for inprovements in the comprehensive five-year program management plan required under section 632.

(g) The Administrator shall provide such staff, funds, and other support as may be necessary to enable the Committee to carry out the functions described in this section.

DEFINITIONS

SEC. 638. As used in this Title—

(a) The term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(b) the term "capability" means proven technical ability; and

(c) the term "certifying agency" means any government entity with direct responsibility for assuring public safety in the operation of the air transport system.

AUTHORIZATION OF APPROPRIATIONS

SEC. 639—Authorizations.—There is hereby authorized to be appropriated to carry out the purpose of this Title—

(1) $10,000,000 for the fiscal year beginning October 1, 1991;

(2) $15,000,000 for the fiscal year beginning October 1, 1992;

(3) $20,000,000 for the fiscal year beginning October 1, 1993;

(4) $25,000,000 for the fiscal year beginning October 1, 1994; amd

(5) $30,000,000 for the fiscal year beginning October 1, 1995.

TITLE VII—ADVANCED CIVILIAN REACTOR PROGRAMS

SEC. 701. FINDINGS AND PURPOSES.—(a) Congress finds that the use of energy generated from nuclear fission could potentially supplant economically the burning of fossil fuels and thereby contribute substantially to reducing the rate and scope of global climate change;

(b) the purpose of this Title is to redirect programs in existence on the date of the enactment of this Title for research, development, and demonstration of technologies for the generation of commercial electric power from nuclear fission. Notwithstanding any other provision of law, this Title shall be the exclusive source of authority for appropriations for such programs; and

(c) for purposes of this section, programs for research, development, and demonstration of technologies for the generation of commercial electric power from nuclear fission include programs of the Secretary designated in appropriations acts for the fiscal year beginning on October 1, 1988, as Advanced Reactor Research and Development, Advanced Nuclear Systems, Facilities, and Program Direction.

SEC. 702. RESEARCH AND DEVELOPMENT PROGRAM.—(a) The Secretary shall carry out a comprehensive program of research and development of technologies for the generation of commercial electric power from nuclear fission that to the maximum extent practicable—

(1) permit modular design;

(2) exhibit passive safety;

(3) are adaptable to standardized construction and licensing;

(4) are cost-effective in comparison to alternative sources of electricity of comparable availability, reliability, and impact on the rate and scope of global climate change;

(5) minimize the volume of nuclear waste produced and the cost of nuclear waste disposal;

(6) prevent diversions of radioactive material for use in nuclear weapons; and

(7) minimize the cost of power plant decommissioning.

SEC. 703. APPROPRIATIONS.—(a) There is authorized to be appropriated to carry out the purposes of this Title for the fiscal year beginning on October 1, 1991, not more than $100 million; for the fiscal year beginning October 1, 1992, not more than $200 million, and for the fiscal year beginning October 1, 1993, not more than $200 million.

SEC. 704. REPORTS.—The Secretary shall submit to the Congress by October 1, 1991, and every year thereafter, a comprehensive report on progress made toward the development of reactor designs which meet the criteria set out in section 702(a) of this Act. The report shall rank each design or technology in terms of its ability to meet these criteria, and shall show how the Secretary will focus his research efforts to most expeditiously achieve the development of a reactor design which meets these criteria. In addition, the report shall include the Secretary's recommendations for whatever steps he deems are needed to successfully achieve the purposes of this Title.

TITLE VIII—FUSION

SEC. 801.—(a) Within one year after the date of the enactment of this section, the Secretary shall report to Congress on the status of research, development, and demonstration in technology for the production of electricity from both magnetic and inertial confinement fusion, including international collaboration;

(b) The report under subsection (a) shall present a program of research, development, and demonstration of magnetic confinement and inertial confinement fusion for energy that would insure by 2010:

(1) a demonstration of the achievement of ignition conditions in both magnetic and inertial fusion test facilities;

(2) a demonstration of the technological feasibility of magnetic and inertial fusion as a source of electric power; and

(3) in the event that such feasibility is determined, the development of a design of a prototype commercial fusion reactor, accompanied by cost estimates and specifications sufficient to permit bids for construction of the reactor;

(c) the report shall include:

(i) an assessment of the actions needed and the funds that would be necessary to achieve the goals of the program under subsection (b);

(ii) an assessment of funds that would be provided by the United States under appropriate scenarios for international collaboration in a program of fusion research, development, and demonstration that would achieve such goals;

(iii) a review and analysis of the major obstacles to international collaboration in such a program; and

(iv) the Secretary's recommendations for additional legal and budgetary authority required to implement the preferred scenario among those considered under paragraph (2).

TITLE IX—COAL

SEC. 901. REPORT.—(a) Within 9 months after the date of the enactment of this Title the Secretary shall provide Congress with a comprehensive report reviewing the clean coal technologies to be developed in projects that have received Federal funds under the Department of Energy's Clean Coal Technology Program. This report shall analyze each such project to determine the change in the production of CO2 that is likely to result from the project specifically and in total were the technology being developed widely implemented relative to alternative coal use technologies;

(b) Before submitting the report under subsection (a), the Secretary shall make a draft report available to the public and provide an opportunity for comment on such draft report. The Secretary shall provide appropriate responses to comments received in the final report; and

(c) The Secretary shall include in the report his recommendations as to the most promising clean coal technologies that also would reduce the production of CO2 per unit of energy delivered relative to alternative coal use technologies.

SEC. 902. PROGRAM.—(a) The Secretary shall establish and carry out a program of research, development and demonstration of techniques for recovery and disposal of CO2 from automobiles, trucks and buses, electric utility power operations, and industrial manufacturing processes; and

(b) Within 6 months after the date of the enactment of this section the Secretary shall submit a report to Congress on his plans to implement subsection (a). Such report shall include the Secretary's recommendations of priority in research, development, and demonstration opportunities under this section. The report shall also include the Secretary's five-year budget for the program under this section.

SEC. 903. COAL STUDY.—(a) The Secretary, through one or more of the Department's National Laboratories, shall establish and carry out a comprehensive program in the fundamental physics and chemistry of coal combustion. The program under this section shall examine the breakup of representative types of coal under combustion into final products at the molecular level;

(b) In designing the program under this section, the Secretary shall give priority to research that will clarify the fundamental mechanisms for the production of oxides of sulphur and nitrogen during the combustion process, with the ultimate goal of using information gained thereby to limit or control the introduction of these gases into the atmosphere; and

(c) Within 6 months after the date of the enactment of this section the Secretary shall submit a report to Congress on his plans to implement subsection (a), including a five-year budget for the program under this section.

SEC. 904. IMPROVED EFFICIENCY.—The Secretary shall support research that will improve the efficiency of coal generated electricity and industrial processes with priority given to those projects which have the greatest potential for reducing the generation of carbon dioxide.

SEC. 905. AUTHORIZATION.—There is authorized to be appropriated to the Secretary for purposes of this Title not more than $5,000 for fiscal year 1991 and not more than $15,000,000 for fiscal year 1992, and not more than $25,000,000 for fiscal year 1993.

TITLE X—NATURAL GAS

SEC. 1001. NATURAL GAS FOR MASS TRANSIT PROGRAM.—(a) The Secretary shall, consistent with the Alternative Motor Fuels Act of 1988, PL 100-494, enter into cooperative agreements with, and provide financial assistance under this section to any municipal, county, or regional transit authority (hereinafter "authority") to demonstrate the feasibility of using natural gas as a fuel for mass transit in urban areas.

(b) The program of the Secretary to implement the agreements under subsection (a) may include interested or affected private firms willing to provide assistance in cash or in kind for any such demonstration.

(c) The Secretary shall not enter into any agreement under subsection (a) with any municipal, county or regional transit authority unless such government body agrees to provide at least twenty-five per centum of the costs of such demonstration.

(d) The authority may petition the Secretary for priority in allocating financial assistance under this section.

(e) The Secretary, at his discretion, may grant such priority under this section to any authority that demonstrates that the use of natural gas as a transportation fuel would have a significant effect on the ability of an air quality region to comply with applicable regulations governing air quality.

(f) Within 6 months after the date of the enactment of this section the Secretary shall report to Congress on his plans to implement this section.

(g) There is authorized to be appropriated to the Secretary not more than $30,000,000 for each fiscal years 1991, 1992 and 1993 for purposes of this section.

SEC. 1002. REPORT.—Within 18 months after the date of the enactment of this Title the Secretary, in consultation with the Administrator of the Environmental Protection Agency and the President of the Gas Research Institute, shall submit to Congress a report on the feasibility of using natural gas in gasoline and diesel-powered vehicles to facilitate compliance by such vehicles with applicable emissions requirements for such vehicles.

SEC. 1003. NATURAL GAS USE IN FLEETS.—(a) The Secretary, consistent with the Alternative Motor Fuels Act of 1988, and after consultation with the president of the Gas Research Institute, shall establish and carry out a program, and provide financial assistance, to encourage the development and commercialization of natural gas use in passenger fleets, light duty trucks and heavy duty trucks by providing for the purchase and construction of alternative fuel vehicles and associated refueling equipment.

(b) Both Federal and private fleets may be eligible for private assistance under this section. A public or private operator of a fleet may petition the Secretary for priority in allocating financial assistance under this section.

(c) The Secretary, at his discretion, may grant such priority to those fleets where the use of natural gas as a transportation fuel would have a significant effect on the ability of an air quality region to comply with applicable regulations governing air quality.

(d) To facilitate the use of natural gas fueled vehicles, the existing Federal vehicle anti-tampering regulations shall be amended by adding the following:

"The conversion of a vehicle from gasoline only to natural gas or natural gas and gasoline shall not be considered a violation of any anti-tampering provisions of the Federal law and implementing regulations provided that the conversion complies with emissions standards which shall be issued by the EPA administrator not later than October 31, 1989."

(e) There is authorized to be appropriated to the Secretary not more than $30 million for each of fiscal years 1991, 1992, 1993, for purposes of this section.

SEC. 1004. TRAINING PROGRAM.—(a) The Secretary shall establish and carry out a training program for technicians who are responsible for vehicle installations of equipment that converts gasoline or diesel-fueled vehicles to the capability to run on natural gas alone, or on natural gas and either diesel or gasoline. Such training program shall provide these technicians with instruction on the correct installation procedures and techniques, adherence to specifications, vehicle operating procedures, and other appropriate mechanical concerns applicable to these vehicle conversions.

(b) The Secretary, at his discretion, shall enter into cooperative agreements with, and provide financial assistance, under this section, to appropriate parties to provide training programs that will ensure the proper operation and performance of conversion equipment.

(c) There is authorized to appropriated to the Secretary, consistent with the Alternative Motor Fuels Act of 1988, and after consultation with the president of the Gas Research Institute, not more than $5 million for each of the fiscal years 1991, 1992, and 1993 for purposes of this section.

SEC. 1005. VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.—(a) The Secretary, in consultation with the president of the Gas Research Institute, shall establish and carry out a program of research, development, and demonstration on techniques related to improving natural gas vehicle technology including, but not limited to, the following areas—

(1) gaseous fuel injection;
(2) carburetion;
(3) manifolding;
(4) combustion;
(5) power optimization;
(6) emissions control;
(7) novel gas compression concepts;
(8) advanced storage system; and
(9) advanced gaseous fueling technologies.

(b) The Secretary, consistent with the Alternative Motor Fuels Act of 1988, after consultation with the president of the Gas Research Institute, shall enter into cooperative agreements with, and provide financial assistance, under this section, to the Gas Research Institute to perform the research and development to improve natural gas vehicle technology.

(c) There is authorized to be appropriated to the Secretary not more than $10 million for each of the fiscal years 1991, 1992, and 1993 for purposes of this section.

SEC. 1006. NATURAL GAS RECOVERY, RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM.—(a) The Secretary, in consultation with the president of the Gas Research Institute, shall expand and continue a program of research, development, and demonstration on techniques to increase the availability of natural gas from—

(1) intensive recovery of natural gas in place in discovered reservoirs or formations; and

(2) more economic recovery of unconventional natural gas, including gas from tight sands, Eastern shales gas from less permeable formations, coal-bed methane, and geopressured reservoirs.

(b) The Secretary shall seek to enter into joint research and development ventures with persons engaged in the production, transportation or major use of natural gas to implement the program under subsection (a). For purposes of this section a 'joint research and development venture' means a joint research and development venture under the National Cooperative Research Act of 1984.

(c) There is authorized to be appropriated to the Secretary not more than $25 million for each of the fiscal years 1991, 1992, and 1993 for purposes of this section.

SEC. 1007. ENGINE RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM.—(a) The Secretary, in consultation with the President of the Gas Research Institute, shall establish and carry out a program of research, development, and demonstration on high efficiency heat engines including, but not limited to, advanced gas turbine cycles for high efficiency electric power generation, such as—

(1) advanced combined cycle turbines;
(2) steam-injected gas turbines (STIG); and
(3) intercooled steam-injected gas turbines (ISTIG);

(b) The Secretary, after consultation with the president of the Gas Research Institute, shall enter into cooperative agreements with, and provide financial assistance, under this section, to appropriate parties, including, but not limited to the Gas Research Institute, to construct and demonstrate the high efficiency heat engines.

(c) There is authorized to be appropriated to the Secretary not more than $25 million for each of the fiscal years 1991, 1992, and 1993 for purposes of this section.

SEC. 1008.—The Secretary, after consultation with the president of the Gas Research Institute, shall establish priorities for research, development, and demonstration programs, and transmit a list of priorities to the Senate Committee on Energy and Natural Resources and the House Committee on Energy and Commerce for guidance in its use of research, development, and demonstration funds. The Secretary shall update the list every two years and submit the update version to the aforementioned Congressional Committees.

TITLE XI—NATURAL RESOURCE POLICY

Subtitle A—General

SEC. 1101.—ECOLOGICAL AND ENVIRONMENTAL RESOURCE STUDY.—(a) The Secretary of the Interior shall conduct a study of the ecological and environmental resources that would be affected by a global climate change. The study should include effects in wildlife habitat preservation, coastal protection, inland rivers and lakes, irrigation and reclamation, groundwater protection, and national wildlife refuges and parks, national forests, and other Federal lands.

(b) The study should—

(1) include specific regional climatic and resource base information useful in anticipatory and mitigatory planning;

(2) identify actions that, if taken, could help mitigate the effects of global climate change; and

(3) evaluate the cost-effectiveness, including environmental externalities of possible action.

(c) The Secretary of the Interior shall consider the relative impact on global warming of all mineral leasing programs.

(d) The Secretary of the Interior and the Secretary of Agriculture shall consider the relative impact on global warming of all Federal forest land management programs, including timber sales and reforestation.

SEC. 1102.—NATIONAL FORESTATION INITIATIVE.—The Secretary Agriculture, in cooperation with the Secretary of Interior, shall report to the President and the Congress on the feasibility of a national forestation initiative. Such report shall include—

(a) an inventory of public, State, and private forested lands;

(b) an evaluation of the status of timber harvesting on those lands, including the extent to which those lands are being reforested;

(c) an assessment of the extent to which Federal, State, and private lands can be reforested and afforested, including lands not necessarily suitable for timber harvesting such as urban areas;

(d) an evaluation of (1) the potential of a national forestation initiative reducing, mitigating, or preventing climate change, and (2) the measures needed to achieve that potential; and

(e) an assessment of the potential economic and environmental benefits and costs of such an initiative, the measures available to mitigate such costs, and an evaluation of the effectiveness of such measures.

SEC. 1103. URBAN FORESTRY AND ENERGY SAVINGS.—The Secretary of Energy, in consultation with the Secretary of Agriculture, and other relevant government agencies, shall conduct a study of the potential for reducing carbon dioxide emissions by undertaking targeted urban tree plantings designed to reduce the air-conditioning needs of buildings. The study shall provide estimates of the cost-effectiveness of such a program and shall outline a range of Federal, State, and local public policies and incentives that would encourage public and private efforts to undertake such plantings.

The Secretary shall complete the study and submit it to the Congress within 18 months after the date of enactment of this Act.

SUBTITLE B—TONGASS TIMBER REFORM ACT

TONGASS TIMBER REFORM ACT

SEC. 1103. DEFINITIONS.—As used in this Title—(a) The term "The Secretary" means the Secretary of Agriculture.

(b) Unless otherwise specified, any other term has the same meaning as used in the Alaska National Interest Lands Conservation Act as amended (Public Law 96-487), hereinafter referred to as ANILCA.

AMENDMENTS TO THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

SEC. 1104. ANNUAL APPROPRIATIONS FOR TIMBER MANAGEMENT AND RESOURCE CONSERVATION ON THE TONGASS NATIONAL FOREST.—Section 705(a) of ANILCA (16 U.S.C. 539d(a)0 is hereby repealed effective September 30, 1989, and subsections (b) and (c) of section 705 are redesignated as subsections (a) and (b), respectively.

SEC. 1105. IDENTIFICATION OF LANDS UNSUITABLE FOR TIMBER PRODUCTION.—Section 705(d) of ANILCA 916 U.S.C. 539d(d)) is hereby repealed.

REPORTS ON THE TONGASS NATIONAL FOREST

SEC. 1106. (a) MONITORING—Section 706(a) of ANILCA (16 U.S.C. 539e(a)) is hereby repealed.

(b) STATUS—Section 706 (b) of ANILCA (16 U.S.C. 539e(b)) is amended as follows:

(1) Strike out "(b)" and insert in lieu thereof "(a)";

(2) Strike out "and (4)" and insert in lieu thereof "(4)";

(3) Strike out the period at the end of the section and insert in lieu thereof"; (5) the impact of timber harvest on subsistence resources, wildlife and fisheries resources, commercial fisheries, recreation resources and tourism; (6) effects of timber harvest on biological diversity; (7) effects of timber harvest on the old growth rain forest ecosystem, especially in areas of high volume, and measures to conserve the old growth ecosystem, (8) timber supply and demand in southeastern Alaska; and (9) costs and revenues of the timber sale program.".

(c) CONSULTATION.—Section 706(c) of ANILCA 916 U.S.C. 539e(e)) is amended as follows:

(1) strike out "(c) and insert in lieu thereof "(b).

(2) strike out "and the Alaska Land Use Council" and insert in lieu thereof "the southeast Alaska commercial fishing industry, and the Alaska Land Use Council".

SEC. 1107.—TERMINATION OF LONG-TERM TIMBER SALE CONTRACTS IN ALASKA.—Title V of ANILCA is amended by adding at the end thereof the following new section:

"SEC. 508. TERMINATION OF LONG-TERM TIMBER SALE CONTRACTS IN ALASKA.

"Not later than 90 days after the date of enactment of this section, the Secretary shall terminate the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 between the United States and Alaska Pulp Corporation, and between the United States and Ketchikan Pulp Company, respectively."

MANAGEMENT OF THE TONGASS NATIONAL FOREST

SEC. 1108. (a) FINDINGS.—The Congress finds that—

(1) natural resources of the Tongass National Forest possess outstanding natural characteristics of high value and benefit to the American people, and these resources are essential for subsistence activities and for the commercial fishing, recreation, and tourism industries which contribute significantly to the economy of southeast Alaska;

(2) the Tongass National Forest contains one of the last largely intact rain forest in the world's temperate latitudes, and must serve as an example of the type of protection, preservation and management that will be required to stop the destruction of rain forest resources in other nations;

(3) current Forest Service management of the Tongass National Forest, in particular the amount of high volume old growth timber offered for sale and harvested, gives priority to timber harvest over other uses of the forest and thus is not consistent with the principle of multiple use or with requirements of the Forest and Rangeland Renewable Resources Planning Act of 1974 and the National Forest Management Act of 1976, and cannot be sustained without jeopardizing natural resources that are of national significance and upon which the commercial fishing, recreation, and tourism industries and subsistence users of southeast Alaska depend;

(4) current Forest Service management practices are based on the Tongass National Forest Land Management Plan of 1979, as amended, which should be revised consistent with the provisions of this Act and with other laws applicable to the National Forest System, to significantly increase protection and enhancement of fish, wildlife, watershed, recreation, cultural, biological diversity, and old growth forest ecosystem resources, and to support the long-term best interest of all natural resource dependent industries and subsistence communities in southeast Alaska.

(b) PURPOSE.—The purpose of this Title is to require revision of the Tongass National Forest Land Management Plan of 1979, as amended, in conformance with this Act and other laws applicable to the National Forest System, to significantly increase protection of resources that are critical to the long-term best interests of the commercial fishing, recreation, and tourism industries, and the subsistence users in southeast Alaska, and which are of high value and benefit to the people of the United States. These include the fish, wildlife, watershed, recreation, cultural, biological diversity and old growth ecosystem resources and subsistence values of the Tongass National Forest.

SEC. 1109. DIRECTIVE AND REPORTS.—(a) In furtherance of the purpose of this Title, the Secretary is hereby authorized and directed to fully revise the Tongass National Forest Land Management Plan of 1979, as amended, to conform with provisions of this Act and other laws applicable to the National Forest System. This revision shall replace any efforts to revise the Forest Plan that are predicated on sections of ANILCA that are repealed or amended by this Act.

(b) In revising the Forest Plan, the Secretary shall significantly increase the protection of fish, wildlife, watershed, recreation, cultural, biological diversity and old growth ecosystem resources and subsistence values of the Tongass National Forest. Planning and management of old growth resources shall give specific attention to areas of high volume old growth ecosystem as a whole.

(c) In revising the Forest Plan, the Secretary shall ensure that priority is given to the protection of fish, wildlife, watershed, recreation, cultural, biological diversity, and old growth ecosystem resources and subsistence values of the areas listed in section 302(b) of this Act.

(d) Within 30 days after this Act takes effect, the Secretary shall provide the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives with a report on the schedule for revision of the Tongass Land Management Plan, including the expected dates of publication of the draft and final plans.

(e) Within one year after this Act takes effect, and each year thereafter until the revised Tongass National Forest Land Management Plan is complete and ready for implementation, the Secretary shall provide the Senate Committee on Energy and Natural Resources and the Committee on Interior and Insular Affairs of the House of Representatives with a report describing the steps taken in furtherance of section 201(b) of this Act.

MORATORIUM ON TIMBER SALES AND HARVEST

SEC. 1110. (a) PURPOSE.—The purpose of this Title is to impose a moratorium on the sale or commercial harvest of timber in certain areas having special values for fish and wildlife, subsistence, recreation, old growth, and other resources, pending revision of the Tongass National Forest Land Management Plan to conform with the new management directives provided in this Act.

(b) MORATORIUM.—Until such time as the Tongass National Forest Land Management Plan is completely revised and ready for implementation, there shall be no sale or harvest of timber, nor any associated development (including timber sale preparation or road construction), within any area specified in subsection (b) of this section. The moratorium shall apply to lands administered by the Forest Service, as generally depicted on appropriately referenced maps, as follows:

Area	Approximate acreage
Anan Creek	37,331
Berners Bay	35,379
Calder-Holbrook	62,335
Chichagof	353,540
Chuck River	125,574
Kadashan	33,641
Karta River	38,671
Kegan Lake	23,858
Naha River	31,926
Nutkwa	53,635
Outside Island	95,524
Pleasant Island-Lemesurier Island	15,527
Pt. Adolphus-Mud Bay	72,091
Port Houghton-Sanborn Canal	59,712
Rocky Pass	74,423
Sarkar Lakes	23,500
South Etolin Island	81,939
South Kuiu	190,301
Sullivan Island	3,985
Trap Bay	6,446
West Duncan Canal	118,812
Yakutat Forelands	232,962
Young Lake	18,173

Copies of maps depicting these areas shall be on file and available for public inspection in the offices of the Chief of the Forest Service in Washington, D.C., and the Regional Forester in Juneau, Alaska.

TITLE XII—BASIC SCIENCE INITIATIVES

SEC. 1201. (a) PURPOSES.—The overall purpose of this Title is to expand support for ongoing and new scientific research initiatives regarding the causes, mechanisms, and implications of the greenhouse effect and global climate change, on the part of the National Aeronautics and Space Administration (NASA), the National Science Foundation (NSF), the National Oceanic and Atmospheric Administration (NOAA), the United States Geological Survey (USGS) ("the Agencies"), and the National Institute of Standards and Technology (NIST) for research on the development of safe, non-ozone depleting substitutes for chlorofluorocarbons (CFCs). The specific purposes of this Title shall include—

(1) support for NASA, NSF, NOAA, and USGS in their research in such major climate-related processes as interactive atmospheric dynamics and chemistry, natural emissions of greenhouse gases; ocean-atmosphere-ice interactions; carbon cycle links to ocean and terrestrial nutrients; cloud formation, dynamics, and radiative properties; precipitation processes; tropical global-ocean atmosphere interaction; global ocean circulation and heat capacity; sea-ice dynamics; global tropospheric chemistry; and stratospheric ozone chemistry; solar irradiance variations; paleoclimate; biosystem-climate interactions; and sea level-climate interactions; monitoring of river and coastal levels;

(2) support for the Agencies in providing research to address scientific issues such as: detection of the greenhouse warming signal through land and ocean measurements of temperature and other climate-sensitive variables; research in past climate change; improvement of models to assess the rate and scope of climate change; understanding the role of clouds in reflecting solar radiation and in trapping terrestrial radiation; identifying sources and sinks of carbon dioxide and trace gases, especially methane; understanding the relationship between stratospheric ozone depletion and global climate change; the role of oceans in the global carbon cycle; modelling regional climate changes and hydrology; understanding the effects of climate change on ecosystems and climate biota feedbacks; understanding the role of changes in the polar ice packs on climate, (e.g., reflection of solar radiation, influence on the heat budget, and contribution to sea level rise); assessing the validity of climate models by testing them against the past climate record; and predicting the possible range of future climatic conditions that could arise from natural processes and selected scenarios of human perturbations;

(3) support for the completion or continuation of the Agencies' space missions and experiments to study the composition and dynamics of the atmosphere; measure the Earth's energy balance; observe ocean and ice surfaces; collect data on the Earth's radiation budget; measure sea surface temperature and monitor ocean biological activity and land vegetation; measure volcanic activity; and

(4) support for the National Institute of Standards and Technology's efforts to find alternative refrigerants or other technologies that meet stringent requirements with respect to health, stability, thermophysical properties, and cost, and do not result in decreased energy efficiency; develop effective replacements for harmful CFCs in time to be of value to CFC dependent industries in meeting their product line changes for the Montreal Protocol schedule; develop models to correlate and extend the available measured property data; and assist industry in evaluating the full potential of alternative fluids.

(b) There is hereby authorized to be appropriated $275 million in additional funding to the following agencies over the fiscal years 1991, 1992, and 1993, to support each agency's efforts in carrying out the purposes of this Title:

(1) $100,000,000 to NASA;
(2) $60,000,000 to NOAA;
(3) $75,000,000 to NSF;
(4) $30,000,000 to USGS; and
(5) $10,000,000 to NIST.

TITLE XIII—DEVELOPMENT ASSISTANCE

SEC. 1301. BILATERAL TROPICAL FORESTRY PROGRAM.—(a) Not later than one year after the enactment of this Title, the Secretary of State, in conjunction with the Secretary of the Treasury, Administrator of the Agency for International Development, the Secretary of Interior, and the Secretary of Agriculture shall transmit to Congress a report containing—

(1) a description and inventory of the existing forest resources in all tropical countries of the world;

(2) an evaluation of the potential in each tropical nation for reforestation, afforestation, and conservation of existing forest resources;

(3) a description of appropriate mechanisms in each country for preserving forest resources and creating new forested area, including, but not limited to, choice of mixed species to encourage a diverse forest and discourage monoculture estates, and involvement of local groups in the design, implementation, and monitoring of projects; and

(4) the potential for reducing, mitigating, or preventing climate disruption by providing bilateral development assistance and other forms of assistance and incentives to tropical countries for reforestation, afforestation, and conservation of existing forest resources. The report referred to in this subsection shall be prepared in consultation with the government and the public in each tropical country and shall be updated and transmitted to Congress every three years.

(b) Within one year after the completion of the report required under subsection (a) and every three years thereafter, the same agencies, in consultation with the government and public in each tropical country and interested members of the public in the United States, shall establish and transmit to Congress a forest plan with goals for each tropical country. These goals shall include maximum feasible conservation of existing forest areas and reforestation and afforestation in areas not covered by forests.

(c) The Administrator of the Agency for International Development shall make development assistance monies, export credits, and other forms of financial support available for projects and programs to implement the plan required by subsection (b). The Administrator shall ensure that all activities supported by the United States bilateral foreign assistance are consistent with the plan. Beginning two years after the approval of the first plan, the Administrator, in allocating development assistance monies to countries identified in the plan, shall

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take account of the success or lack of success of each country in meeting the goals established in the plan.

(d) The Administrator shall promote support by other bilateral donors for activities necessary to implement the plan.

(e) Not later than one year after the date of enactment of this Title, and annually thereafter, the Department of State, in cooperation with the Department of Interior, and the Department of the Treasury, the Department of Agriculture, and the Agency for International Development shall submit to Congress a report describing actions taken pursuant to this section, the extent to which other donors have supported actions necessary to implement the forest plan, the extent to which each tropical country has succeeded in achieving the goals set out in the plan, and how the success or lack of success of each country in meeting the goals established in the plan have been taken into account in allocating development assistance monies to each country.

SEC. 1302. MULTILATERAL TROPICAL FORESTRY PROGRAM.—(a) The Secretary of the Treasury shall instruct the United States' Executive Director of the multilateral development banks to promote the adoption by each such bank of a forestry program substantially equivalent to the program set out in section 1301 and containing the following components:

(1) identification of each borrowing country's potential for afforestation;

(2) establishment of goals for afforestation for each borrowing country, in consultation with the government and the public in that country;

(3) creation of incentives to encourage afforestation and disincentives to discourage deforestation; and

(4) allocation of the resources of each such bank to each borrowing country in proportion to the degree with which such country has created new forested areas and protected existing forested areas.

(b) Beginning two years after the enactment of this Title, the Secretary of the Treasury shall instruct the United States' Executive Director to each of the multilateral developlment banks to oppose loans and other financial or technical assistance to any borrowing country that has not successfully established and successfully implemented a program setting reasonable goals for that country for preserving existing forest resources and creating new forested areas, except where the Secretary determines that such goals are advanced more effectively by actions other than voting against such assistance.

(c) The Secretary of State shall instruct the United States representative to the United Nations Food and Agriculture Program to promote the establishment and coordinate the implementation of forestry plans for tropical countries substantially equivalent to those set out in section 1301 and subsection (a) of this section that contains incentives to encourage afforestation and disincentives to discourage deforestation.

(d) The Secretary of State shall instruct the United States Ambassador to the United Nations Development Program to adopt and implement forestry programs for recipient countries substantially equivalent to those set out in section 1301 and subsection (a) of this section that contain incentives to encourage afforestation and disincentives to encourage deforestation. Beginning two years after the enactment of this Title, the Secretary of State shall instruct the United States Ambassador to the United Nations to oppose the adoption of any country programs for any recipient country that has not established and successfuly implemented a program setting reasonable goals for that country for preserving existing forest resources and creating new forested areas, except where the Secretary determines that such goals are advanced more effectively by actions other than opposing the adoption of such a plan.

(e) The Secretary of State shall instruct the United States representative to the International Tropical Timber Organization to promote:

(1) a major emphasis by the Organization on conservation activities and financing of forest conservation projects; and

(2) the adoption of codes of conduct for commercial logging and private sector timber operations.

(f) not later than one year after the date of enactment of this Title, and annually thereafter, the Secretary of the Treasury and the Secretary of State shall submit to Congress a report describing progress by each of the multilateral development banks, the United Nations Food and Agriculture Program, the United Nations Development Program, and the International Tropical Timber Organization in adopting and implementing programs meeting the standards set out in this section, including in particular:

(1) efforts by the Department of the Treasury, the Department of State, and other Federal agencies to assure implementation of multilateral development programs substantially equivalent to that set forth in section 1302 and subsection (a) of this section, and the result of such efforts;

(2) progress by the United Nations Food and Agriculture Organization in promoting the establishment and coordinating the implementation of forestry plans for torpical countries meeting the criteria set forth in section 1301 and subsection (a) of this section;

(3) progress in the identification of each multilaterial development bank, the United Nations Food and Agriculture Program, the United Nations Development Program of the potential for afforestation by recipient countries;

(4) progress in the establishment of goals by each multilateral development bank, the United States Food and Agriculture Program, and the United States Development Program for afforestation by each recipient country;

(5) the nature of incentives and disincentives created by each multilateral development bank and the United Nations Development Program to encourage afforestation and to discourage deforestation, respectively;

(6) the extent to which the allocation of the resources of each multilateral development bank and the United Nations Development Program to recipient countries is proportional to the success or lack of success of such country in creating new forest areas and protecting existing forest areas; and

(7) a description of proposed loans, country programs, and other financial and technical assistance to which subsections (b) and (d) apply, and votes and other actions on proposal by United States Executive Director to the relevant multilateral development bank and the United States Ambassador to the United Nations.

SEC. 1303. TRADE IN WOOD AND WOOD PRODUCTS.—(A) Not later than one year after the enactment of this Title, the Secretary of Commerce, in consultation with interested members of the public, shall promulgate regulations requiring wood and products containing wood imported into the United States to bear a label containing the following information:

(1) the country or countries in which wood or woods were harvested; and

(2) the scientific and common names of such wood or woods.

(b) Not later than four years after the enactment of this Title, the Secretary of Commerce, in consultation with the Secretary of State, the Administrator of the Agency for International Development, the Secretary of the Treasury, and interested members of the public, shall by regulation prohibit the importation into the United States of wood and products containing wood from:

(1) those tropical countries that have not successfully achieved the goals established under sections 1301 and 1302 of this Title;

(2) those countries that import wood or products containing wood harvested in the countries identified in paragraph (1); and

(3) those countries that permit transit of wood or products containing wood harvested in those countries identified in paragraph (1).

(c) Not later than two years after the publication of the regulation referred to in subsection (a) and no less frequently than biennially thereafter, the Secretary of Commerce, in consultation with the Administrator of the Agency for International Development, the Secretary of the Treasury, and interested members of the public, shall review and, as necessary, revise the regulation referred to in subsection (a).

(d) The President shall encourage those countries which import or consume wood or wood products from countries identified in sections 1303 and 1302 to adopt laws and regulations substantially equivalent to the regulation referred to in subsection (a).

(e) The Secretary of Commerce, not later than one year after the initial publication of the regulation referred to in subsection (a) and annually thereafter, shall submit a report to the Congress describing:

(1) progress in controlling imports into the United States of wood and wood products from countries that have not successfully achieved the goals established under sections 1301 and 1302; and

(2) progress by those countries which import or consume wood or wood products from countries identified in paragraph (1) in controlling imports of such wood and wood products.

SEC. 1304. BILATERAL ENERGY PROGRAM.—Section 106 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151d) is amended by:

(a) changing the Title of the secton to read: "Sustainable Energy Development, Private Voluntary Organizations, and Selected Development Activities.";

(b) striking out all subsection (a)(1) except the first two sentences and striking out all of subsection (a)(2);

(c) inserting the following new subsection (a)(2):

"(2) The Congress finds that energy conservation, improvements in end use energy efficiency, and energy production from renewable, decentralized sources have great potential for meeting energy needs in developing nations, especially the needs of the rural poor. These techniques can enable developing countries to make efficient use of scarce resources; minimize environmental harm (including warming of the Earth's atmosphere due to the "greenhouse effect"); lessen the danger of nuclear weapons prolif-

eration and reduce dependence on dwindling oil reserves and expensive imported energy. Often, energy needs can be met more cheaply and more employment can be generated by these methods than by production of energy from conventional sources.".

(d) striking out the last sentence of subsection (b)(2), redesignating that subsection as subsection (a)(3), and inserting at the end of that subsection the following: "Such programs also may include any type of assistance aimed at energy efficiency, improvements in end use energy efficiency, and assistance for transmission facilities to increase the availability of energy in rural areas. No assistance shall be furnished under this Act for large-scale production of energy from fossil fuels.".

(e) inserting the following new subsection (a)(4):

"(4) In providing assistance to developing countries as authorized in subsection (3), the President shall—

"(A) prepare for each aid-receiving country, in cooperation with the government and the public in each country and interested members of the public in the United States, an analysis—

"(i) describing feasible actions that can reduce emissions of 'greenhouse gases,' while at the same time meeting development needs, through actions which improve end use energy efficiency, promote reliance on renewable energy sources, or encourage energy efficiency or use of alternative fuels;

"(ii) comparing the economic and environmental costs of the actions described in subparagraph (i) with the economic and environmental costs of investments to provide additional supplies of energy; and

"(iii) analyzing the need for foreign assistance, and especially United States bilateral assistance, to make possible the actions described in subparagraph (i).

"(B) provide technical assistance and support projects to improve energy efficiency, with emphasis on training, information and institution-building in all sectors; improvement of indigenous capabilities to develop and implement least cost planning strategies and programs of energy efficiency; developing indigenous capabilities to adapt technologies of energy conservation and end use energy efficiency; and, in transportation, energy-saving methods of mass transit (such as light rail, buses, and van pools), energy-efficient motor vehicles and railroads, traffic management techniques (such as computerization of traffic signals and fuel savings at airports), and transfer of appropriate United States technologies;

"(C) support projects to develop and demonstrate energy conservation, improvements in end use energy efficiency, and small-scale, decentralized, renewable energy sources for rural areas. Such projects shall use appropriate technologies and methods suited to the local environment, shall feature close consultation with and involvement of local people at all stages of project design and implementation, and shall be directed toward the earliest possible widespread application. Appropriate technologies include but are not limited to biomass, biogas, wind energy, passive solar, solar electricity, fuel cells, and low-head hydroelectric generation;

"(D) whenever appropriate, accomplish the objectives of this subsection through projects managed by private and voluntary organizations or international or regional or national nongovernmental organizations;

"(E) direct the Administrator of the Agency for International Development, in consultation with the President of the Export-Import Bank and the President of the Overseas Private Investment Corporation, to encourage private sector investment in energy efficient technologies in developing countries;

"(F) make the analyses referred to in subsection (A) available to the public and transmit them to the Congress at least annually;

"(G) beginning one year after the enactment of this Title, refuse to approve any project or program authorized by this subsection involving the obligation of more than $100,000 unless such an analysis has been prepared, transmitted to the Congress, and made available to the public;

"(H) promote vigorously the adoption by other bilateral donors of energy efficient programs for countries that receive development assistance that emphasize least-cost energy planning, energy conservation, and end use energy efficiency; and

"(I) not later than one year after the date of enactment of this Title, and annually thereafter, submit to the Congress a report describing progress under the program established by this section, including in particular, the nature of all projects supported; their costs and results; progress in reducing emissions of greenhouse gases; and progress by other bilateral donors in implementing programs of least cost energy planning, energy conservation, and end use energy efficiency for aid-receiving countries".

(f) striking out subsection (b), redesignating subsection (c) as subsection (a)(5), and redesignating subsections (d) and (e) as subsections (b) and (c), respectively.

SEC. 1305. MULTILATERAL ENERGY CONSERVATION AND EFFICIENCY PROGRAM.—(a) The Secretary of the Treasury shall instruct the United States Executive Director to each of the multilateral development banks vigorously to promote the adoption by each such bank of an energy conservation and efficiency and containing the following components:

(1) least cost energy planning for each borrowing country that—

(A) gives priority to projects and programs to support energy conservation, end use energy efficiency, and renewable energy sources in major economic sectors; and

(B) compares the economic and environmental costs of the actions described in subparagraph (A) with the economic and environmental costs of investments to provide additional supplies of energy.

(2) analysis for each proposed loan to support additional power generating capacity comparing the economic and environmental costs of investments in reduction of demand for energy, including energy conservation and end use energy efficiency, with the economic and environmental costs of the proposal;

(3) an implementation strategy, including technical assistance grants as appropriate, for implementing the plan referred to in paragraph (1);

(4) strict standards requiring consistency of each proposed loan with the relevant least cost energy plan for each borrowing country; and

(5) measures to encourage reform of macroeconomic policies, such as energy prices, to facilitate energy conservation and end use energy efficiency.

(b) Beginning two years after the enactment of this Title, the Secretary of the Treasury shall instruct the United States, Executive Director to each of the multilateral development banks to oppose loans and other financial or technical assistance to any borrowing country for which a least cost energy plan giving priority to energy conservation, end use energy efficiency, and renewable energy sources is not in place, except where the Secretary determines that such goals are advanced more effectively by actions other than voting against such assistance.

(c) The Secretary of State shall instruct the United States Ambassador to the United Nations vigorously to encourage the United Nations Development Program to adopt and implement energy conservation and efficiency programs for recipient countries substantially equivalent to those set out in subsection (a) that require least cost energy planning to give priority to energy conservation, end use energy efficiency, and renewable energy sources. Beginning two years after the enactment of this Title, the Secretary of State shall instruct the United States Ambassador to the United Nations to oppose the adoption of any country programs for any country for which a program of least cost energy planning giving priority to energy conservation, end use energy efficiency, and renewable energy sources is not in place, except where the Secretary determines that such goals are advanced more effectively by actions other than opposing the adoption of such plan.

(d) Not later than one year after the date of enactment of this Title, and annually thereafter, the Secretary of the Treasury and the Secretary of State shall submit to the Congress a report describing progress by each of the multilateral development banks and the United Nations Development Program in adopting and implementing programs meeting the standards set out in subsections (a) and (c), including in particular:

(1) efforts by the Department of the Treasury, the Department of State, and other Federal agencies to assure implementation by each of the multilateral development banks and the United Nations Development program of programs substantially equivalent to those set out in this section, and the results of such efforts;

(2) progress by each multilateral development banks and the United Nations Development Program in drafting and adopting least cost energy plans for each recipient country;

(3) the absolute dollar amounts, and portions of total lending in the energy sector, of loans, portions of loans, or projects approved by each multilateral development bank and the United Nations Development Program in the previous year for projects or programs of energy conservation and end use energy efficiency; and

(4) a description of proposed loans, country programs, and other financial and technical assistance to which subsections (b) and (c) apply, and votes and other actions on proposals by the United States Executive Director to the relevant multilateral development bank and the United States Ambassador to the United Nations.

SEC. 1306. ENVIRONMENTAL CONSERVATION AND DEBT REDUCTION.—(a) It is the policy of the United States that the Secretary of the Treasury, in consultation with interested members of the public including commercial banks, shall enter into negotiations with selected developing country governments to obtain improvements in policies in the forestry and energy sectors by those countries as a condition of reducing or converting sovereign and private debt owed to creditors in the United States. As a condition of the adoption of policies or programs to preserve existing forested areas, encourage the cre-

ation of new forested areas, or promote energy conservation or end use energy efficiency, the Secretary may reduce the principal of, extend payments on, or reduce the rate of interest on up to one-half of the total sovereign debt owed to the United States by developing country governments.

(b) Not later than one year after the enactment of this Title, the Secretary of the Treasury, in consultation with interested members of the public including commercial banks, shall promulgate regulations to implement the program established in subsection (a). Such regulations shall:

(1) identify those developing countries that are promising candidates for participation in such a program from the point of view of their contribution to global climate disruption and the total amount of debt owed to official and private creditors in the United States;

(2) establish a timetable of the initiation of negotiations with each such country; and

(3) establish criteria and standards for the adoption, implementation, and monitoring or programs and policies in the forest and energy sectors by developing country governments that wish to participate in the program established by subsection (a).

(c) The Secretary of the Treasury, in consultation with interested members of the public including commercial banks, shall encourage the adoption of joint initiatives of debt reduction and conversion by the public and private sectors in other member countries of the Organization for Economic Cooperation and Development. (a) Not later than one year after the enactment of this Title, the Administrator of the Agency for International Development shall transmit to the Congress a report for each country that receives development assistance monies from the United States containing:

(1) a least cost energy plan that provides for economic development;

(2) a comparison of the economic and environmental costs of alternative investments in the energy sector, such as conservation and end use efficiency, with the economic and environmental costs of investments to provide additional power generating capacity;

(3) an implementation strategy, including technical assistance grants as appropriate, for implementing the plan referred to in paragraph (1); and

(4) the potential for reducing, mitigating, or preventing climate disruption by providing bilateral development assistance for least cost energy planning, energy efficiency, and end use efficiency.

(b) The report referred to in subsection (a) shall be updated and transmitted to the Congress every two years. The first report and all subsequent reports shall be prepared in consultation with the government and the public in each recipient country and interested members of the public in the United States. The administrator shall assure that all development assistance moneys expended in each recipient country are consistent with the least cost plan applicable to that country;

(c) The Administrator shall promote the adoption by other bilateral donors of energy efficiency programs for countries that receive development assistance that emphasize least cost energy planning, energy efficiency, and end use efficiency;

(d) Not later than one year after the date of enactment of this Title, and annually thereafter, the Administrator shall submit to the Congress a report describing progress under the program established by this section, including in particular;

(1) the nature of energy projects supported in each recipient country and the dollar amount of each;

(2) improvements in energy conservation and end use efficiency resulting from projects financed in each recipient country;

(3) progress in reducing, mitigating, or preventing climate disruption by providing bilateral development assistance to recipient countries through support of projects to encourage energy conservation and end use efficiency; and

(4) progress by other bilateral donors in implementing least cost energy programs for recipient countries.

SEC. 1307. MULTILATERAL ENERGY EFFICIENCY PROGRAM.—(a) The Secretary of the Treasury shall instruct the United States Executive Director to each of the multilateral development banks to promote the adoption by each such bank of an energy efficiency program substantially equivalent to the program set out in section 1304 and containing the following components:

(1) least cost energy planning for each borrowing country;

(2) analysis for each proposed loan to support additional power generating capacity comparing the economic and environmental costs of alternative investments in the energy sector, including energy conservation and end use efficiency, with the economic and environmental costs of the proposal;

(3) an implementation strategy, including technical assistance grants as appropriate, for implementing the plan referred to in paragraph (1); and

(4) strict standards requiring consistency of each poposed loan with the relevant least cost energy plan for each borrowing country;

(b) The Secretary of the Treasury shall instruct the United States Executive Director to each of the multilateral development banks to notify the staff of each bank that all future contributions to such bank from the United States shall be conditioned upon adoption and successful implementation of a program meeting the standards set out in subsection (a);

(c) Not later than one year after the date of enactment of this Title, and annually thereafter, the Secretary of the Treasury shall submit to the Congress a report describing progress by each of the multilateral development banks in adopting and implementing programs meeting the standards set out in subsection (a), including in particular:

(1) efforts by the Department of the Treasury and other executive branch agencies to assure implementation by each of the multilateral development banks of a program substantially equivalent to that set out in this section, and the results of such efforts;

(2) progress by each multilateral development bank in drafting and adopting least cost energy plans for each borrowing country; and

(3) the absolute dollar amounts, and proportion as total lending in the energy sector, of loans or portions of loans approved by each multilateral development bank in the previous year for products or programs of energy efficiency and end use efficiency.

SEC. 1308. REPORT BY THE ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.—Not later than one year after the enactment of this Title, the Administrator of the Agency for International Development, in consultation with the Secretary of the Treasury and the Secretary of State, shall submit to the Congress a report describing options and strategies for the use of bilateral and multilateral development assistance programs sponsored by the United States to control emissions into the atmosphere of carbon dioxide, nitrous oxide, methane, and other greenhouse gases. Interalia, this report shall analyze mechanisms by which strategies to encourage afforestation, reforestation, energy conservation, end use energy efficiency, and renewable energy sources can be incorporated into the programs of the International Monetary Fund.

TITLE XIV—INTERNATIONAL ACTIVITIES

SUBTITLE A

SEC. 1401. MULTILATERAL GLOBAL CLIMATE PROTECTION CONVENTION.—(a) It is the policy of the United States that the Secretary of State, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Energy, and science agencies (e.g., NASA, NOAA, and NSF) shall convene an international meeting to be held in the United States with invitations to representatives of all countries of the world, the purpose of which shall be to actively encourage the adoption of a binding multilateral global climate protection convention containing measures at least as stringent as those in this Act;

(b) The Secretary of State shall sponsor such other meetings as may be necessary to assure that the convention is opened for signature no later than the end of 1992; and

(c) The Secretary of State shall seek to assure that the convention, through least cost energy planning, energy efficiency, and end use efficiency, requires a reduction of not less than 20 percent in global generation of carbon dioxide over 1988 levels by the year 2000, a reduction not less than 50 percent in global generation of carbon dioxide over 1988 levels by the year 2015, and appropriate reductions in emissions of nitrous oxide, methane and other greenhouse gases.

SEC. 1402. MULTILATERAL AGREEMENT TO REDUCE EMISSIONS OF OXIDES OF NITROGEN.—Not later than one year after the enactment of this Title, the Secretary of State, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, and the administrators of NIST, NOAA, and NASA shall initiate negotiations on behalf of the United States and actively encourage the adoption by the end of 1991 of a binding multilateral agreement requiring reductions of not less than 30 per centum in emissions of oxides of nitrogen over 1987 levels by the year 1998.

SEC. 1403. REASSESSMENT OF MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER.—(a) Not later than one year after the enactment of this Title, the Secretary of State, in consultation with the Administrator of the Environmental Protection Agency, shall request and, if necessary, convene in the United States such meetings of the parties to the Montreal Protocol on Substances that Deplete the Ozone Layer as may be necessary for the reassessment of the control measures contain therein;

(b) The Secretary of State shall actively encourage the adoption of additional control measures requiring the virtual elimination of emissions of all substances identified in the Montreal Protocol within five to seven years from the date of enactment of this Title and appropriate control measures for other ozone-depleting chemicals not identified in the Montreal Protocol.

SEC. 1404. International Nuclear Conference.—The Secretary of State, in consulta-

tion with the Secretary of Energy, shall convene an international meeting to be held in the United States with invitations to representatives of all countries of the world, the purpose of which shall be to encourage the exchange of information concerning passively safe nuclear reactors, nuclear safety, and disposal of nuclear waste.

SEC. 1405. SPECIAL PROGRAMS.—The Secretary of State should encourage the establishment of a special office of the United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) to monitor annual generation of CO2 and estimated trace gases on a country-by-country basis. That office shall also be responsible for assisting global negotiations and ultimately administering a global protocol.

SEC. 1406. (a) It is the policy of the United States that sustainable economic growth must be predicated on sustainable use of natural resources. The Secretary of the Treasury shall Instruct the United States Executive Directors of the Multilateral Development Banks (MDBs)—

(1) promote the adoption of internal guidelines requiring the use of least-cost planning techniques in evaluating proposed energy loans, and consider refusal to support power generation, utilization or energy sector loans unless cost-effective conservation measures have been fully evaluated and considered;

(2) encourage each MDB to offer technical assistance to borrower nations in preparing national energy plans. Special emphasis shall be given to least-cost analysis in making decision on energy use and development, and such analyses shall take into account all demand-side as well as supply-side options;

(3) promote expansion of MDB expertise in the areas of energy conservation and renewable energy sources;

(4) promote the adoption of lending strategies which place increases emphasis on energy efficiency as opposed to merely increasing generating capacity;

(5) promote adoption of policies which minimize the generation of carbon dioxide and trace gases;

(6) promote the adoption of lending strategies that placer increased emphasis on energy efficient transportation programs. Such strategies shall consider alternatives to conventional mechanized transport such as non-motorized vehicles, public transport and increased energy and cost efficiency of transportation systems; and

(7) promote the use of existing and the development of new mechanisms to promote conservation of biological diversity. Existing resources to be consulted shall include but not be limited to Conservation Data Centers.

(b) The Administrator of the Agency for International Development shall—

(1) in the submission of future "early warning system" reports, as required by the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988, make use of resources that promote the conservation of biological diversity, such as Conservation Data Centers;

(2) submit a report to the Committee on Appropriation, by January 15, 1991, on the Agency's activities and practices which encourage or discourage the use of renewable energy technologies overseas, and on ways to correct or refocus those efforts. This report shall include but is not limited to Agency activities which could be directed to develop a stronger interface with the private sector through the establishment of a United States Renewable Energy Industry Advisory Council;

(3) issue guidance to all Agency missions stating that renewable energy resources and conservation are to be the centerpiece of their energy efforts, and meeting energy needs through these means shall be discussed in every country Development Strategy Statement; and

(4) take steps to implement recommendations set forth by a report of the Committee on Health and Environment on opportunities for the Agency to assist developing countries in the proper use of agricultural and industrial chemicals.

SEC. 1407. INTERNATIONAL RESEARCH.—(a) It is the policy of the United States to promote and support—

(1) domestic and international research efforts with respect to the greenhouse effect and its impact;

(2) studies of methods to reduce the rate of increase in the concentration of carbon dioxide and trace gases in the atmosphere of the earth; and

(3) efforts to prevent degradation of the environment of the Earth by the greenhouse effect;

(b) The President is requested to take all appropriate actions, in cooperation with any international organizations with the President determines to be appropriate, to establish a long term study, beginning with a 1-year cooperative international research program, with respect to the greenhouse effect with the purposes of—

(1) increasing the worldwide dissemination of information with respect to the causes of the greenhouse effect and methods to alleviate or avoid the effects of global warming and climate change;

(2) coordinating the research efforts to the participating nations with respect to the greenhouse effect;

(3) fostering cooperation among nations to develop more extensive research efforts with respect to the greenhouse effect;

(4) preparing a report on the accomplishments of the program;

(5) identifying the potential alternative policies necessary to avoid a buildup of carbon dioxide and trace gases beyond levels which could have catastrophic results; and

(6) developing a long-term plan for future research efforts with respect to the greenhouse effect.

(c) Any such program established by the President should be started during or before the calender year 1991, which year shall be known as the "International Year of the Greenhouse Effect"; and

(d) The participation of the United States in any such program established by the President should be planned and coordinated on behalf of the United States by the Chairman of the National Academy of Sciences and the Secretary of Energy.

TITLE XV—MODERATING WORLD POPULATION GROWTH

SEC. 1501. FINDINGS.—Taking into account the impact that future world population growth will have on increased demand for energy and on the rate of tropical deforestation, Congress hereby finds that:

(1) In order to avoid that potentially catastrophic consequences of significant global warming a coordinated effort to address world population growth must be initiated;

(2) U.S. participation in international programs to moderate high rates of population growth is necessary to control rising levels of atmospheric pollutants and greenhouse gases;

(3) at current birth and death rates the world population now at 5 billion, is adding an additional billion people every ten years;

(4) half of the world's people depend primarily on biomass energy, principally fuelwood, for their most basic nonfood energy needs—cooking, water heating, and space heating—and 1.5 billion people are cutting wood faster than forests can grow back;

(5) growing rural populations will continue to encroach on remaining forests in search of land for food and commercial crops, for fuelwood needed for cooking and heating and fodder for livestock;

(6) the World Bank estimates that an average fertility rate of 2.4 children per woman, the rate needed for eventual population stabilization at present death rates, could be achieved by the year 2000 if the proportion of couples in developing countries using contraception were to rise from the current rate of 40 percent to 72 percent; and

(7) these population stabilization goals can be accomplished through a mix of bilateral and international population policies to make family planning services universally available on a voluntary basis in order to slow the rate of population growth and therefore reduce pressures on global resources.

(b) The overall purpose of this Title is to:

(1) significantly increase funding for new investments in international family planning information services to ensure universal access to effective modern contraception; and

(2) increase funds available for applied research and development of new contraceptive technologies with a particular focus on methods adaptable for use in developing countries.

(c) There is hereby authorized to be appropriated to the President $500 million for fiscal year 1991 and $540 million for fiscal year 1992 and $580 million for fiscal year 1993 for international population and family planning assistance. Of the funds appropriated, not less than 16 percent or $60 million, whichever amount is less, shall be solely available for the United Nations Population Fund. None of the funds made available for international population and family planning assistance may be used to pay for the performance of involuntary sterilization or abortion or to coerce any person to accept family planning services. Restrictions may be applied by the President to information, counseling, or services that may be provided by family planning entities abroad only to the extent that the same restrictions are applied by the President to information, counseling, and services that may be provided by family planning entities receiving funds under the grants and contracts made under Title X of the Public Health Service Act (42 U.S.C. 300 and following).

SUMMARY OF NATIONAL ENERGY POLICY ACT OF 1989

The overall purpose of this Act is to establish a national energy policy that will reduce the generation of carbon dioxide and trace gases as quickly as possible in order to slow the pace and degree of atmospheric warming and global climate change. The bill focuses on energy efficiency, fuel switching, and conservation; use of nuclear, innovative clean coal and renewable energy technologies; reforestation and natural resource management policies; and international development and population practices to promote national and international growth and

development, achieve a secure energy supply, and protect the global environment.

Title I requires the development of a "Least-Cost National Energy Plan" designed to meet the goal of a 20 percent reduction in CO_2 generation by the year 2000 through a mix of Federal and State energy policies. The Plan would outline policies for conserving fossil fuel energy and expanding the use of renewable energy sources in order to meet short-, medium-, and long-term domestic energy demands without exceeding the CO_2 emissions levels outlined in this bill.

Title II establishes an Office of Climate Protection at the Department of Energy for purposes of monitoring U.S. energy policy for atmospheric and global warming effects and for directing Departmental policy with regard to strategies for reducing generation of CO_2 and trace gases.

Title III provides for the establishment and financing of energy efficiency research and development projects, and for the establishment of eight regional centers which will develop techniques for improving the energy efficiency of industrial processes. This title also provides for the repeal of the existing prohibition on sale and installation of energy conservation measures by utilities and for the purchase of "qualifying conservation" by utilities under section 210 of PURPA.

Title IV establishes national energy research and development priorities for the Secretary of Energy designed to reduce the generation of carbon dioxide and trace gases.

Title V is designed to update and revitalize the state energy conservation programs (SECP) established in 1976 under EPCA. The title requires states to update their energy conservation plans and establish new energy conservation targets to replace those which expired in 1980. In addition, title V also consolidates the Energy Extension Service and the Supplemental State Energy Conservation Plans into the SECP, establishes State Energy Advisory Boards to recommend programs and policies to achieve energy conservation goals and to coordinate state and federal efforts, and authorizes several new optional programs for inclusion into State Energy Conservation Plans.

Title VI would authorize approximately $450 million between fiscal 1991 and fiscal 1993 for research and development of renewable energy sources such as wind, solar, photovoltaic biomass, geothermal, and hydrogen fuel cells. Establishes a program for additional research on fuel cell technologies that employ alternative fuel sources.

Title VII provides for the establishment and funding of a research and development program designed to provide the basis for a second generation of nuclear reactors that would be passively safe, modular, and cost-effective. Approximately $100 million is authorized to be appropriated for fiscal year 1991 and not more than $200 million for each of the fiscal years 1992 and 1993.

Title VIII provides for a comprehensive report to Congress on international collaboration in research, development, and demonstration projects into technology for the production of electricity from thermonuclear fusion.

Title IX provides for a comprehensive report to be submitted to Congress on the Department of Energy's Clean Coal Program and the program's likely implications for CO_2 generation, atmospheric warming and global climate change.

Title X provides $100 million for fiscal years 1991 through 1993 to fund demonstration projects on the feasibility of using natural gas as a fuel for mass transit systems, fleet use, and training programs for conversion of gas and diesel-fueled vehicles to natural gas. The program also encourages research, development, and demonstration of high efficiency heat engines for generating electricity.

Title XI directs the Secretary of the Interior to conduct a study of the ecological and environmental resources that would be affected by global climate change. This title directs the Secretary of Energy, in consultation with the Secretary of Agriculture, to submit an analysis of the potential for reducing the air conditioning needs of buildings by undertaking targeted urban tree plantings. In addition, title XI also provides for the management and resource conservation of the Tongass National Forest.

Title XII provides $275 million in additional funding over fiscal years 1991, 1992, and 1993, for new and continuing research initiatives at the National Aeronautics and Space Administration (NASA), National Oceanic and Atmospheric Administration (NOAA), United States Geological Survey (DOI/USGS), and the National Science Foundation (NSF) to study the mechanisms and implications of global warming and atmospheric change. In addition, the National Institute of Standards and Technology (NIST) would receive funding for the development of safe, non-ozone depleting substitutes for chlorofluorocarbons (CFCs).

Title XIII directs the Administrator of AID, in conjunction with the Secretaries of the Interior, Agriculture, and the Treasury to provide Congress with a comprehensive report on the world's tropical forests, and to establish inventory, conservation, and forest plans for each tropical country. This title also directs the appropriate agencies to create incentives to encourage afforestation and disincentives to discourage deforestation. The Agency for International development, the Export-Import Bank, and the Overseas Private Investment Corporation would be instructed to promote private investment in energy efficiency technologies in developing countries.

Title XIV calls for the convening of a multilateral global climate protection conference, the convening of an international conference on nuclear power, a multilateral agreement to reduce emissions of oxides of nitrogen, a reassessment of the Montreal Protocol on Substances that Deplete the Ozone Layer, and the establishment of a special office at UNEP and WMO to monitor global C02 emissions.

Title XV establishes the importance of population growth as a contributory factor in global warming and climate change and authorizes appropriations of more than $1.5 billion for international family planning and information services programs between fiscal years 1991 and 1993.

FUNDS AUTHORIZED IN THE NATIONAL ENERGY POLICY ACT OF 1989

Program	Fiscal year—			Comparison to funding in fiscal years 1989, 1981	
	1991	1992	1993	1989 level	1981 level
Energy efficiency R&D	$209,181,000	$253,000,000	$301,000,000	$165,700,000	[1] $343,000,000
Efficiency demonstration	55,000,000	65,000,000	75,000,000	[2]	[2]
Subtotal (efficiency)	264,181,000	318,000,000	376,000,000		
State/local conservation and weatherization	265,000,000	85,000,000	105,000,000	211,200,000	403,000,000
Renewable R&D:					
Wind energy	19,000,000	22,000,000	26,000,000	8,839,000	83,700,000
Photovoltaic energy	43,100,000	45,000,000	50,000,000	35,500,000	153,200,000
Solar thermal energy	28,700,000	32,000,000	35,000,000	15,000,000	119,900,000
Biofuels energy	32,100,000	35,100,000	40,000,000	13,435,000	57,700,000
Solar buildings energy	8,000,000	9,000,000	10,000,000	5,365,000	74,900,000
Ocean energy	5,000,000	5,000,000	5,000,000	4,105,000	35,000,000
Geothermal energy	34,900,000	35,700,000	38,700,000	19,500,000	156,000,000
Hydrogen/fuel cells	20,000,000	30,000,000	40,000,000	[2]	[2]
Subtotal (renewables)	190,800,000	213,800,000	244,700,000	101,742,000	680,400,000
Clean coal	5,000,000	15,000,000	25,000,000	[3] 525,000,000	[2]
Natural gas R&D	125,000,000	125,000,000	125,000,000	[2]	[2]
Advanced civilian nuclear	100,000,000	200,000,000	200,000,000	286,700,000	650,000,000
Basic science initiatives	91,300,000	91,300,000	91,300,000	[2]	[2]
World population growth	500,000,000	540,000,000	580,000,000	200,000,000	190,000,000
Total (each fiscal year)	1,536,281,000	1,587,300,000	1,747,000,000	[4] 965,342,000	2,226,400,000
Grand total (over 3 years)	4,870,581,000				

[1] Fiscal year 1980. [2] Not applicable. [3] All clean coal R&D. [4] Does not include clean coal funding.

[From the Washington Post, Jan. 31, 1989]

BAKER URGES STEPS ON GLOBAL WARMING: REDUCED EMISSIONS, ENERGY EFFICIENCY, REFORESTATION RECOMMENDED

(By John M. Goshko)

Secretary of States James A. Baker III, in his first public appearance since taking office, called yesterday for countering the dangers of the global warming trend through reduced emissions, improved energy efficiency and reforestation.

In a brief address to an international environmental conference at the State Department, Baker stressed that finding ways for countries to cooperate in solving air, water and resource problems will become an increasingly important concern of diplomacy in the 1990s.

"The truth is that we face some very difficult problems," he said. "But is also is true that we now recognize them to be problems. And in my experience in government, that is half the battle."

Baker's statement represented a significant change from the Reagan administration, which ignored the global warming problem. It also went beyond previous statements on the subject by President Bush, who has not specifically advocated reduced emissions.

Baker welcomed scientists and government officials from several nations and international organizations to a three-day meeting connected with the Intergovernmental Panel on Climate Change (IPCC). It was established by participating governments last year to deal with problems of global warming caused by the accumulation of so-called greenhouse gases in the atmosphere.

At a November meeting in Geneva, the IPCC established three working groups to investigate various aspects of the problem and issue a joint report and recommendations later this year. The group meeting here is charged with considering "response strategies" and is chaired by the United States.

The other two working groups, which will meet in Europe in coming weeks, deal with the scientific cause and impact aspects of the problem. They are headed by Britain and the Soviet Union.

This cooperation across political and ideological lines appears to indicate growing awareness that greater international teamwork will be needed to protect the earth from such ills as acid rain, pollution of oceans and streams and destruction of forests and arable soil.

The Soviet Union has sought to stake out a position in the forefront of concern about these problems. In his speech to the United Nations last Dec. 7, Soviet President Mikhail Gorbachev called for a series of high-level meetings culminating in a U.N. environmental conference in 1992, and he proposed establishing within the U.N. framework "a center for emergency environmental assistance."

In discussing the climate-change situation, Baker suggested four points for the conference delegates to consider. First, he said, nations should start to act now rather than waiting "until all the uncertainties have been resolved." Next, they should focus immediately on steps that are known to affect climate change such as reducing CFC (chlorofluorocarbon) gas emissions, increasing energy efficiency and promoting reforestation.

In addition, he said, global solution to climate change "should be as specific and cost-effective as possible." Lastly, Baker said, "those solutions will be most effective if they transcend the fault line of our times, the need to reconcile the transcendent requirements for both economic development and a safe environment."

Mr. HEINZ. Mr. President, I am pleased to join my distinguished colleague from Colorado in introducing today the National Energy Policy Act of 1989. Through the comprehensive provisions of this act, energy efficiency and conservation will take the lead in our battle against global climate change.

Although our planet has experienced periods of warming and cooling in the past, scientists now believe that the Earth is heating up more—and faster—than ever before. From all accounts, the resulting climatic changes would alter everything that we now associate with normal daily life—from what we eat, to where we live. We are not at a crisis point yet. But we cannot wait. We must start now. Trends take time to establish and solutions time to implement. Stemming the trend toward global warming will not be easy. Ignoring it would be catastrophic.

Mr. President, our global warming bill represents a crucial first step. The 15 titles of this bill seek to support energy efficiency at home and international cooperation abroad.

For decades now, scientists have raised questions about the long-term effects of deforestation, fossil-fuel burning, and the increased emission of other greenhouse gases. it is time to review some of this alarming evidence and expert testimony.

Speaking to the Senate Energy Committee last June, Dr. Jim Hansen of NASA's Goddard Institute for Space Studies and one of the world's leading authorities on climate, said that this decade has seen the 4 hottest years of the last century. The first 5 months of 1988 were the warmest on record.

Dr. Hanson and others are 99 percent certain that the trend in rising temperatures is not random, but part of the greenhouse effect—a gradual warming of our planet's climate. We are no longer talking about theory—the greenhouse is upon us and global warming has begun.

Scientists predict that average global temperatures could increase by anywhere from 3 to 9 degrees Fahrenheit in the next 40 to 60 years. This compares to a rise of only 3 degrees in the last 10,000 years. More important than the increase in temperatures themselves, however, are the damage and disruption that will occur if the trend is not reversed.

What are the implications of these dramatic changes? What will happen to the Great Plains, the breadbasket of our Nation, as it reverts to a dust bowl? Or to the Western Corn Belt as yields drop from 100 bushels per acre to 40? Meteorological models suggest that the world's major food-producing regions are likely to become dryer and dryer, while future farmlands shift northward.

Scientists believe the sea level may rise as much as 7 feet due to the thermal expansion of oceans. What would happen to the 200 million Americans who live on or near the coast? New Orleans would be threatened, but so would Cairo and Shanghai. A rise of only 3 feet would cause Egypt alone to lose 15 percent of its arable land. Bangladesh would lose 11 percent of its national crop output and permanently flood the land that 11 million people currently inhabit. For developed and underdeveloped regions of the world alike, the impacts could be catastrophic.

The cause of global warming is no mystery. The warming of the Earth's surface is the result of an increase in the release of certain gases commonly referred to as greenhouse gases, including carbon dioxide, nitrous oxide, methane, and chlorofluorocarbons [CFR's]. By the year 2025, greenhouse gases will be twice our preindustrial level—all as a result of man's actions.

This increase in gases has upset a natural atmospheric balance that has taken thousands of years to establish. Normally, water vapor and carbon dioxide in our atmosphere produce an average surface temperature of 59 degrees. However, as the amount of greenhouse gases increase, this natural balance is destroyed and the Earth's surface temperature increases.

Carbon dioxide [CO_2], produced by the combustion of fossil fuels, is the most significant greenhouse gas—it is believed to account for about half of the warming effect of all the greenhouse gases. In the past 30 years, concentrations of CO_2 in the atmosphere have increased by 25 percent. And without changes, the world will experience an 80-percent increase in the next two decades. Carbon dioxide is not inherently harmful. It is needed in the atmosphere to provide plant life with its food. Until recently, the Earth managed to keep the amount of carbon dioxide in a balance to permit life as we know it to flourish. Now the equilibrium is disrupted because man produces more carbon dioxide than the Earth can absorb and because man is destroying nature's carbon dioxide absorbers—the tropical forests of the world.

The trees and plants abundant in rain forests absorb CO_2. Thus, with fewer trees on the planet, less carbon dioxide is absorbed and more carbon dioxide remains in the air. Moreover, these giant old trees contain large quantities of carbon. When they are burned for fuel or are cut and decay, the carbon is released into the atmosphere. Land-clearing fires in the Amazon region alone contributed as

much as 10 percent of the world's total emissions of CO_2 in 1987.

But carbon dioxide is not alone in wreaking havoc on the environment. Scientists now estimate that rising levels of chlorofluorocarbons [CFC's], methane, and nitrous oxides and other gases may contribute as much to the greenhouse effect as CO_2 alone. Although less in atmospheric concentration than CO_2, these greenhouse gases have the potential to absorb up to 10,000 times more radiation than CO_2. This category of "super" greenhouse gases compounds our problem. In addition to increasing the global warming, CFC's are also resposibile for destroying the stratospheric ozone—exposing the world's population to increased amounts of dangerous ultraviolet rays.

Slowing the rate of change in our climate is not going to be easy, yet solutions do exist, and the time to act is now. By far, the most important solution that we must turn our attention to is increasing the efficient use of energy. Energy efficiency means we can do the same amount of work, while burning less fuels, and thus releasing less greenhouse gases into the atmosphere. Moreover, It means being less dependent on other countries for imports of fossil fuels.

According to the Worldwatch Institute:

"As much energy leaks through American windows every year as flows through the Alaskan pipeline.

Energy efficiency is the fastest way to reduce emissions of gases that lead to global warming. If applied, the best available technology could reduce energy usage by 50 percent or more. A 2-percent worldwide efficiency effort alone however, could drastically slow the warming trend. We must insulate our homes better, use efficient light bulbs and electrical appliances, drive fuel efficient cars, and increase research on alternatives to fossil fuels, such as solar power and renewable energy sources.

In the past I have supported legislation to promote the use of energy efficiency; for example, the Appliance Energy Standards Act, which sets energy efficiency standards from 13 categories of major household appliances. It was estimated that greater appliance efficiency could yield energy savings of up to 22,000 new coal-fired powerplants. Our bill today will establish a least-cost national energy efficiency plan and provide for signficant improvements in our current energy research and development efforts. Our bill will require States to update their energy conservation plans and commit the United States to leading the necessary international effort to bring about energy conservation.

I also support increasing the corporate fuel economy [Cafe] standards to reduce the gasoline consumption in automobiles. I advocate increasing the Cafe standards by at least 1 mile per gallon per year in order to reduce consumption of gasoline by nearly half—32 billion gallons per year by the turn of the century. Such a reduction in gasoline consumption would slash carbon dioxide production.

Speaking to the First World Congress on Changing Atmosphere, Prime Minister Brundlandt of Norway, declared that—

The impact of climate change may be greater and more drastic than any challenges mankind has faced with the exception of nuclear war.

The implications of global warming are indeed immense. The United States is taking the lead in confronting this enormous threat to our planet. However, no one country can by itself solve the global warming problem. How our Nation, working with all other nations, meet this challenge may determine whether future generations inherit a livable world as we now know it.

Mr. CRANSTON. Mr. President, today I rise in support of the National Energy Policy Act of 1989 introduced by my distinguished colleague from Colorado, Senator WIRTH. This comprehensive legislation represents a sound and practical first step in our effort to deal with the problem of global warming, and I am pleased to add my name as an original cosponsor.

Secretary of State James A. Baker earlier this week told an International Environmental Conference that combatting the causes of global warming will be a top priority of diplomatic efforts during the 1990's.

That is a welcome change from the Reagan administration which ignored the global warming problem for years—at the peril of all of us.

Global warming is an environmental problem of such magnitude that it is unprecedented in the history of man. If scientific predictions are correct, it could produce the warmest conditions the human species has ever experienced, with potentially devastating results.

Scientists have been studying the greenhouse effect for a long time. Recently, due to somewhat alarming trends in climate patterns, the theory of global warming has moved from the realm of science fiction to science fact. The 4 hottest years in the past century have all occurred during this decade. The heat wave experienced in California and around the country last summer, the drought that gripped the midwest and the forest fires that raged through Yellowstone Park, further focused national attention on the threat that a global warming trend may already be underway.

The build-up of greenhouse gases in the atmosphere may be causing the Earth's surface temperature to rise. These gases allow the Sun's light in, but trap the resulting heat. Carbon dioxide, the single most important contributor, accounts for almost 50 percent of the warming. A 1985 Department of Energy study revealed that atmospheric levels of carbon dioxide have increased about 25 percent since 1800. The other 50 percent is made up of a combination of methane, chlorofluorocarbons [CFC's], nitrous oxide and ozone. Except for CFC's, each of these gases is directly linked to the burning of fossil fuels.

Climate models project that average global temperatures could rise between the three to eight degrees fahrenheit as early as 2030. Considering that during the ice age, when ice covered most of North America and Europe, the average temperature was only about 9 degrees fahrenheit colder than today, it is easy to imagine what the future could hold in store for us. Shifts of entire ecosystems could take place with many species becoming extinct due to an inability to migrate. The U.S. Grain Belt could become a dustbowl. And thermal expansion of the oceans could cause disastrous floods to overwhelm coastal areas in California and elsewhere around the world.

Although the exact consequences of global warming are uncertain, and further research is certainly needed so that we have a better understanding of climate change—that should not be an excuse to sit back and do nothing. If the predictions are correct, much of the damage that occurs will be irreversible due to the long lag time between the emission of these gases and the resulting warming effect. For example, it is estimated that if all greenhouse gas emissions stopped today, the climate would still warm another 2 to 4 degrees Fahrenheit.

In order to slow the rate of the warming trend, energy policies must be formulated to reduce emissions of carbon dioxide and other greenhouse gases. The legislation being introduced today calls for a 20-percent reduction of carbon dioxide emissions from 1988 levels by the year 2000. To accomplish that goal, the bill tackles the problem on several fronts:

First, it establishes an energy policy that moves us from an energy scenario dominated by the combustion of fossil fuels toward a policy that focuses on renewable sources in the long term, and increased efficiency and burning cleaner fossil fuels in the short term.

Energy efficiency is certainly one area where tremendous strides can be made. Today, the United States remains only half as efficient energy-wise as Japan, West Germany, and France. By increasing our efficiency, we use less energy, emit less carbon dioxide to produce the same amount of goods. Improving energy efficiency is our most viable, least expensive option to achieve early results. Similarly,

switching to natural gas, which is the cleanest of all fossil fuels, emitting about half the carbon dioxide of coal and about one-third that of oil, is also another short-term option.

The legislation authorizes and increases funding for research and development of renewable sources such as solar, wind, photovoltaics, geothermal and hydrogen fuel cells—all promising technologies for the future.

The bill also calls for a major effort regarding deforestation. Deforestation, by itself, accounts for 20 percent of the warming, and efforts must be made to reverse the destruction of tropical rain forests around the world.

Finally, the bill redirects funding currently spent on nuclear research into research on the so-called inherently safe, second-generation reactors. Although I have grave reservations about nuclear power and the future role it will play in our society, especially in light of the waste problem, I also believe that global warming is a problem of such magnitude that, at this point, it would be unwise not to explore all the options available to us.

Mr. President, in reflecting on this problem I am reminded of an old saying that I think is particularly appropriate to the challenge that lies ahead of us—"we have not inherited the Earth from our fathers, we are merely borrowing it from our children." With that in mind, we should work together to make sure that we do not conduct some irreversible experiment with our planet, but that we act wisely and consider the generations to follow so that the legacy we leave behind is one they can live with.

Mrs. KASSEBAUM. Mr. President, I am pleased to join with my colleagues today in cosponsoring the National Energy Policy Act. This is a comprehensive piece of legislation, and I will say at the start that I do not fully agree with each of its many provisions. I do, however, believe it is vital that we bring the issue of global warming to public debate. And I do very strongly support this legislation's objective: to establish a national energy policy that acknowledges and addresses the damage that mankind can do to this planet.

We have heard much in recent years about the changes scientists have observed in the Earth's atmosphere, oceans, and land masses. Rising temperatures, possible shifts in climate and agricultural patterns, ozonelayer depletion, sea-level rises, and storms of growing intensity are only a few of the changes that may carry grave implications for plant life, wildlife, entire ecosystems, and even man himself. For those of us from agricultural states, the possibility that last summer's drought and heat wave may have been associated with the greenhouse effect brought these fears home.

Most evidence to date points to the growing accumulation of heattrapping carbon dioxide and other gases in the atmosphere as the major contributors to global climate change. Much of this is the result of fossil fuel combustion and industrial activities. To begin addressing these problems, I have joined with a number of my colleagues in urging the new administration to take a lead role in promoting international cooperation in addressing these global problems. If this Nation is to be prepared to take concrete action, however, more must be done.

The National Energy Policy Act addresses these problems by emphasizing energy efficiency, conservation, and renewable energy technology. It provides for research and development of cleaner energy sources such as wind, solar, photovoltaics, biomass, geothermal, hydrogen fuel cells, safer nuclear reactors, and the use of natural gas for mass transit. In addition to calling for further international cooperation in a number of areas, the bill directs that the Departments of State, Interior, Agriculture, and Treasury work together to create incentives for developing countries to stop deforestation, another contributor to global warming.

I cannot help but observe that many of the efforts set forth in this proposal could undoubtedly lead to increased energy independence and security, as well. These are objectives which, in recent years of stable and affordable energy prices, have all too often been left as afterthoughts. It is time that we see comprehensive energy policy as a goal again and that we view it in its proper context with the environment.

I want to commend Senator WIRTH for the effort he has made to bring these issues to public debate. And debate there will be. The National Energy Policy Act is an ambitious bill and leaves virtually no American agency, industry, or citizen comfortably untouched. In cosponsoring this legislation, I am deeply aware of the costs and inconveniences this bill involves, and I plan to challenge a few of them myself. It is clear, however, that all of us must be willing to be flexible if we are to undertake the enormous job of finding realistic responses to environmental and energy questions. Avoiding an inconvenience now may require a sacrifice in the future. The environmental consequences of no action at all could carry an enormous price tag for future generations.

As one of my favorite authors, Sigurd Olsen, has written:

> We know we cannot forsake our technology, but we must find a balance between it and environment. If we can use this tremendous backlog of knowledge to work toward the preservation of the land instead of its desecration, if we can improve the quality of life, change our priorities, achieve balance and understanding of our role as human beings in a complex world, this coming era may well set the stage for a richer civilization than man has ever known. This is the challenge of the new American frontier.

● Mr. DECONCINI. Mr. President, I am pleased to add my name as a cosponsor of Senator WIRTH's bill entitled "The National Energy Policy Act."

I commend my friend and colleague from Colorado, Senator WIRTH, for putting together this comprehensive energy policy package. While I do not support every provision of this measure, I believe the bill provides a solid framework for discussion on where this country ought to be heading in order to avert an energy and/or pollution crisis in the years ahead. It is time to establish an energy policy which addresses the needs of the 21st century. Senator WIRTH's bill meets that objective.

Scientists, environmentalists, and educators alike have begun to focus the public's attention on the serious problems posed by the "greenhouse effect." We legislators need to act in a reasonable and responsible way before these problems reach crisis proportions. This planet Earth is a fragile place. We know that our ecosystems are deteriorating. We know that fossil fuels are polluting our air. We know that chlorofluorocarbons are damaging our ozone layer. And we know that we have an obligation to preserve and protect this planet for future generations. The time for delay is over. The time for action is now.

I look forward to working with Senator WIRTH in developing a consensus energy policy bill that will meet the needs of the next century. There will be hard and, undoubtedly, unpopular decisions that will have to be made along the way, but we must begin to make the difficult choices if we hope to preserve our planet.●

Mr. BINGAMAN. Mr. President, I rise today to join Senator WIRTH in introducing the National Energy Policy Act of 1989. This important legislation, which addresses the potentially catastrophic problem of global climate warming, comes at an opportune time. It calls for the United States and the other nations on our fragile planet to move quickly and decisively to slow the accumulation of carbon dioxide and other "greenhouse" trace gases that are forcing an unprecedented heating of Earth.

A critical mass of world opinion is converging to speed action in this area. Time magazine named Earth its Planet of the Year, rather than choose its traditional Man of the Year. There was good news this week, when E.I. du Pont de Nemours & Co. announced it has developed a gas to replace some chlorofluorocarbons [CFC's], which erode the stratospheric ozone layer. And in a welcome change, the new administration is paying attention to the issue. Secretary of State James A.

Baker on Monday called for countering global warming by cutting carbon dioxide emissions, improving energy efficiency and replanting forests. On Tuesday, President Bush's Environmental Protection Agency Administrator-designate, William K. Reilly, suggested cuts in greenhouse gases. Reilly recognized that the peril is pressing. "We are at an historic moment, characterized by urgency and opportunity," Reilly told the Senate Environment and Public Works Committee.

We must not let that opportunity slip away.

We in New Mexico understand the value of a livable, generous, and productive climate. For 12,000 years, man has prospered in the blessed light of the Land of Enchantment. That delicate balance of Sun, rain, and wind must not be upset.

Yet, there is compelling evidence that not only our quality of life on Earth, but our way of life is imperiled by climate warming. The 1980's have seen the four hottest years in the last century. Scientists tell us greenhouse gases could boost average temperatures worldwide by more than 8 degrees Fahrenheit in 100 years. This brings fearsome consequences. The seas could rise 5 feet by 2100, displacing millions of people in low-lying areas worldwide. On the Gulf and Atlantic coasts, waves would crash 1,000 feet inside present beaches. For every 1-foot rise in sea level, the EPA predicts 5,000 to 10,000 square miles would be inundated. Already shrinking wetlands, which provide habitat to waterfowl and other species, would be devastated.

And with flood would come drought. The American grain and corn belts would be reduced to the shriveled images flashed on our television screens last summer, as precipitation dropped 40 percent. The Oglala Aquifer, which provides water to much of the Central and Southern Plains, would be pumped dry. The Upper Colorado River Basin, lifeblood to many of us in the West, would see its annual flow fall 40 percent.

In part because of desperate economic conditions in developing nations, slash-and-burn agriculture, woodcutting for fuel, and debt crisis are destroying the band of tropical forests girding the globe. Those forests account for up to 25 percent of world carbon dioxide depletion. Their destruction is harming watersheds, prompting downstream flooding, erosion, and sedimentation. Many creatures of the rain forests, which offer biological diversity of great value to researchers, are being extinguished, stripping science of the opportunity to make breakthroughs benefiting all mankind. And we must remember this: These forests are unlike those we know; they are not easily regenerated.

As the leading producer of carbon dioxide, we in the United States must lead the way in slowing the greenhouse effect. The National Energy Policy Act squarely meets this challenge. The bill focuses on energy efficiency, switching of fuels, and conservation; use of safe nuclear power, clean coal and renewable energy; reforestation and natural resource management; and promotion of international population and development practices that ensure an adequate energy supply and protection of the environment.

More specifically, the bill requires a 20 percent cut in CO_2 generation over the next 11 years. It substantially boosts research, which is of special interest to New Mexicans, who have a long history of contribution to the Nation's science. In fact, Paul Risser, vice president for research and a professor of biology at the University of New Mexico, is playing a key role as a member of the National Research Council's U.S. Committee for Global Change. He and two other UNM biologists, Jim Gosz and Cliff Dahm, are exploring how plants interact with atmospheric gases. The national labs in New Mexico, at Los Alamos and Sandia, also will make a tremendous contribution in this arena.

The bill authorizes $450 million between fiscal 1991 and 1993 for research and development of renewable energy sources, such as wind, solar, photovoltaic, biomass, geothermal, and hydrogen fuel cells. Another $100 million is authorized in fiscal year 1991 for R&D of a safe, cost-effective, second generaton of modular nuclear reactors. Not more than $200 million is authorized for each fiscal year 1992 and fiscal year 1993. The bill establishes an Office of Climate Protection to monitor U.S. energy policy and its relationship to global warming. It provides for research of energy efficiency and allows utilities to sell and install conservation measures. This measure also revitalizes State energy conservation programs, requiring States to update their plans and set new conservation targets to replace those that expired 9 years ago.

The bill provides for a report on clean coal and $100 million in funding for demonstration projects on the feasibility of using natural gas for mass transit systems and conversion of gasoline- and diesel-powered vehicles to natural gas. It directs the Secretary of the Interior to conduct a study of the ecological and environmental resources affected by climate change. Still more research funding, $275 million over fiscal years 1991, 1992, and 1993, is provided for the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the U.S. Geological Survey and the National Science Foundation to study the mechanism and impact of global warming. Also, the National Institute of Standards and Technology would receive funding for development of safe, nonozone depleting substitutes for CFC's.

The bill calls for the Administrator of the Agency for International Development, along with the Secretaries of the Interior, Agriculture, and the Treasury, to report to Congress on the world's tropical forests, and to craft conservation and forest plans for each tropical country. It also directs these agencies to create incentives for afforestation and disincentives for deforestation. World investment institutions would be instructed to promote private investment in energy-efficiency technologies in developing countries. In this arena, the bill allows the United States to take the lead by making efforts to reduce air-conditioning needs by planting trees in urban areas. It also calls for proper management and conservation of North America's last tropical rain forest, the Tongass National Forest in Alaska.

The measure urges convening a multilateral global climate protection conference, an international conference on nuclear power, a multilateral agreement to reduce emissions of oxides of nitrogen, a reassessment of the Montreal Protocol on Substances that Deplete the Ozone Layer, and the establishment of a special office to monitor global CO_2 emissions. Finally, the bill recognizes the importance of population growth as a factor in global warming and authorizes appropriations of more than $15 billion for international family planning and information services between fiscal year 1991 and fiscal year 1993.

This is an impressive package, the kind of sweeping measure necessary to counter this vast problem that jeopardizes the quality and way of life for us and for future generations. I urge my colleagues to support this effort.

Mr. PELL. Mr. President, I am joining in introducing the National Energy Policy Act because it addresses a major environmental crisis that clearly is of global proportions. We cannot afford to wait any longer, when experts are warning us that the "greenhouse effect" is upon us.

My colleague, the junior Senator from Colorado [Mr. WIRTH], has done a remarkable job of gathering and melding suggestions. This measure is his initiative, but an important part is the coalition of participants that he has helped to form.

This bill is an important step in the right direction and I hope to see it improved and refined. It already includes several changes that I recommended, including my provisions for research into fusion—a potentially unlimited source of clean, safe energy.

Experts have warned us that the Earth's atmosphere is being altered by

human activities, including the widespread use of fossil fuels, population growth, deforestation, agricultural practices and use of chlorofluorocarbons.

The National Energy Policy Act is designed to reduce the generation of carbon dioxide (CO_2) and trace gases and to help lead the nations of the world in a collective effort to stabilize and protect our climate.

Title VIII of this legislation, which was added at my request, provides for a comprehensive report to Congress on international collaboration in research, development, and demonstration projects into technology for the production of electricity from thermonuclear fusion.

If we can develop this technology, it may prove to be a source of safe and abundant energy. Fusion may be an energy source without many of the drawbacks of fission—drawbacks that include safety concerns and radioactive waste disposal.

Major provisions of the bill include the development of a plan to reduce CO_2 generation by 20 percent by the year 2000; the creation of energy efficiency research and development projects, including the formation of regional centers; the development of alternative energy sources; and research into passively safe, nuclear power.

Many of the provisions of this bill reach far beyond our Nation, but there is one that will directly affect New England. That provision is designed to update and revitalize the State energy conservation programs.

As chairman of the Senate Foreign Relations Committee, I anticipate that we will want to examine provisions of this legislation that would help establish tropical forest plans and that would foster several international conferences and environmental agreements.

Mr. President, the National Energy Policy Act is only a start to address one of our most serious environmental threats, but it is a good start and one that is badly needed. We must work now and we must work hard to avoid runaway global warming and the catastrophic changes that would accompany it.

● Mr. DASCHLE. Mr. President, I rise today to discuss the problem of global warming, and in particular, some of the national policy implications associated with the problem. As scientists sort out the mechanics of recent climatic trends, policymakers must prepare to meet the challenges ahead. We cannot afford to let our global environment deteriorate further, yet remedies will mean changes in the daily lives of all Americans and people everywhere.

The phenomenon of global warming is difficult to quantify. Scientists show us that carbon dioxide (CO_2) accumulations in the Earth's atmosphere have risen by approximately 20 percent since the Industrial Revolution. Correspondingly, temperatures since this time have risen 0.3–0.7 degrees C. At current levels of increase, CO_2 concentrations in the atmosphere could double by 2030, and this could mean a rise of temperatures of up to 4° C.

The predictions are speculative. The science of climatic modeling is still emerging, and much depends on the ability of scientists to piece together the traces of climatic evidence from historic and prehistoric data. It was recently reported that the drought of 1988—and it appears, 1989—in South Dakota and elsewhere was not the result of global warming but instead abnormal ocean currents in the southern Pacific Ocean. But the reports also indicate that the phenomenon of global warming and the greenhouse effect may make such occurrences more likely.

The long-term result of global warming appears to be worldwide climatic change. This may include increased frequency of drought, rising sea levels, and various effects from other trapped greenhouse gases, including nitrous oxide (NO_x), chlorofluorocarbons [CFC's], and methane. In light of the scientific questions as to the exact extent and magnitude of climatic change, the question arises as to whether we can afford to take substantive action.

I believe that we cannot afford not to take action. While the data is not fully in, the trends are there for all to see. Manmade changes in the environment are dramatically altering the Earth's atmosphere and life as we know it. At our current pace, we will leave our grandchildren a legacy of missed opportunity and negligence.

Mr. President, I am cosponsoring the National Energy Policy Act, which my good friend and colleague Senator TIM WIRTH is sponsoring. I commend my colleague from Colorado for initiating this action, and for his continued leadership and commitment to the global environment. Senator WIRTH's bill is very expansive, and contains sections which will require further study and debate. However, I wholeheartedly agree that we must take action on the issue of global climatic change, and I thank Senator WIRTH for focusing the attention of the Senate on this important issue.

There are several sections of the bill I wish to comment on specifically. I endorse the call for the development of a national energy policy. The lack of such a policy for the last 8 years is a national disgrace. Our Nation has looked for quick fixes, such as developing our pristine public lands and offshore areas, instead of making hard choices. Conservation has been ignored, at best, and at times, actively discouraged. Renewable energy research and development has been retarded. All this while the administration cried about the desperate need for energy security.

I commend the bill's directives for energy efficiency, and the provisions of the bill mandating research and development of renewable fuels. The bill attempts to foster international reforestation and forestry efforts, and this is essential in any attempt to tackle this global climatic problem.

In his inaugural speech, President Bush spoke of stewardship. He said that stewardship, like leadership, is passed from generation to generation. I wait to see if the commitment to stewardship from this administration is greater than what we have witnessed over the last 8 years. Because, with regard to the environment, stewardship is the issue. Do we leave a legacy of growth with health and stability, or do we throw in the towel and let our grandchildren fend for themselves?

I commend the new consciousness I see across the Nation in reference to the world around us. I hope that my colleagues can take this consciousness and translate it into action with substance.●

By Mr. SANFORD:

S. 325. A bill to amend the Internal Revenue Code of 1986 to limit the interest deduction on corporate stock acquisition indebtedness; to the Committee on Finance.

LIMITATION ON DEDUCTION FOR INTEREST ON CORPORATE STOCK ACQUISITION INDEBTEDNESS

Mr. SANFORD. Mr. President, I rise today to introduce legislation that will help bring and end to the destructive wave of leveraged buyouts and leveraged takeovers. These debt driven mega-deals are leaving companies so financially strapped that they cannot compete on world markets and will not survive a recession or a significant rise in interest rates.

In introducing this legislation, I want to make it clear that I do not believe that all leveraged buyouts or takeovers are bad. On the contrary, some restructurings bring more focused operating strategies or more efficient management, or a streamlining of operations and a lowering of costs.

But recently we have seen a wave of highly leveraged transactions, motivated not by a desire to run the company better, but by sheer greed—by the huge amount of fees and short swing stock profits that can be made simply by putting the company in play. As Michael Blumenthal commented in a recent editorial,

> These types of deals rarely have a genuine industrial purpose in mind and are not structured in ways that allow effective competition over the longer run. They leave no margin for error or for leaner times. Their purpose is financial manipulation pure and simple, and their motivation lies most of all

in the huge up-front fees for promoters, bankers, lawyers, who have no real stake in the long-run vitality of the firm.

In my home State of North Carolina, we have seen all too many of these highly leveraged, destructive transactions. Last year, the State's largest employer, Burlington Industries, was the subject of a hostile takeover in which the initial raider made over $65 million in profits, while leaving the company with such staggering levels of debt that it was forced to sell its research and development division and to lay off thousands of workers. Yet, even with these drastic measures, Burlington still struggles to meet the tremendous debt burdens it faces.

Now, this summer, in what has been characterized as the deal of the century, another major North Carolina company was put into play, this time in grab by its management. The deal left RJR-Nabisco in the hands of a leveraged-buyout firm, and with a total of $31 billion in buyout expenses, not million—billion.

There is no doubt that RJR-Nabisco, as currently structured, simply cannot afford this level of leverage. Its interest and preferred dividend costs will total $10.6 million a day, with no possibility of producing that level of cash flow without substantial cutbacks. The new owners, from Kohlberg, Kravis, Roberts & Co. have stated that they will sell $6 billion in food assets and dismiss no more people than it has to. But projections based on an assumption that $6 billion in assets would be sold would, in 10 years time, leave RJR with a negative net worth of $7.5 billion.

There is no doubt that substantial additional cuts will be made. I am very concerned that many benefits essential to so many people who have worked for long years for RJR will be cut in the process. While the pension benefits of defined plans may be protected, RJR has for years provided health care and life insurance benefits for its employees and retirees which are not fully funded like a pension. I fear that in the crunch to meet the $10.6 million a day interest payments, RJR might reduce the benefits that so many people are counting on.

In many ways, the RJR deal represents much that is very troubling about these highly leveraged deals. The initial offer of Ross Johnson was a full 45 percent below the final offer, yet was declared to be a fair offer when made, despite Mr. Johnson's later admission that he knew the price would go up considerably.

Moreover, the final offer is typical of coercive two-tiered offers. Those who are in the first group of shareholders to tender their shares will receive $81 in cash, while those who end up in the second tier will get an exchange package of some securities and some convertible debentures of undetermined value. The respected independent rating firm of Duff & Phelps recently assigned its lowest rating to the securities that Kohlberg Kravis will exchange for the RJR Nabisco stock. The low rating reflects Duff & Phelps' belief that there is a great risk that holders of the securities will never realize any value from them, thus placing an even greater incentive on RJR shareholders to tender their shares as part of the first tier to sell.

As is all too often the case in these highly leveraged transactions, the shareholders in the first tier may gain, but many others lose, while the Wall Street dealmakers walk away with millions, or in the RJR case, nearly $1 billion. It is estimated that the RJR Nabisco transaction generated almost $1 billion in fees, including an estimated $153 million in advisory fees; $294 million in financing fees for investment banks, and $325 million in commercial-bank fees. Lawyers' fees are estimated to run in the millions.

The big losers in the transaction are the other stakeholders in RJR, including its employees and its creditors. RJR bonds lost nearly 20 percent of their value overnight, with many North Carolina funds with large holdings in RJR suffering the losses associated from a downgrading of RJR's debt from AA to the level of junk debt.

And finally, the transaction involves the taking on of substantial debt. Indeed, RJR-Nabisco's debt to equity ratio will go from a fairly typical ratio of 40 percent debt and 60 percent equity to over 75 percent debt. While RJR might have had the cushion in bad times to stop paying dividends, the post-LBO company has no such cushion, as it cannot avoid making its interest payments.

This transaction is bad for the company, bad for the loyal RJR employees of North Carolina and bad for country. At a time when debt levels across America are rising to new heights, when tremendous amounts of equity are being replaced by debt, I think we must take steps to discourage this type of highly leveraged transaction. As the chairman of the Federal Reserve Board Alan Greenspan recently noted, more than $500 billion in equity has been retired since 1983, while the aggregate book value debt-equity ratios of American corporations have increased sharply in the 1980's.

Therefore, the bill I am introducing today takes the initial step of discouraging these types of transactions by eliminating the tax deduction for interest on corporate debt in those situations in which a corporation has purchased more than 50 percent of the stock of another corporation and where, as a result of the transaction, the debt-to-equity ratio of the corporation is at least 3 to 1 and the debt-to-equity ratio of the corporation has increased by more than 50 percent as a result of the transaction. This 50 percent requirement tracks the current margin requirement on the purchase of stock, which requires that investors have at least 50 percent cash to purchase stock.

This bill is thus carefully tailored so that legitimate corporate restructurings and takeovers that are adequately capitalized will not be affected. Only those transactions that are piling debt onto the resulting corporation, thereby damaging bondholders and placing the corporation at risk, will be made more expensive. For years, the Congress has deemed it proper to be selective in determining which types of interest payments shall be deductible on individual tax returns. The time has come to make similar discriminations with regard to the deductibility of interest on various types of corporate debt. The distinction drawn by this bill is that debt acquired in a transaction with excessive debt is not allowed. If the prospective takeover or leveraged buyout promises new efficiencies, as most proponents of such transactions contend, the deal should be attractive enough to survive without the extra sweetener of a tax incentive.

This legislation has as its effective date December 31, 1988, so that it only affects debt incurred to purchase stock after December 31, 1988, if that debt was incurred to purchase more than 50 percent of the stock of another corporation and if as a result of the purchase, the corporation's debt to equity ratio is greater than 3 to 1 and its debt-to-equity ratio has increased by more than 50 percent from its ratio prior to the transaction.

The time has come to say enough is enough. Restructuring done for the sole purpose of generating transactions fees must end. The days of doing deals for the sake of deal, of leveraging our corporations to the point that they cannot survive should the economy hit tough times can no longer be tolerated. Therefore, the tax incentives on highly leveraged transactions simply must be cut back in order to put the brakes on the rampant wave of mammoth takeovers and leveraged buyouts.

There is a great amount of support for doing something about the LBO mania. I believe we will pass legislation this year. I hope it will relate to the 1989 tax year. There is much sentiment for doing something now. I urge my colleagues to join me in promoting this important legislation.

By Mr. SHELBY:

S. 326. A bill to amend the Federal Election Campaign Act of 1971 to repeal a provision allowing use of excess contributions; to the Committee on Rules and Administration.

USE OF EXCESS CONTRIBUTIONS

Mr. SHELBY. Mr. President, I rise today to introduce legislation which will close what has become a loophole in our campaign finance law. My bill will amend section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) to prohibit all Members of Congress from using campaign funds for personal use after retirement.

The law, as currently written, exempts those Members who were in office on January 8, 1980. This so-called grandfather clause exemption allows eligible Members or their estates to convert leftover campaign contributions to personal funds.

A standing rule of the Senate also addresses the issue of use of political contributions. Senate Rule No. 38 states that "no contribution shall be converted to the personal use of any Member of the Senate or any former Member." Under current law, leftover campaign funds may be given to other political campaigns, charity or back to the donors. However, the enforceability of the Senate rule against former Members is subject to question. Further, the Senate rule is certainly not enforceable against the estate of a Member.

My legislation simply deletes the grandfather clause and thus amends the applicable portion of the existing statute to read "except that no such amounts may be converted by any person to any personal use, other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office." The Federal Election Commission has issued an advisory opinion to the effect that an estate of a Member would be covered by this language.

According to my estimate, this legislation will affect 190 House Members and 73 Members of the Senate and I believe such action is long overdue. When donors contribute to a political candidate they do so with an understanding that their money will be used to further the candidate's campaign, not to augment his or her personal wealth. By prohibiting all candidates and their estates from converting campaign funds into personal funds, I am attempting to effectively return our campaign contribution system to its original intent.

Since the Senate standing rule that prohibits any conversion of campaign funds for personal use does not have the full force of law, I believe it is necessary to introduce legislation that removes the grandfather clause and thus the potential for abuse.

Public office is a trusteeship—and is not a means to accrue personal wealth. As one of the 73 Senators who would be affected by the enactment of this legislation, I am pleased to take this initial step toward restoring the integrity of our Federal election campaign system.

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. 326

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended by striking out "except that, with respect to any individual who is not a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of January 8, 1980," and inserting in lieu thereof "except that".

By Mr. BIDEN (for himself, Mr. MCCONNELL, Mr. SIMON, Mr. THURMOND, Mr. METZENBAUM, and Mr. DECONCINI):

S. 327. A bill to amend title 18 of the United States Code to punish corruption; to the Committee on the Judiciary.

ANTI-CORRUPTION ACT

Mr. BIDEN. Mr. President, I am pleased today to join with my colleagues in reintroducing the Anti-Corruption Act of 1989. Like its predecessor, S. 2793, which I introduced in the 100th Congress, this bill is a response to a 1987 decision of the Supreme Court that limited Federal prosecutors' ability to rid all levels of government of public corruption. After the Court decided McNally versus United States, lower courts were forced to reverse the criminal convictions of a number of corrupt officials, other pending investigations were halted, and the government was left with virtually no means of rooting out future acts of corruption in our public agencies unless some form of extortion were involved or an official was caught actually stealing money from the public till. This was an intolerable situation.

The bill I introduced last year passed the Senate, but in the little time that remained in the 100th Congress we were unable to obtain passage in the House. The House did agree to an amendment to the mail and wire fraud statutes that presently serves as a stopgap measure allowing the government to prosecute at least some public corruption cases; but that provision was seen as a temporary fix. I am hopeful, therefore, that this much more comprehensive piece of anti-corruption legislation will once again have the support of the Senate and will be enacted into law as swiftly as possible.

The purpose of this bill is to make it possible, once again, to prosecute and send to prison persons who corrupt the administration of government at the Federal, State, and local level. In the McNally case, the Supreme Court said that the mail and wire fraud statutes could only be used in corruption cases where the government could show that the intent had been to steal public property. Simply depriving the public of its right to honest government was not enough, the Court said. This bill reverses McNally by creating a new public corruption statute that will be used to bring charges against anyone who attempts to deprive the citizens of the United States or of any State of the honest services of a public official, anyone who attempts to corrupt the election process, or any public official or employee who subverts the administration of a public agency by providing the agency with false information.

The provision enacted by the 100th Congress was only a partial solution to these problems. That provision amended that mail and wire fraud statutes to define fraud to include a scheme to deprive a person of the intangible right to another's honest services. This allowed the government to resume prosecution of those public corruption cases that involve bribes, kickbacks, and conflicts of interest, since such acts of wrongdoing deprive the public of its right to the honest services of a public official. It also permitted the Government to resume white collar crime prosecutions that involve commercial bribery and other serious breaches of fiduciary duty. But current law remains inadequate in a number of very important areas.

First, current law does not permit prosecution of election fraud because such offenses do not involve anyone's "honest services." This bill makes it a Federal offense to corrupt any State or local election process.

Second, the penalty provisions of the mail and wire fraud statutes are not appropriate for public corruption cases. The maximum penalty for mail and wire fraud is 5 years. This bill provides for a maximum sentence of 10 years or for a longer period if the corrupt official intended by his corrupt act to facilitate the commission of an offense that carries a sentence of more than 10 years. This assures that a person who takes a bribe in order to make it possible for others to import a large quantity of drugs or to commit a crime of violence, would be subject to a penalty benefiting the crime he or she facilitated.

Third, current law contains no protection for persons who are victimized by a public corruption scheme, such as other public employees who are demoted, harassed, or discharged by the defendant in the course of, or in an attempt to conceal, his or her illegal activity. This bill makes it a separate offense, with a maximum sentence of 5 years, to take such action against another public employee, and it gives the

employee a civil cause of action against the corrupt official.

Fourth, current law does not allow for prosecution of persons who provide false information to public agencies. Before McNally, such cases were prosecuted under the mail and wire fraud statutes on the theory that a person who, as part of a scheme to defraud, concealed information from, or provided false information to, a State agency, defrauded the agency of its right to conduct public business on the basis of complete true and accurate information. Examples included persons who obtained State licenses intended only for charities by falsely claiming to be members of a charitable organization; persons who concealed information from State racing and gaming authorities in order to obtain valuable State privileges; and persons who filed false financial data with a State elections commission.

Because of the abolition of the intangible rights doctrine in McNally, such cases can no longer be prosecuted. This bill restores the ability of the Government to prosecute them when a public official or employee is involved.

Finally, the mail and wire fraud statutes are limited to use of the mail, telephone, and other forms of communication that do not take into account the use of modern technology and commercial delivery systems that have become popular in the 1980's. This bill bases Federal jurisdiction for public corruption prosecutions on the use of any facility of interstate or foreign commerce.

This legislation is the product of a bipartisan group of Senators who have worked with representatives of the Department of Justice to arrive at a consensus bill. Attorney General Dick Thornburgh and the U.S. attorneys strongly supported the bill I introduced in the 100th Congress, and I anticipate having their support again.

There is nothing more essential to the ability of a government to function effectively than the belief on the part of the governed that the decisions that affect their lives are being made by honest men and women acting in the best interest of the people on the basis of complete, true and accurate information. When this public trust is violated, the punishment must be swift and sure. This legislation will give back to the Federal Government the tools it needs to guarantee the public trust through the sanction of criminal prosecution. I hope my colleagues will support it.

Finally, Mr. President, I ask unanimous consent that both the text of the bill and a statement explaining its provisions in greater detail be printed in the RECORD.

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

S. 327

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 "Anti-Corruption Act of 1989".

SEC. 2. OFFENSE.

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. Public Corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State or subdivision, shall be fined under this title, or imprisoned for not more than ten years (or, if the defendant intended that the scheme or artifice promote conduct constituting an offense under the laws of the United States or a State for which the maximum term of imprisonment is greater than ten years, shall be imprisoned as required or authorized by the law punishing such offense or for not more than twenty years, whichever is less), or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, fraudulent, or are invalid, under the laws of the State in which the election is held;

"(2) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(3) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title or imprisoned for not more than ten years, or both.

"(c) Whoever, being a public official or an official or employee of a State or political subdivision of a State, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the right to have the affairs of the State or subdivision conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than ten years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the actor—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses any facility of interstate or foreign commerce; or

"(2) the scheme or artifice affects in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than ten years (or, if the defendant intended that the scheme or artifice promote conduct constituting an offense under the laws of the United States or a State for which the maximum term of imprisonment is greater than ten years, shall be imprisoned as required or authorized by the law punishing such offense, or for not more than twenty years, whichever is less), or both.

"(f) Whoever being an official, or public official, or person who has been selected to be a public official, directly or indirectly, discharges, demotes, suspends, threatens, harasses, or, in any manner, discriminates against any employee or official of the United States or any State or political subdivision of such State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to five years or both.

"(g)(1) Any employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of actions by the employee on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, three times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other territory or possession of the United States;

"(2) the term 'agency' means a subdivision of the executive, legislative, judicial, or other branch of government, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(3) the terms 'public official' and 'person who has been selected to be a public official'

have the meaning set forth in section 201 of this title; the terms 'official', 'public official', and 'person who has been selected to be a public official' shall also include any person acting under color of official authority; and

"(4) the term 'official' includes a person who has been nominated or appointed to be an official or who has been officially informed that he or she will be so nominated or appointed.".

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"225. Public Corruption.".

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(c) INTERRUPTION OF COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 4. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce".

(b) CONFORMING AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

SECTION BY SECTION ANALYSIS OF THE ANTI-CORRUPTION ACT OF 1988

The purpose of this bill is to overturn the Supreme Court's decision in *McNally* v. *United States*, 107 S. Ct. 2875 (1987), as it applies to public corruption. In that case the Court held that the mail and wire fraud statutes, 18 U.S.C. 1341 and 1343, apply only to schemes to defraud another of property. Previously, every federal appellate court had held that those statutes also protected intangible rights, such as the right to the public to the honest and faithful services of public officials and others responsible for the conduct of public affairs, *United States* v. *Mandel*, 591 F.2d 1347, 1358-64 (4th Cir. 1979); *United States* v. *Margiotta*, 688 F.2d 108, 121-22 (2nd Cir. 1982), and the right of the public to have its affairs conducted on the basis of complete, true and accurate information, *Mandel*, 591 F.2d at 1364; *United States* v. *Curry*, 681 F.2d 406, 411 (5th Cir. 1982). Under this bill, the holdings of these cases will once again be part of the Federal criminal law.

Section 1 contains the short title of the bill, the "Anti-Corruption Act of 1989."

Section 2 creates a new public corruption statute to be codified as section 225 of title 18, United States Code. Subsection 225(a) is intended to cover the type of corrupt conduct prosecuted under the mail and wire fraud statutes before *McNally* under the theory that a corrupt public official deprives the public of its right to his or her honest or faithful services. This provision, therefore, is to be read in the context of the pre-*McNally* case law. In particular, the terms "deprive" and "defraud" in section 225(a) should be read in conjunction with pre-*McNally* case law interpreting the phrase "scheme of artifice to defraud" in the mail and wire fraud statutes in public corruption cases. See, e.g., *United States* v. *Isaacs*, 493 F.2d 1124 (7th Cir. 1974); *United States* v. *Mandel*, 591 F.2d 1347 (4th Cir. 1979); *United States* v. *Bush*, 522 F.2d 641, 647-48 (7th Cir. 1975); *United States* v. *Keane*, 522 F.2d 534, 545-46 (7th Cir. 1975); *United States* v. *Brown*, 540 F.2d 364, 374-75 (8th Cir. 1976).

While this type of conduct presently may be prosecuted under the recent amendment to the mail and wire frauds statutes codified at 18 U.S.C. 1346, the penalty provisions of subsection 225(a) are more appropriate for public corruption cases. The statute provides for a maximum prison sentence of 10 years, or for a period of up to 20 years if the defendant intended that the scheme would enhance the probability of success of other illegal conduct for which the maximum penalty would be more than 10 years. This assures, for example, that a public official who takes a bribe to "look the other way" when a major drug trafficking offense is taking place, can be punished in accordance with the seriousness of the crime he or she was facilitating.

Subsection 225(b) makes it a criminal violation to deprive or to defraud the inhabitants of a state or political subdivision of a state of a fair and impartially conducted election process. This type of conduct also had been prosecuted under the mail and wire fraud statutes before *McNally*, but may not be covered by present law. *See Ingber* v. *Enzor*, 664 F. Supp. 814 (S.D.N.Y. 1987), aff'd 841 F.2d 450 (2nd Cir. 1988). The elements of the new offense should be construed in light of the pre-existing case law. See *United States* v. *States*, 488 F.2d 761, 765 (8th Cir. 1973).

Subsection 225(c) restores the ability of the Government to prosecute fraudulent schemes that involve the regulatory functions of a state agency. Before *McNally*, such cases were prosecuted under the mail and wire fraud statutes on the theory that a person who, as part of a scheme to defraud, concealed information from, or provided false information to, a state agency defrauded the agency of its right to conduct public business on the basis of complete, true and accurate information.

In *United States* v. *Curry*, 681 F.2d 406 (5th Cir. 1982), for example, the chairman of a political action committee, who mailed false documents to a state election committee, was convicted under the mail fraud statute of defrauding the committee of its right to obtain true and correct financial information, as required by state law. *Id.* at 411. Similarly, in *United States* v. *Green*, F. Supp. 935 (N.D. Cal. 1978), a person who fraudulently obtained a driver's license under an assumed name was convicted under the mail fraud statue because he had used the mails "to defraud the California Department of Motor Vehicles of its right to have its license program administered free from falsehood." *Id.* 936-37.

And in *United States* v. *Mandel*, 591 F.2d 1347 (4th Cir. 1979), the governor of Maryland, who had fraudulently concealed facts relevant to the actions of the State racing authority, was convicted of mail fraud for defrauding the state of its right to have its officials act on truthful information. *Id.* at 1364.

Because of the abolition of the intangible rights doctrine in McNally such cases can no longer be prosecuted. In *United States* v. *Murphy*, 836 F.2d (6th Cir. 1988), a defendant applied for a state bingo license for which only charitable organizations were eligible. In his application, the defendant falsely claimed that he was a member of such an organization. Shortly before the *McNally* decision was announced, the defendant was convicted under the mail fraud statute of depriving the State of its right to issue bingo licenses "based on complete, true and accurate information." *Id.* at 258 (quoting text of the indictment).

After the *McNally* decision, the defendant appealed, claiming that the conviction was based on the intangible rights doctrine. The Sixth Circuit reversed because it found that the State had not been defrauded of any property, but only of its right to accurate information, which is an intangible right not protected by the mail fraud statute. *Id.* at 254.

Subsection 225(c), therefore, is intended to restore the ability of the government to prosecute the types of fraud against state agencies, not involving state property, that were involved in *Curry*, *Green*, *Mandel*, and *Murphy*. It may also be used to prosecute cases that do involve property and which may also be covered by the mail and wire fraud statutes. See *United States* v. *Biaggi*, 675 F. Supp. 790 (S.D.N.Y. 1987) (defendant falsely represented business as one eligible for government contract, depriving government of right to control how its money is spent). It is limited, however, to situations in which a public official or employee is involved. The subsection uses the words "complete, true and accurate," which are taken verbatim from the indictment in *Murphy*, to reflect the need to ensure that the statute covers concealment of information, as well as false or misleading information.

Subsection 225(d) sets forth the basis for federal jurisdiction over cases brought under subsections (a), (b) and (c), which involve state and local governments. Jurisdiction is based both on the Commerce Clause and on the Republican Form of Government Clause of the constitution (U.S. Constitution, Art. IV, Sec. 4). See 133 Cong. Rec. H10656 (daily edition November 19, 1987). Commerce Clause jurisdiction is intended to be broad, encompassing any scheme that affects interstate or foreign commerce, or is accomplished or attempted through the use of any facility of interstate or foreign commerce.

Subsection 225(e) is a parallel provision to subsection (a) that is applicable to federal officials. Subsection (e) uses the phrase "public official" instead of "official or employee" which is used in subsection (a) because "public official" is the term used in the federal bribery statute, 18 U.S.C. 201, and is defined in subsection (h) by reference to that provision.

Subsection 225(f) makes it an offense, punishable by five years incarceration, for any public official to harass or to retaliate against another public employee in order to carry out or to conceal any scheme described in sections (a), (b), (c) or (e).

Subsection 225(g) provides that any person victimized by conduct described in subsection (f) may file a civil suit to obtain reinstatement of his or her position, three times the amount of back pay, and reasona-

ble litigation cost and reasonable litigation costs and reasonable attorney's fees.

Subsection 225(h) contains various definitions applicable to all of section 225. In particular, it includes within the definition of "public official" and "official" those who exercise power over public affairs and are therefore *de facto* officials even if they hold no formal office. Before *McNally*, such persons were routinely prosecuted under the mail and wire fraud statutes for acts of public corruption. *See Margiotta, supra; United States* v. *Clapps*, 732 F.2d 1148 (3rd Cir. 1984); *United States* v. *Gray*, 790 F.2d 1290, 1294-96 (6th Cir. 1986), reversed sub nom. *United States* v. *McNally*, —— U.S. —— (1987). The phrase "any person acting under color of official authority" is intended to cover the persons and conduct involved in those cases.

Section 3 of the bill contains technical and conforming amendments. In particular, the new statute, 18 U.S.C. 225, is made a predicate offense for RICO and for the the authorization of electronic surveillance pursuant to court order.

Finally, Section 4 amends the wire fraud statute, 18 U.S.C. 1343, to take into account advances in interstate communication facilities since the statute was enacted in the 1950's. The present statute bases federal jurisdiction on the use of wire, radio or television communications in interstate commerce. The amendment would replace this with the phrase "any facility in interstate or foreign commerce" so as to encompass the use of new technologies and commercial express mail carriers.

Mr. McCONNELL. Mr. President, I join my colleague from Delaware in introducing the Anti-Corruption Act of 1989, or "Biden-McConnell II," along with Senators THURMOND, SIMON, METZENBAUM, and DECONCINI. This bill will build upon what we accomplished in the last Congress in the fight against election fraud and corruption.

Last year, we added an amendment to the drug bill, to close a loophole created by the Supreme Court in McNally against United States. This case held that U.S. attorneys could not use the mail fraud laws to prosecute election fraud and corruption. In doing so, it jeopardized hundreds of convictions now on the books and brought further investigations to a halt.

A number of us worked together for over 1 year—on a bipartisan basis—to close the McNally loophole. I started with my own bill in 1987, dealing specifically with the problem of election fraud. Then I joined forces with the U.S. Justice Department to develop a comprehensive answer to the McNally problem. Finally, I forged a coalition with members of the Senate Judiciary Committee who believe that Federal prosecutors ought to have every available resource to stop corruption.

Fortunately, our hard work paid off. On November 18, 1988, President Reagan signed the omnibus drug bill into law with our anticorruption provision. Federal prosecutors are back on line to fight election fraud and public corruption. But I believe we still have further to go. Despite our work in Congress, there still were reports of election fraud in the last election in Kentucky. Those who abuse the public trust and seek to defraud the Government are getting cleverer in evading the law.

The bill we are introducing today, Biden-McConnell II, will give us the other 20 percent we wanted but didn't get last year. Even in this day and age, and with all our work last year, it still is not certain whether the Federal Government can investigate and prosecute election fraud. This legislation will make every act of election fraud—at every level of Government—a Federal offense. It will raise the maximum penalty for both election fraud and public corruption to 10 years in Federal prison and a $10,000 fine. And it will greatly expand the jurisdictional basis for Federal prosecutors to investigate reports of fraud and go after the wrongdoers.

I cannot stress enough the importance of this legislation. In some parts of this country, if you buy or sell votes and somehow get caught, you go see your friend, the judge, and he gives you a wink and a slap on the wrists. If this legislation passes, and I am sure it will, then anyone who gets caught in "election-day shenanigans" will be facing a Federal grand jury and a ticket to Federal prison.

Last year, we secured commitments from both Senate and House Judiciary Committees to hold hearings on this legislation early this year. I look forward to those hearings and hope to move forward in the same spirit of urgency and bipartisanship that marked our efforts last year. If we are going to make Kentucky and the rest of this Nation a better place for our children, we need to take care of the basics. Two of those basics are a clean election process and a government that is kept free of corruption.

Mr. President, I yield the floor.

Mr. SIMON. Mr. President, I am pleased to join with Senators BIDEN, METZENBAUM, DECONCINI, MCCONNELL, and THURMOND in introducing the Anti-Corruption Act of 1989.

Headline after headline from newspapers all across the country indicate that there continues to be a problem of public corruption at all levels of government. Just 2 weeks ago, the Chicago Tribune ran a cover story in its Sunday magazine on corruption in the judicial system in Chicago. The reporters told a sad story of judges, clerks, and attorneys who were all part of a web of bribery and corruption. Chicago is certainly not alone in the struggle against corruption. New York, Washington, DC, and Los Angeles to name just a few cities have also been afflicted. The Federal Government, as well, has been the subject of scandal and controversy. Undoubtedly, this corruption undermines the public's confidence in our system of government and must be stopped. Those of us who have dedicated much of our time to making sure government works for the people, must do all we can to ensure that our statutes adequately address this problem. The purpose of the Anti-Corruption Act of 1989 is to do just that, by restoring to prosecutors the tools they need to prosecute public corruption cases.

The bill specifically responds to the recent Supreme Court case of *McNally v. The United States*, 107 S. Ct. 2878 (1987), which made it far more difficult to prosecute cases of public corruption under the mail fraud statute. Prior to McNally, U.S. attorneys relied extensively on the mail fraud statute to try those public officials who deprived citizens of their honest services. Post-McNally, the mail fraud statute could only be used in cases where the prosecuters could prove a tangible property loss, as opposed to the loss of honest and faithful service.

The mail fraud statute was particularly useful to the U.S. attorney's office in Chicago during the Greylord prosecutions, a highly successful investigation into public corruption in Chicago's judicial system. The U.S. attorney for the Northern District of Illinois, Anton Valucas, reported this fall, in a letter to the editors of the Chicago Sun-Times, that nearly all of the Greylord prosecutions involved charges that corrupt lawyers and judges schemed to defraud the citizens of Cook County of their right to honest government. As a result of the Court's decision in McNally, several of those convicted defendants obtained reversals of their convictions and many others are filing appeals.

The Anti-Corruption Act of 1989 will, once again, make it possible for prosecutors to effectively prosecute those who violate the public trust like the defendants in Greylord. The bill creates a new section in the Criminal Code for the prosecution of public officials who deprive citizens of their honest services, and it makes it a Federal offense to corrupt the election process. The bill provides tough penalties for those convicted under the act.

Today's bill is very similar to legislation passed by the Senate in the 100th Congress. This bill was significantly narrowed in a House-Senate conference. While the narrower bill, which passed as part of the omnibus drug bill, addresses some of the problems created by McNally, the Anti-Corruption Act of 1989 fills in the remaining gaps. For example, the act includes a whistleblower protection section, and it specifically covers election fraud. The bill also mandates a broader jurisdictional base than last year's legislation, and it creates a tougher sentencing structure.

In closing, I wish to thank my colleagues for working in a bipartisan

fashion to address a problem which crosses party lines. There is simply no place in public life for one who violates the public trust. While it would be naive to think that any one piece of legislation will eliminate corruption, it is important that Congress reaffirm its commitment to do all it can to keep government honest. The Anti-Corruption Act of 1989 takes an important step in this direction. I urge the Senate to quickly act on this measure which is vitally needed by our U.S. attorneys.

Mr. THURMOND. Mr. President, I rise today in support of the Anti-Corruption Act of 1989 and am pleased to be an original cosponsor of this bipartisan measure. Corruption, especially corruption of public officials, is a problem which affects the entire Nation, and is an issue which deeply concerns me.

Until 2 years ago, many corruption schemes involving public officials were prosecuted under the Federal mail and wire fraud statute. However, the Supreme Court in McNally versus United States, a case of statutory interpretation, ruled that the mail fraud statute could only be used to prosecute corruption schemes to defraud another of property. Consequently, schemes in which there was no economic loss could not be prosecuted. Until this decision, these statutes had been interpreted to also protect intangible rights, such as the right of the public to honest and faithful service of public officials and the right of employers to the loyal and faithful services of their employees. Since the McNally decision, lower courts have been compelled to reverse the criminal convictions of a number of officials.

At the close of the 100th Congress, an amendment to the mail and wire fraud statutes was enacted as part of the Anti-Drug Abuse Act of 1988. This provision is intended to cover corrupt conduct prosecuted under the theory that a corrupt public official deprives the public of its right to honest services. However, this valuable first step on the part of Congress does not go far enough.

This bipartisan measure will make it possible, once again, to send to prison those public officials who corrupt their offices and betray the trust placed in them. This bill reverses McNally and expands legislation included in the drug bill by creating a new public corruption statute that will be used against those who attempt to not only deprive the citizens of the United States or of any State of the honest services of a public official, but also against those who attempt to corrupt the election process. This bill assures that a public official who accepts a bribe to "look the other way" when a major felony is taking place, can be punished in acccordance with the seriousness of the crime he or she was facilitating. It also restores the ability of the Government to prosecute certain fraudulent schemes that involve the regulatory functions of a State agency.

Finally, this bill will expand the Federal authority in these type cases beyond the traditional jurisdiction which currently requires use of the mails, wire communications, or transporting or traveling in interstate commerce. The expansion would provide for prosecution to include corrupt schemes which involve the use of a facility of interstate or foreign commerce, such as a Federal highway, or affect interstate or foreign commerce. This amendment is intended to address those cases in which new technologies or commercial express mail carriers are used to facilitate a corrupt scheme.

Mr. President, this legislation will ensure that cases of public corruption will be appropriately prosecuted. Breach of the public trust is a serious offense that warrants prosecution and tough penalties. The citizens of this country demand that public corruption be zealously investigated and vigorously prosecuted. I urge the Senate to act in an expeditious manner to fill this gap in current law.

Mr. METZENBAUM. Mr. President, I am pleased to be an original cosponsor of this important legislation and urge its immediate passage. The Anti-Corruption Act of 1989 will clear up confusion caused by recent Supreme Court decisions interpreting the Federal mail and wire fraud statutes. It will also restore to Federal prosecutors a needed tool in the fight against public corruption.

The Federal Criminal Code prohibits the use of the mails or the telephone to commit fraud. Until recently, the courts have interpreted these statutes rather broadly and have given prosecutors a potent weapon to use against criminal fraud schemes and public and private corruption.

The use of these fraud statutes against public corruption was dealt a severe blow in 1987, however by the Supreme Court's decision in McNally versus United States. In that case, the Court concluded that "the mail fraud statute clearly protects property rights, but does not refer to the intangible right of the citizen to good government."

Many convictions for criminal fraud were invalidated by this decision. A subsequent Supreme Court case, Carpenter versus United States, did lessen the adverse impact of McNally. These cases have left the law confused and have greatly impeded Federal prosecutors in their daily work. In the words of Attorney General Richard Thornburgh:

Prosecution of public corruption cases has been one of the Department's highest priorities since the mid-1970's and, if anything, has increased in recent years, in part because of the proven link between public corruption and large scale drug trafficking.

As a result of the Supreme Court's unexpected McNally interpretation 2 years ago, a sizable gap currently exists in the Federal statutory arsenal. Under McNally, a prosecution can be brought only if a monetary loss occurs as a result of corrupt practices. However, after McNally, a prosecution may not be brought if a public official lies or withholds important information needed to make a governmental decision. In addition, McNally has been interpreted to preclude prosecutions for election fraud. We cannot allow our Federal prosecutors to sit by idly without the tools they need to fight crime. The need to clarify the scope of these Federal fraud statutes could not be more urgent.

This bill makes it clear that more is at stake in fighting public corruption than financial loss. The integrity of government institutions must also be preserved. That is why I've joined my colleagues in introducing this bill.

Last year the Senate perceived the importance of integrity in government and passed the Public Anti-Corruption Act of 1988. Unfortunately, the House did not act on our bill. This year I will join my colleagues in seeking early passage of this bill during the 101st Congress.

Mr. DECONCINI. Mr. President, today I once again join my distinguished colleagues, Senators BIDEN, MCCONNELL, SIMON, METZENBAUM, and THURMOND in introducing legislation which addresses many of the wrongs committed in the public corruption area.

In 1987 the Supreme Court, in McNally versus United States, overruled 15 years of case laws permitting Federal prosecutors to use the mail fraud statutes to prosecute public corruption and other breaches of fiduciary responsibility in court under the "intangible rights" doctrine. Following that ruling, RICO/mail fraud convictions were challenged, and in many jurisdictions, overturned. Furthermore, and possibly even more damaging to a successful campaign against public corruption, prosecutors suffered a chilling effect from the Court ruling, hesitating to prosecute public corruption cases for fear that courts relying on the McNally decision would rule against the public's interest in honest government.

As a result of this opinion and the influence it had on the prosecution of public corruption cases, the Senate passed a stopgap measure reversing the Supreme Court's McNally decision. The final compromise, which was incorporated in the 1988 drug bill, inserted a one-sentence provision into the mail and wire fraud statutes adding "scheme or artifice to deprive another of the intangible right of

honest services" to the definition of mail and wire fraud. This compromise language was not as broad as the original language of S. 2793, the Anti-Corruption Act of 1988, introduced by Senator BIDEN, and cosponsored by myself and others in the 100th Congress.

After further consideration, and after consultation with the Department of Justice, it was determined that although the compromise language found in the drug bill will assist prosecutors in some public corruption cases, certain other public corruption cases will remain outside the net of prosecution. The "honest services" theory of the compromise language will cover bribery, kickback, and conflict of interest cases that had been successfully prosecuted under the mail fraud statute prior to the Supreme Court's ruling in McNally. The "honest services" theory will not, however, cover public corruption cases which do not involve public employees' honest services such as election fraud or cases of false information being given to a Government agency.

In light of the shortcomings of the compromise language, I join with Senator BIDEN and others to introduce legislation which I believe will enhance the ability of Federal prosecutors to protect the public's right to good government.

During the early days of his Presidency, President Bush has repeatedly emphasized the importance of integrity by public officials at all levels of government. This is a welcome change from the Reagan administration when excuses and misrepresentations were the norm for questionable activities engaged in by many officials. President Bush has an opportunity to help reestablish public confidence in government. I hope he follows the lead of Attorney General Thornburgh and lends his support to this bill.

Too often the American public is led to believe that corruption permeates all levels of government. Whether it be a local, State, or Federal official, the citizenry doubts the integrity of the officeholder. Admittedly, these doubts are sometimes well founded. Yet the vast majority of public servants are good, honest, hard-working people. By once more introducing legislation aimed at defeating public corruption we reiterate our message to the public that no one is above the law. We are again telling them that public officials must answer for their actions.

Mr. President, the Anti-Corruption Act of 1989 provides additional weapons in the arsenal of Federal prosecutors to fight against public corruption. By clarifying an area of criminal law limited by Supreme Court review, Congress is provided with a chance to confirm the right of the public to good, honest government. I urge my colleagues to take this opportunity and join in supporting this legislation and in seeking early consideration of this measure.

By Mr. PRESSLER:

S. 328. A bill to amend title 38, United States Code, to modify the eligibility requirements for the mandatory furnishing of Department of Veterans Affairs hospital care to a veteran for a nonservice-connected disability; to the Committee on Veterans' Affairs.

VETERANS HEALTH CARE IMPROVEMENT ACT

Mr. PRESSLER. Mr. President, I rise today to introduce legislation to provide that the Secretary of Veterans Affairs shall furnish hospital care, and may furnish nursing home care, which he determines is needed, to a veteran for a nonservice-connected disability to the extent that resources and facilities are available.

One of the most urgent problems facing the Nation pertains to thousands of veterans who are being deprived of the health care services to which I feel they are entitled. As our colleagues may know, until October 1988, a large percentage of these veterans were receiving care at the hospitals and other medical facilities of the Veterans' Administration [VA]. Then, because of a major shortfall in funding of its medical care account, the VA ordered a drastic cutback in health care services for so-called category B and category C veterans.

Category B veterans are nonservice-connected veterans who have income of more than $16,466 but not more than $21,954, if single with no dependents; and above $21,954 but less than $27,443 if married, plus $1,098 for each additional dependent. Category C veterans are defined as those nonservice-connected veterans with incomes in excess of the amounts just mentioned. Prior to October 1988, veterans in categories B and C were able to obtain medical care if resources and facilities were otherwise available and if category C veterans agreed to pay the VA a copayment. Today thousands of these veterans are beng denied care by the VA unless they require emergency attention.

I cannot recall another time when such a large number of veterans were barred from receiving necessary health care services. Had proper steps been taken, this would not have occurred. The VA did not adequately apprise the congressional committees having jurisdiction over veterans' affairs of the need for additional appropriations. Not long before Congress adjourned last year, a supplemental request was submitted to the Office of Management and Budget, but it still has not been approved. Also, no action was taken by the committees to initiate an urgent supplemental appropriation for fiscal year 1989.

It is outrageous that this situation is allowed to continue. Beds in VA hospitals are being closed. Reductions are being made in VA medical staffing and support activities. Many veterans who were being cared for at VA facilities must now seek medical attention at distant hospitals or clinics that lack the necessary staff and equipment to properly care for their needs. If OMB will not send over the request for a supplemental appropriation, House and Senate Appropriations Committees should immediately report out an urgent supplemental measure. I am confident it would pass without delay.

My legislation mandates that category B and category C veterans will be given necessary health care services in the VA hospitals, and that they may receive care in nursing homes, to the extent that VA resources and facilities are available. Enactment of the bill would bring about two important changes. It would require the VA to maintain existing medical facilities and not close a medical ward, as recently happened, for example, at the VA Medical Center in Sioux Falls, SD. It also would clarify the true intent of Congress to provide health care services for category B and C veterans—not to leave funding for their care in some "discretionary" account.

Mr. President, I wish to close by quoting one of the many hundreds of letters I have received on this subject. This is a letter that came to me from the wife of a veteran. It reads:

> Please do what you can to stop the unfair cuts to VA hospitals, especially the B and C patients. These veterans were told they wouldn't need insurance because the Government would always take care of them. Now, when many are too old and too sick to even get insurance, they are being told that their VA hospital benefits are gone. This is one of the most unfair things the Government has ever done.

Mr. President, I think that if the resources and facilities are available, if we have the beds available, that we should provide these services to those veterans who need them because frequently they will be taken into other facilities or be on Medicaid or some other type of public assistance and will end up costing taxpayers just as much. As a veteran myself, I can say that I think this is something expected of us and is something that is badly needed.

I urge my colleagues to give this bill their full support and ask unanimous consent that the full text of the bill be printed in the RECORD at this point.

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

S. 328

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

SECTION 1. MANDATORY HOSPITAL CARE FOR A NON-SERVICE-CONNECTED DISABILITY.

Section 610(a)(2) of title 38, United States Code, is amended—

(1) in subparagraph (A), by striking out "may furnish hospital care and nursing home care" and inserting in lieu thereof "shall furnish hospital care, and may furnish nursing home care,"; and

(2) in subparagraph (B), by striking out "may furnish hospital care and nursing home care" and inserting in lieu thereof "shall furnish hospital care, and may furnish nursing home care,".

By Mr. DIXON:

S. 329. A bill to amend the United States Warehouse Act to specifically allow States to require grain elevators with Federal warehouse licenses to participate in State grain indemnity funds or to require collateral security; to the Committee on Agriculture, Nutrition, and Forestry.

STATE GRAIN FUND PROTECTION ACT

Mr. DIXON. Mr. President, I rise today to introduce legislation which addresses a serious problem facing farmers and our rural communities. This legislation, the State Grain Fund Protection Act of 1989, is identical to legislation currently being introduced in the House of Representatives by my good friend, TERRY BRUCE.

The intent of this legislation is to ensure that all farmers are protected from severe financial losses resulting from the failure of a grain warehouse facility.

In a recent U.S. district court decision, it was ruled that elevators that are federally licensed, are not required to participate in a State's indemnity program. There are federally licensed elevators which have opted to participate in State grain funds. At the same time, however, there are many federally licensed elevators which have not.

Mr. President, farmers are not concerned with the type of license an elevator possesses. Rather, they are concerned, and rightly so, with the protections they are accorded by storing their grain with an elevator. It is my firm belief that every farmer is entitled to have his or her investment protected, to the fullest extent, when it is stored with an elevator, regardless of whether the elevator holds a State or a Federal license.

Mr. President, history has demonstrated that federally licensed warehouses are not immune from the financial difficulties which can plague State licensed facilities. It is an unfortunate fact, but the Federal requirements provide only limited and inadequate protection to our farmers. Those elevators not participating in State programs do not provide the same degree of protection that farmers receive from elevators which do participate in the State programs.

In my State of Illinois, there are 77 elevator facilities licensed by the Federal Government which do not participate in the State insurance program. The current protection system, established under the U.S. Warehouse Act, provides that grain storage companies licensed by the Federal Government must post a storage bond to cover losses. These bonds, however, would not be adequate to cover the losses incurred by all farmers with grain stored in federally licensed elevators.

The farmers of Illinois are adversely affected by this recent court ruling, but they are not alone. Other States which currently have some form of State indemnity funds on the books included Iowa, Ohio, South Carolina, Oklahoma, Kentucky, and New York. Moreover, the States of Idaho, Michigan, South Dakota, and Washington are presently considering the establishment of State indemnity programs to protect their farmers.

The legislation that I am introducing will amend the U.S. Warehouse Act to allow States to require that all elevators participate in State grain funds, whether they are licensed by the Federal Government or the State government. In essence, this will allow States the right to decide how they want to handle elevator liability in the event of a failure.

The State Grain Fund Protection Act of 1989 restores protection to farmers while their grain is being warehoused. It is an approach which represents both common sense and fairness. I urge my colleagues to join me in this important and worthy effort.

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

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

S. 329

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 "State Grain Fund Protection Act of 1989".

SEC. 2. WAREHOUSE ACT.

Section 6 of the United States Warehouse Act (7 U.S.C. 247) is amended—

(1) by striking out "That each" and by inserting in lieu thereof "(a) Each"; and

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

"(b) The provisions of this Act shall not prevent or preempt any State from requiring a licensee under this Act to participate in any form of grain indemnity fund or from requiring any bond or other form of collateral security designated to secure the faithful performance of grain obligations.".

By Mr. MCCONNELL (for himself, Mr. PACKWOOD, and Mr. HEINZ):

S. 330. A bill to amend the Federal Election Campaign Act of 1971 to prohibit direct contributions to candidates by multicandidate political committees, require full disclosure of attempts to influence Federal elections through soft money and independent expenditures, and correct inequities resulting from personal financing of campaigns; to the Committee on Rules and Administration.

By Mr. MCCONNELL:

S. 331. A bill to amend the Federal Election Campaign Act of 1971 to repeal public financing and spending limits in Presidential elections, prohibit contributions to Presidential candidates by multicandidate political committees, require disclosure of attempts to influence Presidential elections through soft money and independent expenditures, and correct inequities resulting from personal financing of Presidential campaigns; to the Committee on Rules and Administration.

S. 332. A bill to prohibit candidates in Federal elections from soliciting contributions to repay contributions or loans made by such candidate to his campaign; to the Committee on Rules and Administration.

CAMPAIGN FINANCE REFORM

● Mr. MCCONNELL. Mr. President, last week I joined the Republican leader and 11 other Senators in introducing S. 7 the Congressional Campaign Reform Act of 1989. S. 7, was developed by a task force on campaign finance reform, appointed by the distinguished Republican leader, that I chaired last year. This bill is designed to cut the cost of campaigns and reduce special interest influence in politics—without restricting individual political participation and free competition.

Further, most of this bill's provisions were agreed to by the bipartisan committee of eight appointed by the leadership last year to seek a compromise on campaign finance reform. Unfortunately, those efforts were stalled because of partisan insistence on two measures that Republicans never will accept: Taxpayer financing and spending limits in elections.

This year, we Republicans are ready to return to the bargaining table, to pursue reforms on which both sides can agree. I believe the Dole-McConnell campaign reform bill is an excellent starting point for those discussions. At the same time, I think we need to go further than the Dole-McConnell bill takes us. I am introducing today several other campaign finance reform bills that should be considered by this body:

FEDERAL ELECTION REFORM ACT OF 1989

This bill is similar to the McConnell-Packwood bill in the last Congress. Cosponsored by Senators PACKWOOD and HEINZ, it would outlaw all PAC contributions to candidates and political parties; constrict the millionaire's loophole; require full disclosure of soft money; restrict and require reporting of independent expenditures; and prohibit bundling.

PRESIDENTIAL ELECTION REFORM ACT OF 1989

I introduced this legislation last year with 26 cosponsors. The system by which we elect Presidents in this country is a disgrace. This bill would clean up the mess by repealing taxpayer financing and spending limits in Presidential races; prohibiting PAC contributions to Presidential candidates; requiring disclosure of soft money in Presidential races; restricting and requiring reporting of independent expenditures; prohibit bundling; and strengthening the broadcast discount law.

ETHICS IN POST-ELECTION ACT

This measure is a part of all three of the above bills. It quite simply would prohibit candidates from recovering personal funds or loans they put into their race from contributions which they raise after the election. It actually passed the Senate last year—the only campaign finance bill to pass last year—as an amendment to the Ethics in Post-Employment Act.

Mr. President, These measures—taken as a whole—add up to real reform. We could achieve most of them on a bipartisan basis and pass them by an overwhelming margin. I plan to pursue these bills aggressively in the months ahead and I invite the support of my colleagues in this important effort to reform our campaign finance laws.

Mr. President, I yield the floor.●

● Mr. PACKWOOD. Mr. President, today Senator MCCONNELL and I are introducing legislation to reform our campaign finance laws. We have had extended debate on this issue in past Congresses, and it is apparent our desire for reform is sincere. The question is how best to go about it without restricting individual political participation and free competition.

In my view, the goal of any campaign finance reform legislation should be: First, to discourage, the disproportionate influence of special interests over the financing of elections and second, to encourage as many people as possible to contribute small amounts of money directly to campaigns.

How do we wish to achieve these goals? I submit that these goals can be achieved without the public financing and spending limits contained in other reform legislation before this body. Public financing and spending limits only serve to discourage voter participation. Instead, we can lower the allowable amount of PAC contributions, or eliminate them outright as we have done in this measure being introduced today. This will adddress the problem of special interest influence. Although not contained in this legislation, my own personal preference, in addition to eliminating PACS, would be to lower the individual contribution limit ot $100. Unfortunately, this approach has not met with much support in Congress. If one were to lower the individual contribution limit, the effect would be to encourage money being raised on a broad base from many, many donors. In my own race for the Senate, 82 percent of my contributions were small contributions from individuals.

If we eliminate PAC contributions and lower the individual contribution limits, the overall effect will be to bring down spending without resorting to public financing of campaigns and without discouraging voter participation.

Other necessary components of campaign finance reform legislation should be full reporting and disclosure of soft money contributions and independent expenditures, a prohibition on bundling, and closing the millionaire's loophole. These are all a part of the measure being introduced today.

Mr. President. It is time to put aside partisan differences and ambitions and correct the flaws in our campaign finance system. The time has come, and the commitment is there, to enact comprehensive, meaningful reform.●

By Mr. LEAHY (for himself and Mr. JEFFORDS):

S. 333. A bill entitled the "Global Environmental Protection Act of 1989"; to the Committee on Environment and Public Works.

GLOBAL ENVIRONMENTAL PROTECTION ACT

Mr. LEAHY. Mr. President, I am introducing today the Global Environmental Protection Act of 1989. This legislation is a legacy of my friend, the retired senior Senator from Vermont, Bob Stafford. It is a legacy of conviction, one which stems from the enduring concern which Bob Stafford had for our global environment.

I am glad that Senator JEFFORDS has joined me in introducing this measure, and in expressing also his well founded concern.

This is Bob Stafford's bill. It was developed by his excellent staff. It represents the culmination of years of work which he spent on protecting the environment. I am proud to help insure that Bob Stafford's work will continue after his departure from the Senate.

This bill represents an important step in attacking the emission of greenhouse gases and ozone-depleting chemicals. As we know, the potential for climate change resulting from these emissions is a threat of enormous proportions.

The Stafford bill which I introducing will not pass today, nor will it pass tomorrow. What is important is the signal that it sends to the Nation and to the world that we are very serious about the problem of climate change, and that the important work of Bob Stafford will remain a strong factor on the environmental legislative agenda.

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. 333

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 "Global Environmental Protection Act of 1989".

SEC. 2. FINDINGS.

The Congress, recognizing the profound, irreversible and potentially catastrophic impacts of humanity's activities on the global atmosphere and the world's environment, and the inability of science to predict with certainty the consequences for humanity of any such changes, hereby declares that each person has a responsibility and obligation to avoid contamination of the atmosphere.

TITLE I—ELIMINATION AND REGULATION OF GLOBAL CHANGE POLLUTANTS

PART A—CHLOROFLUOROCARBONS AND RELATED CHEMICALS

SECTION 101. SHORT TITLE.

This part may be cited as the "Act to Eliminate Chlorofluorocarbons and Related Chemicals".

SEC. 102. FINDINGS.

The Congress finds that—

(1) the best available scientific evidence shows that manufactured substances, including chlorofluorocarbons, are polluting the atmosphere and destroying stratospheric ozone, as well as contributing to global climate change, and other atmospheric modifications;

(2) no level of stratospheric ozone depletion or global climate change caused by human activities can be deemed safe;

(3) stratospheric ozone depletion will lead to increased incidence of solar ultraviolet radiation at the surface of the Earth;

(4) increased incidence of solar ultraviolet radiation will cause increased rates of disease in humans (including skin cancer), threaten food crops, and otherwise damage the natural environment;

(5) stratospheric ozone depletion and global climate change from continued emissions of chlorofluorocarbons and other halogenated carbons with ozone depleting potential, and emissions of other gases, imperil human health and the environment worldwide;

(6) in order to stabilize and eventually reduce concentrations of chlorine and bromine in the stratosphere, to conserve the stratospheric ozone layer (an exhaustible natural resource), and to reduce the extent of global climate change—

(A) emissions of chlorofluorocarbons and other substances covered by this Act, including halogenated carbons with ozone depleting potential, should be terminated rapidly, and

(B) it is necessary to control international trade in substances covered by this Act and products containing or made with processes that use such substances;

(7) the highest priority must be given to developing and deploying safe substitutes to replace ozone depleting substances within six years; and

(8) the United States needs to develop and deploy safe substitutes to replace ozone depleting substances in order to demonstrate

to the world its commitment to protect the stratosphere.

SEC. 103. OBJECTIVES AND NATIONAL GOAL.

(a) The objectives of this Act are to restore and maintain the chemical and physical integrity of the Earth's atmosphere and to protect human health and the global environment from all known and potential dangers due to atmospheric or climatic modification, including stratospheric ozone depletion, that is or may be related to the chlorofluorocarbons or other substances covered by this Act by—

(1) reducing significantly the production and emission into the atmosphere of pollutants caused by human activities,

(2) promoting the rapid development and deployment of alternatives to the use of the chlorofluorocarbons and other substances covered by this Act, and

(3) promoting additional scientific research on atmospheric or climatic modification, including stratospheric ozone depletion, and on the known and potential adverse effects therefrom on human health and the global environment.

(b) In order to achieve the objectives of this Act, it is the national goal to eliminate atmospheric emissions of manufactured substances with ozone depleting potential, including chlorofluorocarbons and other halogenated carbons with ozone depleting potential, and to reduce significantly emissions of other gases caused by human activities that are likely to affect adversely the global climate.

SEC. 104. DEFINITIONS.

As used in this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "household appliances" means noncommercial personal effects, including air-conditioners, refrigerators, and motor vehicles.

(3) The term "import" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(4) The term "manufactured substances" means any organic or inorganic chemical substances of a particular molecular identity, or any mixture, that has been manufactured for commercial purposes.

(5) The term "medical purposes" means medical devices and diagnostic products (A) for which no safe substitute has been developed and (B) which, after notice and opportunity for public comment, has been approved and determined to be essential by the Commissioner of the Food and Drug Administration, in consultation with the Administrator.

(6) The term "person" means an individual, corporation (including a government corporation), partnership, firm, joint stock company, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof (including any interstate body), or of any foreign government (including any international instrumentality).

(7) The term "substances covered by this Act" means those substances which are known or may reasonably be anticipated to cause or contribute to atmospheric or climatic modification, including stratospheric ozone depletion, and are listed under subsection (a) or (b) of section 105.

SEC. 105. LISTING OF REGULATED SUBSTANCES.

(a) SUBSTANCES TO BE PHASED-OUT.—Within sixty days after enactment of this Act, the Administrator shall publish a priority list of manufactured substances which are known or may reasonably be anticipated to cause or contribute to atmospheric or climatic modification, including stratospheric ozone depletion. The initial list shall include chlorofluorocarbon-11, chlorofluorocarbon-12, chlorofluorocarbon-113, halon-1211, and halon-1301.

(b) OTHER REGULATED SUBSTANCES.—Simultaneously with publication of the priority list, the Administrator shall create a list of other manufactured substances which, in the judgment of the Administrator, meet the criteria set forth in the first sentence of subsection (a). The list of other substances shall be subject to the limitations on ozone depletion potential under section 109 of this Act and shall include chlorofluorocarbon-22, chlorofluorocarbon-114, chlorofluorocarbon-115, carbon tetrachloride, methyl chloroform, and methylene chloride. At least annually thereafter, the Administrator shall publish a proposal to add to such list each other manufactured substance which, in the judgment of the Administrator, meets the criteria set forth in the first sentence of subsection (a). Within one hundred and eighty days of any such proposal, after allowing an opportunity for public comment, the Administrator shall promulgate a regulation adding each such substance to the list, unless the Administrator determines that such substance clearly does not meet the criteria set forth in the first sentence of subsection (a).

(c) OZONE DEPLETION FACTOR.—Simultaneously with publication of the lists or additions thereto under this section, and at least annually thereafter, the Administrator shall assign to each listed substance a numerical value representing the ozone depletion potential of such substance, on a mass (per kilogram) basis, as compared with chlorofluorocarbon-11. The numerical value shall, for the purposes of section 109, constitute the ozone depletion factor of each such substance. Until the Administrator promulgates regulations under this subsection, the following ozone depletion factors shall apply:

SUBSTANCE	OZONE DEPLETING FACTOR
Chlorofluorocarbon-11	1.0
Chlorofluorocarbon-12	1.0
Chlorofluorocarbon-22	0.05
Chlorofluorocarbon-113	0.78
Carbon tetrachloride	1.06
Methyl chloroform	0.10
Halon-1211	2.69
Halon-1301	11.43

SEC. 106. REPORTING REQUIREMENTS.

(a) PRIORITY LIST.—Within ninety days after enactment of this Act, each person producing a substance listed pursuant to subsection (a) of section 105 shall file a report with the Administrator setting forth the amount of the substance that was produced by such person during calendar year 1987. Not less than annually thereafter, each producer shall file a report with the Administrator setting forth the production levels of such substance in each successive twelve-month period until such producer ceases production of the substance. Each such report shall be signed and attested by a responsible corporate officer.

(b) OTHER REGULATED SUBSTANCES.—Within ninety days of the date on which a substance is placed on the list under subsection (b) of section 105, each person shall file a report with the Administrator setting forth the amount of the substance that was produced by such person during the twelve months preceding the date of listing. Not less than annually thereafter, each producer shall file a report with the Administrator setting forth the production levels of such substance in each successive twelve-month period until such producer ceases production of the substance. Each such report shall be signed and attested by a responsible corporate officer.

SEC. 107. PRODUCTION PHASEOUT.

(a) Effective January 1, 1990, it shall be unlawful for any person to produce a substance listed pursuant to subsection (a) of section 105 in annual quantities greater than that produced by such person during calendar year 1987.

(b) Effective January 1, 1991, it shall be unlawful for any person to produce a substance listed pursuant to subsection (a) of section 105 in annual quantities greater than 75 per centum of that produced by such person during calendar year 1987.

(c) Effective January 1, 1992, it shall be unlawful for any person to produce a substance listed pursuant to subsection (a) of section 105 in annual quantities greater than 50 per centum of that produced by such person during calendar year 1987.

(d) Effective January 1, 1994, it shall be unlawful for any person to produce a substance listed pursuant to subsection (a) of section 105 in annual quantities greater than 5 per centum of that produced by such person during calendar year 1987.

(e) Effective January 1, 1996, it shall be unlawful for any person to produce or release a substance listed pursuant to subsection (a) for any use other than medical purposes.

(f) Effective January 1, 2000, it shall be unlawful for any person to produce or release a substance listed pursuant to section 105 for any use other than medical purposes.

SEC. 108. LIMITATION ON USE.

(a) Effective January 1, 1995, it shall be unlawful to introduce into interstate commerce or to use a substance listed under subsection (a) of section 105 except for medical purposes approved by the Commissioner of the Food and Drug Administration, in consultation with the Administrator, and, for a period not to exceed ten years after January 1, 1995, to maintain and service household appliances.

(b) Effective January 1, 2000, it shall be unlawful to introduce into interstate commerce or to use a substance listed under subsection (b) of section 105 except for medical purposes approved by the Commissioner of the Food and Drug Administration, in consultation with the Administrator, and, for a period not to extend beyond January 1, 2005, to maintain and service household appliances. For purposes of this subsection and subsection 107(f), a manufacturing process utilizing such a substance solely as an intermediate in a manufacturing process in which the substance is wholly consumed and none is released, does not constitute a use.

SEC. 109. LIMITATION ON OZONE DEPLETION POTENTIAL.

(a) Effective January 1, 1990, it shall be unlawful for any person to produce substances covered by this Act in annual quantities that, based upon the ozone depletion factor assigned to each such substance

under subsection (c) of section 105, yield a total ozone depletion potential greater than that produced by such person during calendar year 1987.

(b) Effective January 1, 1991, it shall be unlawful for any person to produce substances covered by this Act in annual quantities that, based upon the ozone depletion factor assigned to each such substance under subsection (c) of section 105, yield a total ozone depletion potential greater than 75 per centum of that produced by such person during calendar year 1987.

(c) Effective January 1, 1992, it shall be unlawful for any person to produce substances covered by this Act in annual quantities that, based upon the ozone depletion factor assigned to each such substance under subsection (c) of section 105, yield a total ozone depletion potential greater than 50 per centum of that produced by such person during calendar year 1987.

(d) Effective January 1, 1996, it shall be unlawful for any person to produce a substance listed pursuant to section 105(a) for any use other than medical purposes.

(e) The Administrator shall promulgate regulations, after notice and opportunity for public comment, which require each producer to reduce its production of—

(1) a substance listed under subsection (a) of section 105 more rapidly than the schedule provided under this Act; or

(2) a substance listed under subsection (b) of section 105 on a specific schedule not otherwise provided for in this Act.

if the Administrator determines that such revised or specific schedule (A) based on new information regarding the harmful effects on the stratosphere or climate which may be associated with a listed substance, is necessary to protect human health and the environment or (B) based on the availability of substitutes for a listed substance, is attainable. Any person may petition the Administrator to issue such regulations. The Administrator shall issue such regulations within one hundred and eighty days after receipt of any such petition, unless the Administrator denies the petition.

SEC. 110. PRODUCTION PHASE-OUT EXCEPTION FOR NATIONAL SECURITY.

(a) The President may issue such orders regarding production and use of halon-1211 and halon-1301 at any specified site or facility as may be necessary to protect the national security interests of the United States if the President personally finds that adequate substitutes are not available and that the production and use of such substance is necessary to protect such national security interests. Such orders may include, where necessary to protect such interests, an exemption from any requirement contained in this Act. The President shall notify the Congress within thirty days of the issuance of an order under this paragraph providing for any such exemption. Such notification shall include a statement of the reasons for the granting of the exemption. An exemption under this paragraph shall be for a specified period which may not exceed one year. Additional exemptions may be granted, each upon the President's issuance of a new order under this paragraph. Each such additional exemption shall be for a specified period which may not exceed one year. No exemption shall be granted under this paragraph due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation.

SEC. 111. CERTIFICATION OF EQUIVALENT PROGRAMS.

(a) IMPORTS.—Effective twelve months after the date on which a substance is placed on the priority list pursuant to section 105, it shall be unlawful for any person to import such substance, any product containing such substance, or any product manufactured with a process that uses such substance unless the Administrator, in consultation with the Secretary of State (the Secretary), has published a decision, after notice and opportunity for public comment, certifying that the nations in which such substance or product was manufactured and from which such substance or product is imported have established and are fully implementing programs that require reduced production of such listed substance, and limit production of other substances covered by this Act, on a schedule and in a manner that is at least as stringent as the reduction schedule for, and limitations on, domestic production which apply under this Act. The prohibition on the import of any product manufactured with a process that uses a substance listed under subsection (a) of section 105 shall include, after notice and opportunity for public comment, any product which the Administrator has reason to believe may have been manufactured with a process that uses such substance. The Administrator's decision that a product may have been manufactured with a process that uses such substance shall constitute a rebuttable presumption.

(b) CERTIFICATION OF NATIONAL PROGRAM.—The Administrator shall not certify any national program under subsection (a) unless it is determined that—

(1) the Nation has adopted legislation or regulations which give the reduction schedule for each listed substance the force of law; and

(2) the legislation or regulations include reporting requirements and enforcement provisions no less stringent than those specified in this Act, and that the information contained in such reports is available to the Administrator and the Secretary.

(c) REVOCATION.—At least annually, the Administrator, in consultation with the Secretary, shall review each certification made under this section and shall revoke such certification, after notice and opportunity for public comment, unless it is determined that the conditions of subsections (a) and (b) remain satisfied and that the reduction schedule for each listed substance is in fact being carried out in such nations. Any such revocation shall take effect one hundred and eighty days after notice of the revocation has been published.

(d) ALLOCATION.—Any person who imports a substance covered by this Act or a product containing such substance shall, for the purposes of section 107 (production phaseout for priority list) and section 109 (limitation on ozone depletion potential), shall be deemed to have produced an equivalent amount of such substance on the date of such importation.

SEC. 112. LABELING.

(a) Effective ninety days after the date on which a substance is placed on a list maintained under subsection (a) or (b) of section 105, no container in which such substance is stored or transported, no product containing such substance, and no product manufactured with a process that uses a listed substance shall be introduced into interstate commerce unless it bears a label stating either of the following, as appropriate—

(1) Contains (insert name of listed substance) a substance which harms public health and environment by destroying ozone in the upper atmosphere and by disrupting the climate.

(2) Manufactured with (insert name of listed substance), a substance which harms public health and environment by destroying ozone in the upper atmosphere and by disrupting the climate.

The Administrator shall issue regulations to implement the labeling requirements of this section within six months after enactment of this section, after notice and opportunity for public comment. Such regulations shall require all containers and products which are subject to this section and introduced or reintroduced into commerce later than ninety days after promulgation of such regulations to bear the appropriate label. Unless and until such regulations have been promulgated and become effective, the required label shall be permanently affixed on the face of such product, with the lettering and background in contrasting colors and the letters themselves not less than two inches in height (or 20 per centum of the height of the product which is less than four inches in height). Neither the labeling requirement nor any other provision of the Global Environmental Protection Act of 1989, including the Act as a whole, shall constitute, in whole or part, a defense to liability or a cause for reduction in damages in any suit, whether civil or criminal, brought under any law, whether Federal or State, other than a suit for failure to comply with the labeling requirements of this section.

SEC. 113. MANUFACTURE AND DISPOSAL.

(a) Effective January 1, 1991—

(1) A substance listed pursuant to this Act shall be deemed to meet the requirements of section 3001 of the Resource Conservation and Recovery Act.

(2) A substance listed pursuant to this Act shall be disposed of only through incineration or other means which assures 99.999 per centum destruction of such substance.

(3) Any appliance, machine or other good containing a listed substance in bulk (including but not limited to refrigerators and air-conditioners) shall be accepted for disposal only by persons licensed to accept such goods and shall be disposed of only after such substance has been removed from confinement and destroyed pursuant to the requirements of this Act. Unless and until regulations establishing a program for approving, licensing, and assuring the financial responsibility of persons to accept goods containing such substances, only governmental entities, or their agents, contractors or employees, are authorized to do so.

(4) No listed substance shall be vented into the atmosphere or otherwise released in a fashion which permits it to enter the environment in other than de minimus quantities.

(5) Any product in which a listed substance has been incorporated so as to constitute an inherent element of such product, including but not limited to rigid and soft foams, shall be disposed of only through incineration or other means which result in not less than 99.999 per centum destruction.

(b) Effective July 1, 1991—

(1) No person shall manufacture, process, distribute in commerce or otherwise use (except for medical purposes) any listed substance in any manner other than a totally enclosed manner. "Totally enclosed" means that during the lifetime of the good in ques-

tion not more than 5 per centum of the original charge or volume of such substance will be released during the course of ordinary and customary use of such good, including repairs or disposal.

(2) No person shall manufacture, process, distribute in commerce or otherwise use (except for medical purposes) a listed substance in a totally enclosed manner without—

(A) installing on such device a servicing aperture which will allow service and repair of such good with release of only de minimus amounts of such substance,

(B) assuring the availability and actual use of servicing equipment adequate to assure the achievement of no more than a de minimus release of such substance.

(c) For purposes of this section a "de minimus" amount is 0.050 per centum of the total charge of such substance or five pounds, whichever is less, released during a period of twelve months.

PART B—CARBON DIOXIDE

SEC. 114. SHORT TITLE.

This part may be cited as the "Act to Reduce and Stabilize Atmospheric Concentrations of Carbon Dioxide".

SEC. 115. FINDINGS.

The Congress finds that—

(1) there is widespread agreement, and no credible scientific dispute, that increases in atmospheric concentrations of carbon dioxide will increase the temperature of the planet;

(2) current emissions of carbon dioxide are approximately seventy times as great as those a century ago;

(3) average concentrations of carbon dioxide in the absence of major contributions from human activity have ranged between one hundred and eighty and two hundred and eighty parts per million;

(4) the current concentration of carbon dioxide is approximate three hundred and eighty parts per million;

(5) concentrations of carbon dioxide because of human activity are increasing at the rate of about 4 per centum per decade;

(6) there has already been an observed increase in globally averaged temperature of 0.7 degrees Centigrade during the last century;

(7) increases in North Atlantic Ocean temperatures of 0.2 to 0.3 degrees Centigrade have been measured;

(8) ocean water levels have increased;

(9) the years 1981, 1983, and 1987 are the hottest on record;

(10) elevated temperatures and drought are now prevailing in many of the world's agricultural areas;

(11) all of these changes are consistent with predictions that increases in carbon dioxide will lead to global temperature increases;

(12) further temperature increases may be experienced by the year 2030 if concentrations of carbon dioxide and other trace gases continue to accelerate at current rates;

(13) even with stringent and immediate controls, global average temperatures may increase 1.0 to 2.5 degrees Centigrade;

(14) scientists are unable to state with certainty whether the global environment will respond predictably to further temperature increases, especially if they occur in combination with other alterations in the atmosphere and oceans;

(15) probable consequences of further warming will include, but cannot with certainty be said to be limited to, the following:

(A) Sea level rise of between one and four feet, accompanied by widespread flooding, estuary destruction, and increased frequency of extreme storm events such as cyclones;

(B) Disappearance of many tree and plant species in areas where they now predominate;

(C) Widespread and endemic drought in many areas of the world which now supply the bulk of humanity's foods;

(16) to minimize further climate destruction and mitigate that which is already inevitable will require that atmospheric concentrations of carbon dioxide be stabilized;

(17) the level of carbon dioxide emission reductions necessary to achieve atmospheric stabilization is uncertain, but has been estimated by some to be 50 per centum or more;

(18) given the uncertainty of the response of the global environment to further temperature increases, the prudent policy is to strive to minimize carbon dioxide emissions through all possible means rather than establish an arbitrary goal;

(19) between 20 and 25 per centum of the world-wide emissions of carbon dioxide originate in the United States;

(20) technologies and practices exist which could reduce carbon dioxide emissions substantially;

(21) the adoption of these technologies and practices would increase the efficiency and competitiveness of the United States business and industrial sector, decrease the Nation's dependence on foreign supplies of fuel, protect the agricultural sector, preserve the natural environment, and simultaneously achieve reductions in other chemicals which cause acid rain, ground level ozone, and fine particle pollution; and

(22) therefore, the United States can protect the global environment directly by reducing emissions of carbon dioxide emissions and indirectly protect such environment by demonstrating the technologies and practices which can be applied elsewhere.

SEC. 116. STATIONARY SOURCE CONTROLS.

(a)(1) Not later than January 1, 1991, the Administrator of the Environmental Protection Agency shall revise the standards under section 111(b) of the Clean Air Act to require—

(A) that such standards be expressed in terms of carbon dioxide emitted per unit of electricity output;

(B) that such standards applicable to fossil fuel fired electric utility generating units provide for emissions of carbon dioxide not to exceed the following:

(i) effective January 1, 1991, six hundred and ten pounds of carbon dioxide per million British thermal units of heat output;

(ii) effective January 1, 2001, four hundred and thirty-five pounds of carbon dioxide per million British thermal units of heat output; and

(iii) effective January 1, 2011, two hundred and eighty pounds of carbon dioxide per million British thermal units of heat output.

For purposes of this section, "heat output" includes usable energy, whether electric or thermal, measured at the point of distribution to residential, commercial, or other customers.

(2) Effective January 1, 1996, each fossil fuel fired stationary source shall comply with the standards established under section 111(b) of the Clean Air Act for new sources within such class or category, in the case of each electric utility generating source, on and after the date thirty years following the completion of construction of such source and, in the case of each other source, on and after the date thirty-five years following the completion of construction of such source.

(3) To the extent that the emissions rate limits required by this section and section 111 of the Clean Air Act through increases in combustion, generation, transmission, and utilization efficiencies, such program for achieving reductions shall constitute enforceable continuous emissions reduction measures, enforceable by the Federal Government, States other than those in which the emissions occur, and citizens under section 304 of the Clean Air Act.

SEC. 117. MOBILE SOURCE CONTROLS.

(a) The Clean Air Act is amended as follows:

(1) In section 202(a)(3)(A)(i) inserting before the period at the end of the first sentence, the following: "and, for emissions of carbon dioxide, during and after model year 1991".

(2) in section 202(a)(3)(A)(ii) inserting the following new clause:

"(III) 1991 in the case of carbon dioxide shall contain standards which require a reduction of at least 10 per centum in 1991; at least 25 per centum in 1996; at least 50 per centum in 2001; and at least 75 per centum in 2011.".

(3) inserting in section 202(b)(1)(B) the following new language immediately before the period:

"The regulations under subsection (a) applicable to emissions of carbon dioxide from light duty vehicles and engines shall provide that emissions of carbon dioxide may not exceed—

"three hundred and sixty grams of carbon dioxide per vehicle mile from light-duty vehicles and engines manufactured during and after model year 1991;

"three hundred grams per mile for light-duty vehicles and engines manufactured during and after model year 1996;

"two hundred grams per mile for light-duty vehicles and engines manufactured during and after model year 2001; and,

"one hundred grams per mile for light-duty vehicles and engines manufactured during and after model year 2011.".

SEC. 118. RESIDENTIAL CONTROLS.

(a) Not later than January 1, 1992, the Administrator shall promulgate regulations identifying the best available residential control technology available for central furnaces, air-conditioners, and hot water heaters designed and sold for installation in single-family dwellings. For purposes of this section, "best available residential control technology" means that technology which achieves in a unit which is commercially available the maximum degree of reduction of emissions of carbon dioxide, whether directly through combustion or indirectly through consumption of electrical energy. Unless and until such regulations are promulgated and become effective, the best available control technology shall be deemed to be as follows:

(1) for furnaces, that which achieves an AFUE of 0.90 for oil, an AFUE of 0.95 for gas and a COP of 2.6 for electric heat pumps;

(2) for central air-conditioners, that which achieves an Energy Efficiency Rating of not less than 15.0; and

(3) for hot water heaters, that which achieves an EF of 64 for gas and 96 for electricity.

(b) Each new single-family dwelling for which a building permit is issued on or after

January 1, 1993, which is equipped with a central furnace, central air-conditioner, or hot water heater, shall be equipped only with one which meets or exceeds the emission limitation achieved by the best available residential control technology.

(c) Effective January 1, 1994, each replacement central furnace, central air-conditioner, or hot water heater installed in a single-family dwelling shall meet or exceed the emissions limit achieved by the best available residential control technology.

(d) Not later than January 1, 1991, the Secretary of the Treasury shall recommend to the Congress means of encouraging the replacement of central furnaces, air-conditioners and water heaters and otherwise minimizing the emissions of carbon dioxide and other greenhouse gases from residential units through a system of tax or other incentives.

PART C—GROUND LEVEL OZONE

SEC. 119. SHORT TITLE.

This part may be cited as the "Act to Minimize Ground Level Ozone".

SEC. 120. FINDINGS.

The Congress finds that—

(a) ground level ozone, and the pollutants which lead to its formation, contribute substantially to the following damages—

(1) increases in global average temperatures and the consequent threats to humanity and the global environment, as described in greater particularity in the findings accompanying part B;

(2) widespread and substantial damage to crops and other vegetation, including the forests of eastern North America and Europe;

(3) injury to human health, including probable long-term damage comparable to that resulting from tobacco smoking;

(4) acidification of the soils and waters of North America and Europe;

(b) concentrations of free tropospheric ozone have doubled to quadrupled in the last century;

(c) ground level ozone is formed by the reaction of volatile organic chemicals with oxides of nitrogen in the presence of sunlight;

(d) elevated temperatures and extended summer seasons likely to accompany the global temperature increases will cause increased production of ground level ozone;

(e) virtually all oxides of nitrogen and the majority of the volatile organic chemicals result from human activities;

(f) technologies and practices exist to reduce substantially emissions of oxides of nitrogen and volatile organic chemicals; and

(g) in the absence of a program to minimize emissions of volatile organic chemicals and oxides of nitrogen, emissions and concentrations of these pollutants are projected to increase.

SEC. 121. STATIONARY SOURCE CONTROLS: OXIDES OF NITROGEN.

(a)(1) Not later than January 1, 1991, the Administrator shall propose revised standards of performance pursuant to section 111 of the Clean Air Act for emissions of oxides of nitrogen (including nitrous oxide) from fossil fuel-fired steam or electricity generating units, including both electric utility and nonutility units. Not later than January 1, 1992, the Administrator shall promulgate such revised standards of performance. Such revised standards of performance shall reflect improvements in methods for the reduction of emissions of oxides of nitrogen and shall require an emissions rate equal to or less than 0.1 pound per million British thermal units of heat input or a reduction of not less than 90 per centum from an uncontrolled state unless the Administrator determines that such limits are technologically infeasible. Unless and until such revised standards are promulgated and become final, the application of selective catalytic reduction to achieve an emissions reduction of 90 per centum shall be deemed to be such standard.

(2) Not later than January 1, 1991, the Administrator shall propose standards of performance pursuant to section 111 of the Clean Air Act for emissions of oxides of nitrogen (including nitrous oxide) from large stationary diesel and turbine engines. Not later than January 1, 1992, the Administrator shall promulgate such standards of performance. Unless and until such revised standards are promulgated and become final, the application of selective catalytic reduction to achieve an emissions reduction of 90 per centum shall be deemed to be such standard.

(b) Effective January 1, 1994, each unit of a major stationary source that is a fossil fuel-fired steam generating unit shall achieve an emissions rate of oxides of nitrogen that does not exceed, on an annual average basis, 1.0 pound per million British thermal units of heat input for cyclone boilers, 0.5 pound per million British thermal units of heat input for wall-fired boilers, and 0.4 pound per million British thermal units of heat input for tangential-fired and other boilers.

SEC. 122. STATIONARY SOURCE CONTROLS: HYDROCARBONS.

(a) Not later than two years after the enactment of this subsection, the Administrator of the Environmental Protection Agency shall publish control technique guidelines consistent with section 171(6) of the Clean Air Act for the following categories of sources:

(A) wood furniture coating;

(B) autobody refinishing;

(C) metal rolling;

(D) SOCMI distillation; and

(E) SOCMI batch process.

(b) SECTION 304(a), part A of title I of the Clean Air Act, is amended by adding the following new section:

"HYDROCARBON EMISSION CONTROLS

"SEC. 130. (a) Not later than two years after the enactment of this section, the Administrator shall promulgate regulations establishing emission limitations, standards of performance, or standards for product composition or application for hydrocarbon emissions associated with the following categories of sources—

"(1) commercial solvents;

"(2) consumer solvents;

"(3) architectural coatings;

"(4) pesticide application;

"(5) traffic marking coatings; and

"(6) metal parts coatings in military specification applications and aerospace industry applications.

"(b) With respect to existing sources or activities not subject to section 111 or section 173, the regulations under this section shall require the degree of emission reduction or control, at a minimum, achievable through the adoption of reasonably available control technology, as defined in section 171(6). In developing regulations under subsection (a)(1) and (a)(6) of this section, the Administrator shall consult with the affected industry, including the industries procuring such parts, and with representatives of the Department of Defense, the Federal Aviation Administration, and the National Aeronautics and Space Administration involved in the establishment of specifications for such parts or coatings.

"(c) For the purposes of this Act, any requirement of a regulation promulgated under this section shall be deemed a requirement of an applicable implementation plan.".

(b) Section 116 of the Clean Air Act is amended by striking "111 or 112" and inserting in lieu thereof "111, 112, or 130".

(c) Effective January 1, 1996, each major stationary source of hydrocarbons shall comply with the standards established under section 111(b) of the Clean Air Act for new sources within such class or category, on and after the date thirty-five years following the completion of construction of such source.

SEC. 123. MOBILE SOURCE CONTROLS.

VEHICLE EMISSION STANDARDS

SEC. 301. (a) Section 202(b)(1)(A) of the Clean Air Act is amended by adding at the end thereof the following new sentence: "The regulations under subsection (a) applicable to emission of hydrocarbons from light-duty vehicles and engines manufactured during and after model year 1993 shall contain standards which provide that such emissions may not exceed 0.25 gram per vehicle mile.".

(b) Section 202(b)(1)(B) of the Clean Air Act is amended by adding at the end thereof the following new sentence: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during and after model year 1991 shall contain standards which provide that such emissions may not exceed 0.4 gram per vehicle mile.".

(c) Section 202(b)(1) of the Clean Air Act is amended by adding the following new paragraph:

"(D) The Administrator shall promulgate regulations under subsection (a) applicable to emissions of particulates from light-duty vehicles and engines manufactured during and after model year 1991, and such regulations shall contain standards which provide that such emissions, may not exceed 0.08 gram per vehicle mile.".

(d) Section 202(a)(3) of the Clean Air Act is amended by inserting after subparagraph (E) the following new subparagraphs and redesignating succeeding subparagraphs accordingly:

"(F) Regulations under paragraph (1) applicable to emissions of oxides of nitrogen from heavy-duty vehicles and engines shall contain standards that provide that such emissions shall not exceed 4.0 grams per brake horsepower-hour for vehicles manufactured during and after model year 1992 and that such emissions shall not exceed 1.7 grams per brake horsepower-hour for vehicles manufactured during and after model year 1996. Regulations applicable to emissions of particulates from heavy-duty diesel vehicles and engines shall require that such emissions may not exceed 0.1 gram per brake horsepower-hour, beginning in model year 1992 with respect to buses, and in model year 1995 with respect to other heavy-duty diesel vehicles and engines.

"(G) Regulations under paragraph (1) applicable to emissions from light-duty trucks and engines manufactured during and after model year 1991 shall contain standards that provide that such emissions may not exceed 0.5 gram per vehicle mile of oxides of nitrogen, 0.5 gram per vehicle mile of hydrocarbons, 0.08 gram per vehicle mile of par-

ticulates, and 5.0 grams per vehicle mile of carbon monoxide. Such regulations shall require that light-duty trucks and engines manufactured during and after model year 1991 comply with the standard for emissions of carbon monoxide regardless of the altitude at which they are sold. For the purposes of this subparagraph, the terms 'light-duty truck' and 'light-duty truck and engine' means any motor vehicle (including the engine thereof) with a gross vehicle weight (as determined under regulations promulgated by the Administrator) of eight thousand five hundred pounds or less and a curb weight of six thousand pounds or less (as determined under regulations promulgated by the Administrator) and which—

"(i) is designed primarily for purposes of transportation of property or is a derivation of such a vehicle,

"(ii) is designated primarily for transportation of persons and has a capacity of more than twelve persons, or

"(iii) has special features enabling off-street or off-highway operation and use.

For the purposes of this section, any motor vehicle with a gross vehicle weight of six thousand pounds or less shall be a light-duty vehicle.".

(e) Section 202(a)(3)(H) of the Clean Air Act (as redesignated by this Act) is amended by adding the following new sentence: "Regulations under this section applicable to exhaust and evaporative emissions from motorcycles and motorcycle engines manufactured during and after model year 1993 shall contain standards that provide that such emissions, in the case of motorcycle engines with a displacement of less than seven hundred cubic centimeters, may not exceed 2.0 grams per vehicle mile of hydrocarbons, 17.6 grams per vehicle mile of carbon monoxide, and 2.0 grams per test of evaporative emissions, and in the case of motorcycle engines with a displacement of seven hundred cubic centimeters or more, may not exceed 3.6 grams per vehicle mile of hydrocarbons, 17.6 grams per vehicle mile of carbon monoxide, and 4.0 grams per test of evaporate emissions.".

(f) Section 202(a)(6) of the Clean Air Act is amended to read as follows:

"(6) Regulations under this section applicable to vehicles manufactured during and after model year 1992 shall require the use of onboard hydrocarbon control technology to recover emissions from the fueling of such vehicles. Such onboard hydrocarbon control technology shall be designed to accommodate all available fuels.".

(g) Section 209(b)(1) of the Clean Air Act is amended by striking ", in the aggregate,".

(h)(1) Section 202(b)(1) of the Clean Air Act is further amended by adding the following new paragraph:

"(E) The Administrator shall promulgate regulations under subsection (a) applicable to emissions of formaldehyde from light-duty vehicles and engines manufactured during and after model year 1991 which may be fueled, in whole or in part, by fuels other than gasoline. In no event may such regulations permit emissions of formaldehyde at a higher rate than from comparable gasoline-fueled vehicles.".

(2) Section 202(a)(3) of the Clean Air Act is further amended by adding at the end thereof the following new subparagraph:

"(I) The Administrator shall promulgate regulations under subsection (1) applicable to emissions of formaldehyde (i) from heavy-duty vehicles and engines and (ii) from light-duty trucks and engines manufactured during and after model year 1992 which may be fueled, in whole or in part, by fuels other than gasoline. In no event may such regulations permit emissions of formaldehyde at a higher rate than from comparable gasoline-fueled vehicles.".

(i) Section 202 of the Clean Air Act is amended by adding the following new subsection:

"(g) The Administrator shall promulgate regulations applicable to motor vehicle and other engines manufactured during and after model year 1992 that prohibit the manufacture, sale, or introduction into commerce of any engine that requires leaded gasoline.".

(j) Section 202(a) of the Clean Air Act is amended by adding the following new paragraph:

"(7)(A) To augment existing regulations controlling carbon monoxide emissions under temperatures between 68 and 86 degrees Fahrenheit, the Administrator shall prescribe regulations under paragraph (1) of this subsection applicable to emissions of carbon monoxide over a temperature range of 20 to 68 degrees Fahrenheit from light-duty vehicles and light-duty trucks manufactured during and after model year 1991.

"(B) Regulations under subparagraph (A) shall require a reduction of at least 90 per centum from the average emissions from light-duty gasoline-fueled vehicles and trucks manufactured in model year 1970 to a level not to exceed 6.2 grams per vehicle mile of carbon monoxide at 20 degrees Fahrenheit. Demonstration of compliance shall be determined under regulations promulgated by the Administrator and may be based on testing of randomly selected engine families.".

ASSURANCE OF IN-USE COMPLIANCE

SEC. 302. (a)(1) Section 202(d)(1) of the Clean Air Act is amended by striking "five years or of fifty thousand miles" and inserting in lieu thereof "ten years or of one hundred thousand miles".

(2) The amendment made by this subsection shall take effect with respect to light-duty vehicles and engines manufactured during and after model year 1991.

(b) Section 202 of the Clean Air Act is amended by adding the following new subsection:

"(h) Each emission standard under this section shall apply to and be met by each and every vehicle or engine sold, offered for sale, introduced into commerce, or imported, and may not be met or complied with by the average of the performance of various vehicles, engines, engine families, or models manufactured by the same manufacturer.".

(c) Section 206(a) of the Clean Air Act is amended by adding the following new paragraph:

"(4) Not later than one year after the enactment of this paragraph, the Administrator shall promulgate regulations adding an idle test mode to the Federal Test Procedure for light-duty vehicles as in effect on such date of enactment. Such modified test procedure shall be used for the certification of light-duty vehicles and engines manufactured during or after model year 1991.".

(d) Section 206(b)(2)(A) of the Clean Air Act is amended by adding the following new clause:

"(iii) A certificate of conformity shall be suspended or revoked under clause (i) with respect to a class or subclass of vehicles if that class or subclass fails a sampling plan having an acceptance quality level of 10 per centum.".

(e)(1) Section 207(c)(1) of the Clean Air Act is amended by striking the word "properly" each time it occurs and inserting in lieu thereof "normally".

(2) Section 207(c) of the Clean Air Act is amended by adding the following new paragraphs:

"(4) In making determinations of nonconformity under this subsection, the Administrator shall take into account information collected under any State vehicle emission control inspection and maintenance program. Any State in which such a program is operating may petition the Administrator to make a determination of nonconformity under paragraph (1) on the basis of information collected in such program. The Administrator shall act upon such petition within sixty days of receipt of such petition.

"(5) For the purpose of paragraph (1), the phrase 'normally maintained and used' means the maintenance and use ordinarily to be expected in the hands of the ultimate purchasers, not necessarily in accordance with instructions under paragraph (3), but not including intentional misfueling or intentional violations of section 203(a)(3).".

(3) Section 207(c) of the Clean Air Act is further amended by adding the following new paragraph at the end thereof:

"(6) Not later than one hundred and eighty days after enactment of the Clean Air Standards Attainment Act of 1987, the Administrator shall establish at least one testing center in addition to the existing two testing centers, which shall be located at a site that represents high altitude conditions, to ascertain whether, when in actual use throughout their useful life (as determined under section 202(d)), each class or category of vehicle and engine to which regulations under section 202 apply conforms to the emission standards of such regulations. The Administrator shall, in cooperation with the States, conduct routine testing of a representative sample of classes or categories of vehicles and engines to which regulations under section 202 apply. In carrying out such tests, the Administrator shall assure that the testing procedures and methods are of sufficient accuracy and consistency to carry out the purposes of this section. For the purposes of this paragraph, the term 'high altitude conditions' refers to high altitude as defined in Environmental Protection Agency regulations in effect as of the enactment of this Act.".

(f)(1) Section 203(a)(3) of the Clean Air Act is amended to read as follows:

"(3)(A) for any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser, except as may be temporarily necessary in the course of routine proper maintenance; or

"(B) for any person to manufacture or sell, or offer to sell, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal use of such part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title, and where such part or component is being offered for sale for such use or put to such use within the specific knowledge of such person; or".

(2) Section 205 of the Clean Air Act is amended to read as follows:

"SEC. 205. (a) Any person who violates paragraph (1), (2), or (4) of section 203(a) or any manufacturer or dealer who violates paragraph (3)(A) of section 203(a) shall be subject to a civil penalty of not more than $10,000. Any other person who violates paragraph (3)(A) of section 203(a) or any person who violates paragraph (3)(B) of section 203(a) shall be subject to a civil penalty of not more than $2,500. Any such violation with respect to paragraph (1), (3), or (4) of section 203(a) shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine.

"(b) A civil penalty for a violation of section 203 shall be assessed by the Administrator by an order made on the record after opportunity for a hearing. In connection with any proceeding under this section the presiding officer may issue subpoenas for the attendance and testimony of witnesses and the production of papers, books, and documents.

"(c) In determining the amount of a civil penalty, the Administrator shall take into account the gravity of the violation, the size of the violator's business, the violator's history of compliance, action taken to remedy the violation, and the effect of the penalty on the violator's ability to continue in business.

"(d) If any person fails to pay a civil penalty assessed under this section—

"(1) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with section 307, or

"(2) after a court in any action brought for judicial review has entered a final judgment in favor of the Administrator or the action has otherwise been terminated if such person has filed a petition for review under section 307, the Attorney General shall recover the amount assessed (plus interest from the date of the expiration of sixty days from the date of the order, or from the date of such final judgment, as the case may be) in an action brought in any appropriate district court for the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.".

(3) Section 203(c) of the Clean Air Act is amended by striking "from section 203(a)(3)" the second time it appears.

(g)(1)(A) Section 207(a)(3) of the Clean Air Act is amended by striking the last sentence and inserting in lieu thereof the following: "The term 'designed for emission control' as used in the preceding sentence means a catalytic converter, thermal reactor, trap oxidizer, oxygen sensor, air pump, air flow sensor, electronic control unit and other elements of a fuel metering system, exhaust gas recirculation system, evaporative emission control system, and altitude compensation system, or any other component that is first installed on or in a vehicle in mass production after the date of enactment of the Clean Air Standards Attainment Act of 1987 and that is installed for the primary purpose of reducing vehicle emissions. Such term shall not include those vehicle components which were in general use prior to model year 1968.".

(B) The penultimate sentence of section 207(b)(2) of the Clean Air Act is amended by striking all after "catalytic converter, thermal reactor," and inserting in lieu thereof "trap oxidizer, oxygen sensor, air pump, air flow sensor, electronic control unit and other elements of a fuel metering system, exhaust gas recirculation system, evaporative emission control system, and altitude compensation system, or any other component that is first installed on or in a vehicle in mass production after the date of enactment of the Clean Air Standards Attainment Act of 1987 and that is installed for the primary purpose of reducing vehicle emissions.".

(2) Section 207(c) of the Clean Air Act is further amended by adding at the end thereof the following new paragraph:

"(7) The Administrator shall promulgate regulations requiring each State which is required to implement a vehicle inspection and maintenance program to adopt quality control audits to assure that such inspections detect and report to the Administrator any patterns of defects in any manufacturer's emission control systems. The Administrator shall annually report to the Congress, with respect to each manufacturer, any significant finding of repeated or common emission system defects and the actions taken to remedy such nonconformity through ordered or voluntary recalls or other actions authorized by this Act.".

(3)(A) Section 207(c)(3)(B) of the Clean Air Act is amended by striking all after "no commercial relationship" and inserting in lieu thereof a period.

(B) Section 203(a)(4)(C) of the Clean Air Act is amended by striking "except as provided in subsection (c)(3) of section 207,".

(C) Section 203(a) of the Clean Air Act is amended by adding at the end thereof the following: "Paragraph (4)(C) shall not apply to the provision of any communication regarding any part, component, or system, or service provided without charge under the terms of the purchase agreement.".

(4) Section 207(e) of the Clean Air Act is amended by inserting "(1)" after "(e)" and by adding the following new paragraph:

"(2)(A) Each manufacturer of a new motor vehicle shall affix, and each dealer shall maintain, on each motor vehicle manufactured during and after model year 1991, a label indicating the full cost of applying the warranty under subsections (a) and (b) to such new motor vehicle. The form and content of such label, and the manner in which such label shall be affixed, shall be prescribed by the Administrator by rule, except that each such label shall contain, in bold face type, the following statement: 'The vehicle manufacturer or dealer may offer to sell warranties extending beyond those required by sections 207 (a) and (b) of the Clean Air Act and covering the emission system or other components or parts of the vehicle. The purchaser of the vehicle does not have any obligation to purchase the extended warranty from the manufacturer or the dealer. The vehicle purchaser may elect to buy an extended warranty from any other vendor of such warranties.'.

"(B) The Administrator may permit a manufacturer to comply with the provisions of subparagraph (A) by permitting such manufacturer to disclose the information required under this paragraph on the label required under section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

"(C) A violation of subparagraph (A) shall be treated as a violation of section 3 of the Automobile Disclosure Act (15 U.S.C. 1232).

"(D) The Administrator shall utilize the authorities of section 208 of this Act to verify the costs disclosed by each manufacturer under subparagraph (A).".

(5) Section 207(g) of the Clean Air Act is amended to read as follows:

"(g) For the purposes of this section, the owner of any motor vehicle or motor vehicle engine warranted under this section is responsible in the proper maintenance of such vehicle or engine to replace and to maintain, at his expense and at any service establishment or facility of his choosing, such items as spark plugs, points, condensers, and any other part, item, or device related to emission control (but not designed for emission control under the last two sentences of subsection (a)(3)), unless such part, item, or device is covered by any warranty not required by this Act.".

REGULATION OF FUELS

SEC. 303. (a) Section 211 of the Clean Air Act is amended by adding the following new subsections:

"(h)(1) After July 1, 1991, the sale or introduction into commerce of diesel fuel for use in motor vehicles, which fuel has a sulfur content in excess of 0.05 per centum by weight, shall be prohibited.

"(2) The fuel required to be used in certification of heavy-duty diesel vehicles and engines manufactured during and after model year 1992 shall have a sulfur content that does not exceed 0.05 per centum by weight.

"(3)(A) Paragraph (1) of this subsection and any regulations promulgated by the Administrator thereunder shall not require a small refinery to reduce the sulfur content of diesel fuel to 0.05 per centum by weight prior to July 1, 1994.

"(B) For the purpose of this subsection, the term "small refinery" means a refinery—

"(i) the diesel fuel producing capacity of which was in operation or under construction at any time during the one-year period immediately preceding October 1, 1988,

"(ii) which has a crude oil or bona fide feed stock capacity (as determined by the Administrator) of one hundred and seventy-five thousand barrels per day or less, and

"(iii) which is owned or controlled by a refiner with a total combined crude oil or bona fide feed stock capacity (as determined by the Administrator) of three hundred and fifty thousand barrels per day or less.

"(4) The Administrator shall report to the Congress not later than the date six months after the enactment of this subsection, on whether a sulfur content in diesel fuel of 0.05 per centum by weight is necessary to assure that heavy-duty diesel vehicles and engines can achieve the particulate emission standards specified in section 202(a)(3)(F) or in regulations under section 202 for model year 1992 and model year 1995, or is otherwise warranted for the protection of public health.

"(i) Not later than two years after the date of enactment of this subsection, the Administrator shall promulgate regulations under this subsection requiring that the Reid vapor pressure of gasoline sold, offered for sale, or introduced into commerce during warm weather months (as defined by the Administrator), shall not exceed nine pounds per square inch, or with respect to any region established under section 178, any lower level requested by the regional commission for such region established under section 178(b). After April 1, 1991, no manufacturer or importer of gasoline may sell, offer for sale, or introduce into commerce any fuel which does not comply with such regulations. For ethanol/gasoline blends containing 10 per centum denatured anhydrous ethanol, the Reid vapor pressure limitations promulgated pursuant to this subsection shall be 1.0 pound per square inch greater than the applicable Reid vapor pressure limitations which apply to gaso-

line: *Provided, however,* That a refiner, distributor, blender, marketer, reseller, carrier, retailer, or wholesale purchaser-consumer shall be deemed to be in full compliance with the provisions of this subsection and the regulations promulgated thereunder if it can demonstrate (by showing receipt of a certification or other evidence acceptable to the Administrator) that (I) the gasoline portion of the blend complies with the Reid vapor pressure limitations promulgated pursuant to this subsection, and (II) the ethanol portion of the blend does not exceed its waiver condition under subsection (f)(4).

"(j)(1) After October 1, 1990, the sale or introduction into commerce of gasoline for use in motor vehicles, in any area that is a nonattainment area as defined in section 171(2) for carbon monoxide, during the period from October 1 to April 1 of each year, which fuel has an oxygen content less than 2 per centum oxygen by weight, shall be prohibited.

"(2) After October 1, 1991, the sale or introduction into commerce of gasoline for use in motor vehicles, in any area that is a nonattainment area as defined in section 171(2) for carbon monoxide during the period from October 1 to April 1 of each year, which fuel has an oxygen content less than 3.7 per centum oxygen by weight, shall be prohibited.

"(3) The Administrator may waive the requirements of paragraph (1) or (2) in whole or in part with respect to the level of oxygen content, the timing of available oxygenated gasoline, or the use of oxygenated fuels, in a specific area, where full implementation of such provision may reasonably be anticipated to result in an unacceptable increase in levels of other air pollutants.

"(4) Not later than two years after the enactment of this subsection, the Administrator shall submit a report to the Environment and Public Works Committee of the United States Senate and the Energy and Commerce Committee of the House of Representatives concerning the increased use of oxygenated fuels nationwide; and the use of oxygenated fuels with an oxygen content by weight greater than 3.7 per centum. Such report shall include an analysis of emissions, drivability, fuel volatility and availability of gasoline with increased oxygen levels.".

(b)(1) Section 211(d) of the Clean Air Act is amended to read as follows:

"(d)(1) Any person who violates subsection (a), (f), (h) or (j) or the regulations prescribed under subsection (c), (h), or (i) or who fails to furnish any information required by the Administrator under subsection (b) shall be subject to a civil penalty of not more than $10,000 for each and every day of such violation. Such civil penalty shall be assessed by the Administrator by an order made on the record after opportunity for a hearing. In connection with any proceeding under this section the presiding officer may issue subpoenas for the attendance and testimony of witnesses and the production of papers, books, and documents.

"(2) In determining the amount of a civil penalty, the Administration shall take into account the gravity of the violation, the size of the violator's business, the violator's history of compliance, action taken to remedy the violation, and the effect of the penalty on the violator's ability to continue in business.

"(3) If a person fails to pay a civil penalty assessed under this subsection—

"(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with section 307, or

"(B) after a court in any action brought for judicial review has entered a final judgment in favor of the Administrator or the action has otherwise been terminated if such person has filed a petition for review under section 307,

the Attorney General shall recover the amount assessed (plus interest from the date of the expiration of sixty days from the date of the order, or from the date of such final judgment, as the case may be) in an action brought in any appropriate district court for the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.".

(2) Section 211(c) of the Clean Air Act is amended by adding a new paragraph as follows:

"(5) Regulations under this subsection shall prohibit any person from introducing, or causing or allowing the introduction, of a regulated fuel or fuel additive into a motor vehicle not designed for such fuel or fuel additive.".

(b)(1) Effective January 1, 1993 each State shall implement a vehicle emission control inspection and maintenance program.

(2) The term "vehicle emission control inspection and maintenance program" as used in section 172(d) means a program to reduce in-use emissions of hydrocarbons, carbon monoxide, oxides of nitrogen, and diesel particulates from motor vehicles that—

(A) covers all vehicles regularly operating in the program area;

(B) includes at a minimum (i) each Metropolitan Statistical Area (as defined by the Director of the Bureau of the Census) with a population of one hundred thousand or more according to the 1985 Census, containing a nonattainment area, and (ii) each area identified under section 178(c)(1);

(C) requires annual emission testing and necessary adjustment, repair, or maintenance;

(D) requires direct inspection of components of vehicle emission control systems (including evidence of misfueling) and, where such components have been rendered inoperative, the repair or replacement of such components;

(E) requires inspection of heavy-duty vehicle exhaust or compliance with existing standards for the opacity of such exhaust;

(F) is operated on a centralized or, with respect to emission testing, computerized basis; and

(G) has a repair cost waiver in the case of failure of at least $200, or provides that any repair cost waiver limit shall apply only to costs that are not covered by a warranty under section 207.".

PART D—METHANE

SEC. 123. SHORT TITLE.

This part may be cited as the "Methane Emissions Elimination Act".

SEC. 124. METHANE SOURCE IDENTIFICATION AND ASSESSMENT.

(a) Not later than January 1, 1992, the Administrator of the Environmental Protection Agency, in consultation with the Administrators of the National Oceanic and Atmospheric Administration and the National Aeronautics and Space Administration, shall submit to the Congress a report on the following:

(1) the contribution of methane to global climate change;

(2) the sources and sinks of methane;

(3) the methods of controlling emissions of methane; and,

(4) the relationship between emissions of methane and concentrations of other trace gases, including the hydroxyl radical.

(b) The Solid Waste Disposal Act is amended by—

(1) inserting in section 4001 immediately before "are environmentally" the following: "minimize emissions and other releases to the environment and which are otherwise".

(2) in section 4002(c)(1) striking the words "reasonable protection of ambient air quality" and substituting "and the minimization of emissions and other releases to the environment of pollutants including, but not limited to, methane or other harmful gases or materials."

(3) in section 4003(a) adding a new subsection (7) as follows:

"(7) The plan shall provide for methods (including prohibitions on the nature of materials which are disposed), practices, or technologies which minimize emissions of methane and other gases, both during operation and after closure."

(4) in section 4007(a) inserting immediately before the period at the end of the second sentence the following:

", provided that the Administrator determines that such plan satisfies the requirements of paragraph (7) of section 4003. Plans which fail to satisfy such requirements shall be disapproved".

(c) Not later than January 1, 1992, the Administrator shall promulgate regulations implementing the requirements of this section and requiring State plans developed under subtitle D of the Solid Waste Disposal Act to be amended and either approved or disapproved by July 1, 1993. Any plan not affirmatively approved by such date shall be deemed disapproved for purposes of the Solid Waste Disposal Act. Amended plans shall require all facilities constructed after January 1, 1994 subject to subtitle D to be designed, constructed and operated so as to minimize emissions of methane and shall require all existing facilities to be modified prior to January 1, 1994 and thereafter operated so as to minimize emissions of methane and other pollutants.

(d) Effective January 1, 1995 mass releases of methane, whether through intentional venting of wells or otherwise, and flaring of methane are prohibited.

PART E—MISCELLANEOUS PROVISIONS

SEC. 125. FEDERAL ENFORCEMENT.

(a) COMPLIANCE ORDERS.—(1) Whenever on the basis of any information the Administrator determines that any person has violated or is in violation of any requirement of this title, the Administrator may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both, or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

(2) Any order issued pursuant to this subsection may include a suspension or revocation of any permit issued by the Administrator and shall state with reasonable specificity the nature of the violation. Any penalty assessed in the order shall not exceed $25,000 per day of noncompliance for each violation of a requirement of this Act. In assessing such a penalty, the Administrator shall take into account the seriousness of

the violation and any good faith efforts to comply with applicable requirements.

(b) PUBLIC HEARING.—Any order issued under this section shall become final unless, no later than thirty days after the order is served, the person or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

(c) VIOLATION OF COMPLIANCE ORDERS.—If a violator fails to take corrective action within the time specified in a compliance order, the Administrator may assess a civil penalty of not more than $25,000 for each day of continued noncompliance with the order and the Administrator may suspend or revoke any permit issued to the violator.

(d) CRIMINAL PENALTIES.—Any person who—

(1) knowingly exceeds the production limits under section 107 (production phase-out for initial list) or section 109 (limitation on ozone depletion potential);

(2) knowingly introduces into interstate commerce a substance that was produced in violation of section 107 or section 109;

(3) knowingly imports a substance listed under section 105, a product containing such substance, or a product manufactured with a process that uses such substance, in violation of section 111 (certification of equivalent programs);

(4) knowingly introduces into interstate commerce a substance or product in violation of section 108 (limitation on use) or section 112 (labeling);

(5) knowingly omits material information or makes any false material statement or representation in any application, record, report, permit, or other document filed, maintained, or used for purposes of compliance with this title; or

(6) knowingly produces, transports, distributes, or uses any substance listed under section 105, a product containing such substance, or a product manufactured with a process that uses such substance, and who knowingly destroys, alters, conceals, or fails to file any record, application, report, or other document required to be maintained or filed for purposes of compliance with this title

shall, upon conviction, be subject to a fine in accordance with title 18 of the United States Code for each day of violation, or imprisonment not to exceed two years, or both. If conviction is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment under the respective paragraph shall be doubled with respect to both fine and imprisonment.

(e) CIVIL PENALTY.—Any person who violates any requirement of this title shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation.

(f) VIOLATIONS.—Each day of violation of any requirement of this title shall, for purposes of this section, constitute a separate violation. In addition, for purposes of section 107 (production phase-out for initial list), section 108 (limitation on use), section 109 (limitation on ozone depletion potential), and paragraphs (1), (2), (3), and (4) of subsection (d) of this section, the production, introduction into commerce, or importation of each one hundred pounds of a substance listed under section 105 that is in excess of the production limits under section 107 or section 109 shall constitute a separate violation.

SEC. 126. JUDICIAL REVIEW OF FINAL REGULATIONS AND CERTAIN PETITIONS.

Any judicial review of any fiscal action of the Administrator pursuant to this title shall be in accordance with sections 701 through 706 of title 5 of the United States Code, except that—

(1) a petition for review of any final action of the Administrator may be filed by any interested person in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts business, and such petition shall be filed within ninety days from the date of such promulgation or denial or after such date if such petition is for review based solely on grounds arising after such ninetieth day; action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement; and

(2) if a party seeking review under this Act applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the information is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper; the Administrator may modify administrative findings as to the facts, or make new findings, by reason of the additional evidence so taken, and shall file with the court such modified or new findings and the Administrator's recommendation, if any, for the modification or setting aside of the original administrative order, with the return of such additional evidence.

SEC. 127. CITIZEN SUITS.

(a) IN GENERAL.—Except as provided in subsection (b) or (c) of this section, any person may commence a civil action on his own behalf—

(1) against any person (including (a) the United States, and (b) any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any permit, regulation, condition, requirement, prohibition, or order which has become effective pursuant to this title; or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this title which is not discretionary with the Administrator.

Any action under paragraph (a)(1) of this subsection shall be brought in the district court for the district in which the alleged violation occurred. Any action brought under paragraph (a)(2) of this subsection may be brought in the district court for the district in which the alleged violation occurred or the District Court of the District of Columbia. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the permit, regulation, condition, requirement, prohibition, or order, referred to in paragraph (1), to order such person to take such other action as may be necessary, or both, or to order the Administrator to perform the act or duty referred to in paragraph (2), as the case may be, and to apply any appropriate civil penalties.

(b) ACTIONS PROHIBITED.—No action may be commenced under subsection (a)(1) of this section—

(1) prior to sixty days after the plaintiff has given notice of the violation to—

(A) the Administrator; and

(B) to any alleged violator of such permit, regulation, condition, requirement, prohibition, or order; or

(2) if the Administrator has commenced and is diligently prosecuting a civil or criminal action in a court of the United States to require compliance with such permit, regulation, condition, requirement, prohibition, or order.

In any action under subsection (a)(1), any person may intervene as a matter of right. Any action respecting a violation under this Act may be brought under this section only in the judicial district in which such alleged violation occurs.

(c) NOTICE.—No action may be commenced under paragraph (a)(2) of this section prior to sixty days after the plaintiff has given notice to the Administrator that he will commence such action. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(d) INTERVENTION.—In any action under this section the Administrator, if not a party, may intervene as a matter of right.

(e) COSTS.—The court, in issuing any final order in any action brought pursuant to this section or section 125, may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing or substantially prevailing party, whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(f) OTHER RIGHTS PRESERVED.—Nothing in this section, or this title, shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or requirement or to seek any other relief (including relief against the Administrator).

SEC. 128. SEPARABILITY.

If any provision of this title, or the application of any provision of this title to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this title, shall not be affected thereby.

SEC. 129. RELATIONSHIP TO OTHER LAWS.

(a) Nothing in this title shall be construed to diminish the authority of the Administrator under the Clean Air Act, the Resource Conservation and Recovery Act, or the Toxic Substances Control Act, or any other law, or to affect the authority of any other department, agency, or instrumentality of the United States under any provision of law to promulgate or enforce any requirement respecting the control of any substance, practice, process, or activity for purposes of protecting the stratosphere or ozone in the stratosphere, or the global environment.

(b) Nothing in this Act shall preclude or deny any State or political subdivision thereof from adopting or enforcing any requirement respecting the control of any substances, practice, process, or activity for purposes of protecting the stratosphere or ozone in the stratosphere or the global environment.

SEC. 130. AUTHORITY OF ADMINISTRATOR.

The Administrator is authorized to prescribe such regulations as are necessary to carry out this Act.

TITLE II—GLOBAL CHANGE ADJUSTMENT AND MITIGATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Environmental Adjustment Act of 1989".

SEC. 202. FINDINGS.

The Congress finds that—

(a) there has been an observed increase in global average temperatures of 0.7 degrees Centigrade in the last century;

(b) regardless of any action taken by humanity, there will be further global average temperature increases of up to one degree Centigrade;

(c) such temperature increases will manifest themselves in widespread alterations of the current environment;

(d) such changes may include, but will almost certainly not be limited to, the following:

(1) a rise in the level of oceans, bays, sounds, and other bodies of water, with ensuing destruction of natural and manmade structures;

(2) shifts in patterns of rainfall and soil moisture, resulting in marked changes in agricultural productivity;

(3) changes in the distribution and seasonal availability of fresh water resources, including the exhaustion of surface and ground water supplies;

(4) increased political instability, with the potential for international conflict; and,

(5) accelerated extinction of plant and animal species, including many now classified as endangered;

(e) the adverse effects of some such changes can be mitigated through proper long range planning, analysis and, most importantly, action; and

(f) substantial resources can be saved through the adoption of a program to systematically identify the impacts of proposed actions on global environmental change and the effects of such changes on the natural environment and engineered structures and systems.

SEC. 203. AMENDMENT TO THE NATIONAL ENVIRONMENTAL POLICY ACT.

The National Environmental Policy Act of 1969 is amended by adding at the end thereof a new title as follows:

"TITLE III—GLOBAL PROTECTION

"Subtitle A—Atmospheric Protection

"SEC. 301. SHORT TITLE.

"This subtitle may be cited as the "Atmosphere Protection Act of 1989".

"SEC. 302. FINDINGS.

"The Congress, recognizing the profound and irreversible and potentially catastrophic impacts of humanity's activities on the global atmosphere and the world's environment, and the inability of science to predict with certainty the consequences for humanity of any such changes, hereby declares that each person has a responsibility and obligation to avoid contamination of the atmosphere.

"SEC. 303. AUTHORIZATION.

"The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this chapter, and (2) all agencies of the Federal Government shall, with respect to pollutants, substances, products, or practices which may contribute to global climate change, stratospheric ozone depletion, or trace gas modification of the atmosphere—

"(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

"(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by subchapter II of this chapter, which will assure that environmental contamination is minimized;

"(C) include in every recommendation on report or proposals for legislation and other major actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

"(i) the environmental impact of the proposed action,

"(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

"(iii) alternatives to the proposed action,

"(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

"(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Such pollutants and substances shall include, at a minimum, the following: carbon dioxide, oxides of nitrogen, chlorofluorocarbons, halons, methyl chloroform, carbon tetrachloride and methane. Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, and shall accompany the proposal through the existing agency review processes;

"(D) study, develop, describe and select appropriate alternatives which recognize and minimize the environmental impacts of such proposed action.

"(E) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

"(F) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

"(G) assist the Council on Environmental Quality established by subchapter II of this chapter.".

SEC. 204. INVENTORY AND REVIEW OF FEDERAL FACILITIES, HOLDINGS AND ACTIVITIES.

(a)(1) Not later than January 1, 1991, the President shall direct each agency and instrumentality of the executive branch to undertake a systematic and comprehensive survey of all Federal lands and structures to ascertain their vulnerability to changes associated with changes in the global environment. To the maximum extent practicable, such survey shall include the lands and structures of State and local government and Indian tribes as well. Such survey shall include, but not be limited to, the following:

(A) public highways, bridges, tunnels, and other transportation structures;

(B) ports, waterways, locks and dams;

(C) public buildings and monuments;

(D) publicly owned treatment works;

(E) national parks, forests, wilderness areas, wildlife refuges, marine sanctuaries, and all other comparable facilities; and,

(F) national defense facilities, including but not limited to military bases and reservations, whether located in the United States or elsewhere.

(2) Not later than January 1, 1993, the President shall submit a report to the Congress containing the results of the survey required by this section and recommending both generic and site-specific actions and policies to—

(A) preclude further public or private investment in areas susceptible to loss or damage due to global environmental change;

(B) minimize and mitigate the loss or damage due to the global environmental change which is likely to occur.

SEC. 205. GROUND WATER PROTECTION AND RECHARGE.

(a) FINDINGS.—The Congress finds that—

(1) a consequence of global climate change may be the exhaustion of ground water resources essential to the maintenance of agricultural productivity, the loss of which could jeopardize the national economy and security;

(2) existing knowledge and technology of artificial recharge of ground water is inadequate to meet existing and anticipated future water resource problems and to take advantage of possible water resource opportunities;

(3) a program to support and assure the study and development of artificial ground water recharge techniques is essential.

(b) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") acting through the Chief of Engineers, is authorized to undertake a program of research, development, and demonstration of artificial ground water recharge techniques. The purpose of such program shall be to—

(A) demonstrate the usefulness of artificial ground water recharge as a method for improving ground water quantity and for preventing degradation of, or improving ground water quality;

(B) determine the economic viability of artificial ground water recharge as a method of augmenting existing water supplies and improving ground water quality on a local or regional basis; and

(C) develop new and more efficient techniques for the transfer of surface water to existing or potential water bearing underground strata.

(3) In order to advance the purpose of this subsection, the Secretary shall, at different locations throughout the United States, design, construct, and operate and maintain projects to demonstrate different artificial ground water recharge techniques. To the maximum extent feasible, such locations shall be chosen to reflect a variety of geological, physical, and chemical conditions affecting ground water quality and quantity. In selecting such locations, and carrying out such work, the Secretary shall consult and coordinate with appropriate State and local governmental agencies.

(c) COORDINATION.—In order to prevent any unnecessary duplication of effort, and in order to fully utilize the available expertise of other agencies and departments of

the United States, the Secretary, in carrying out subsection (b) of this section, shall consult and coordinate with the United States Geological Survey, the Environmental Protection Agency, the Bureau of Reclamation, and other appropriate agencies and departments of the United States.

(d) UTILIZATION OF CURRENT RESOURCES.—To the extent possible, activities undertaken pursuant to subsection (b) of this section shall utilize existing or authorized Corps of Engineers water resources projects, programs, facilities, and personnel.

(e) REPORT.—Not later than May 30, 1994, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works in the Senate, a final report describing the results of activities undertaken pursuant to this section. Not later than 30 months after the date of enactment of this Act, the Secretary shall transmit to such Committees of Congress a brief report describing the progress of such activities.

(f) DEFINITIONS.—For the purposes of this section, the term—

(1) "artificial ground water recharge" shall include but not be limited to techniques to supplement or otherwise affect ground water supplies such as wells, pits, ponds, spreading basins, or gravel chains; and

(2) "non-Federal sponsor" shall mean a State, city, county, or any other entity which derives its powers from a State constitution, or was created pursuant to an Act of a State legislature.

(g) SHORT TITLE.—This section shall be known as the "Ground Water Recharge Research and Demonstration Act".

TITLE III—INTERNATIONAL COOPERATION

SEC. 301. FINDINGS.

The Congress finds that—

(a) complete elimination of chlorofluorocarbons and related chemicals which are destroying the Earth's protective ozone layer and adding to global temperature increases requires concerted international agreement and action;

(b) the most effective controls on emissions of carbon dioxide, hydrocarbons, oxides of nitrogen, methane and other trace gases which are increasing global temperatures will require concerted international agreement and action;

(c) international agreements to address some aspects of these global threats are already underway and include—

(1) an international protocol to reduce production and use of chlorofluorocarbons;

(2) an international agreement to reduce emissions and transboundary transport of oxides of sulfur;

(3) an international agreement to reduce emissions and transboundary transport of oxides of nitrogen.

(d) in the absence of such international cooperation and agreement, the interests of the United States will be directly and substantially threatened due to—

(1) damage to the domestic environment;

(2) damage to the national economy;

(3) increased international tension; and

(4) increased danger of international armed conflict.

SEC. 302. INTERNATIONAL COOPERATION.

(a) The President is hereby directed to request that the United Nations promptly establish a temporary new agency to be headed by the director of the United Nations Environmental Program, to—

(1) coordinate international efforts to minimize and mitigate the effects of unavoidable environmental alterations; and,

(2) provide financial, technical and other assistance to developing nations to facilitate improvements in their domestic standards of living while minimizing or eliminating contributions to global, continental and subcontinental scale environmental damages.

(b) The President is hereby directed to request that the United Nations establish a temporary program of forestation to—

(1) assist and encourage nations in halting activities which are resulting in destruction of the world's forests; and

(2) undertake a global program of reforestation.

(c) The President is hereby directed to instruct United States representatives to bilateral and multilateral organizations other than the United Nations to review the activities of such organizations to assure that their actions and programs are consistent with the goals and objectives of this Act and, where necessary, to persuade such organizations to adopt programs to implement the goals and objectives of this Act.

TITLE IV—DEVELOPMENT OF NON-POLLUTING ENERGY SOURCES

SEC. 401. NATIONAL COMMISSION ON INHERENTLY SAFE NUCLEAR ENERGY.

(a) There is established a commission to be known as the National Commission on Inherently Safe Nuclear Energy (hereinafter in this section referred to as the "Commission").

(b) The duties of the Commission are to—

(1) assess generally the safety and reliability of the current generation of nuclear power plants in the United States;

(2) review the nuclear industries of other nations which rely heavily on nuclear power for the generation of their electricity and report on the comparative safety and reliability of the programs of those nations, which shall included but not be limited to France, West Germany, Canada, Japan, Sweden, and Finland;

(3) review each incident in the United States related to the operation of a nuclear power plant in which there has been personal injury, or a significant threat thereof, and report on the causes of consequences of such incident, including ways in which it could have been avoided;

(4) review and assess the nature and magnitude of public opposition and concern with the safety of nuclear power and the reasons for such concern and opposition;

(5) evaluate options for responding to the concerns and fears of the public in a fashion which allays fears by responding substantively;

(6) evaluate the suitability of the current structure of the domestic utility industry with respect to the safe and efficient operation of nuclear units, and alternatives to such current structure;

(6) identify and evaluate each inherently safe passive control technology which might reasonably become available by the year 2010 and examine explicitly whether each such technology has the potential to minimize or eliminate the risks, whether real or perceived, associated with nuclear power by the American public;

(7) review the difference in operating records of each utility operating nuclear generating plants and make specific recommendations for changes in technologies, policies, practices, and organizational structure of the industry designed to assure that the best of those safety records become the standard for the United States industry; and

(8) conclude and state specifically whether it is possible to develop in the United States a nuclear industry capable of supplying not less than 50 per centum of the Nation's electricity needs through the year 2100 in a way which enjoys the trust, confidence and support of the public.

(c)(1) The Commission shall be composed of nineteen members as follows:

(A) six appointed by the Speaker of the United States House of Representatives from among the Members of the House of Representatives;

(B) four appointed by the majority leader of the United States Senate from among the Members of the United States Senate;

(C) eight appointed by the President as follows:

(i) four from among a list of nominations submitted to the President by the National Governors Association;

(ii) one from among a list of nominations submitted to the President by the National League of Cities and the United States Conference of Mayors;

(iii) three from among a list of nominations submitted to the President from groups, organizations, or associations of citizens which are representative of persons concerned with pollution and environmental issues and which have participated, at the State or Federal level, in studies, administration proceedings, or litigation (or any combination thereof) relating to nuclear energy; and

(D) the Chairman of the Nuclear Regulatory Commission.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Appointments may be made under this subsection without regard to section 5311(b) of title 5, United States Code. Not more than four of the six members appointed under subparagraph (A) and not more than three of the four members appointed under subparagraph (B) may be of the same political party. No member appointed under paragraph (C) may be an officer or employee of the Federal Government.

(2) If any member of the Commission who was appointed to the Commission as a Member of the Congress leaves that office, or if any member of the Commission who was appointed from persons who are not officers or employees of any government becomes an officer or employee of a government, he may continue as a member of the Commission for not longer than the ninety-day period beginning on the date he leaves that office or becomes such an officer or employee, as the case may be.

(3) Members shall be appointed for the life of the Commission.

(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be entitled (subject to appropriations provided in advance) to receive the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(B) Members of the Commission who are Members of the Congress shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(5) Five members of the Commission shall constitute a quorum but two may hold hearings.

(6) The Chairman of the Commission shall be appointed by the Speaker of the House of Representatives from among members appointed under paragraph (1)(A) of this subsection and the Vice Chairman of the Commission shall be appointed by the majority leader of the Senate from among members appointed under paragraph (1)(B) of this subsection. The Chairman and the Vice Chairman of the Commission shall serve for the life of the Commission unless they cease to be members of the Commission before the termination of the Commission.

(7) The Commission shall meet at the call of the Chairman or a majority of its members.

(d)(1) The Commission shall have a Director who shall be appointed by the Chairman, without regard to section 5311(b) of title 5, United States Code.

(2) The Chairman may appoint and fix the pay of such additional personnel as the Chairman considers appropriate.

(3) With the approval of the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code.

(4) The Commission shall request, and the head of any Executive Branch Agency is authorized to detail on a reimbursable nonreimbursable basis, any of the personnel of their respective agencies to the Commission to assist it in carrying out its duties under this section.

(e)(1) The Commission may, for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(4) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(5) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(f)(1) The Commission shall transmit to the President and each House of the Congress a report not later than October 30, 1995. The report shall contain a detailed statement of the findings and conclusions of the Commission with respect to each item listed in subsection (b), together with its recommendations for such legislation; and administrative actions, as it considers appropriate.

(g) The Commission shall cease to exist on January 1, 1996.

(h) There is authorized to be appropriated for the fiscal years 1990 through 1996 not to exceed $50,000,000 to carry out this section.

SEC. 402. NATIONAL GOAL.

It is hereby established as a national goal of the United States to derive 50 per centum of the national supply of energy from nonpolluting technologies and practices by the year 2000 and 100 per centum by the year 2050.

Mr. JEFFORDS. Mr. President, I am pleased to join the senior Senator from Vermont in introducing this most important environmental bill—a bill which stands as a testimony to the legacy of Robert T. Stafford, Senator Stafford gave his career to the service of his community, his State and his country. It is most befitting that in the final months of his distinguished senatorial career he devoted so much effort toward developing a bill to preserve, and to certain extent to rescue, this planet from destructive ways of its own inhabitants.

The Global Environment Protection Act is the work of Robert Stafford and the competent staff with which he had come to surround himself. Far reaching in scope and with particular attention to our planet's most pressing concerns, this bill is a model from which a comprehensive global environmental strategy can be built.

This bill attacks with particular vigor the root causes of stratospheric depletion and carbon dioxide accumulation. Setting as a goal the complete elimination of halogenated CFC use and sale by 1999, the bill prohibits the use of CFC's except in a totally enclosed system effective 24 months after enactment and bans the production and sale of fully halogenated CFC's 6 years from enactment. With the purpose of achieving a 50 percent reduction in emissions of CO_2 by the year 2000, the bill establishes graduated regulatory standards for mobile and stationary emittors of carbon dioxide.

The act addresses sources of ozone pollution through stricter regulation of nitrogen oxides and hydrocarbons from vehicular and stationary sources. The Environmental Protection Agency would be required to inventory and report on all sources of methane emissions, with interim requirements for refineries and landfills.

The Stafford bill makes law an issue on which the Environmental Protection Agency has failed to render an interpretation. The National Environmental Protection Act would be amended to require environmental impact statements to assess the effects of proposed action on the global environment and minimize the impacts of any proposed action on the environment. This step would ensure that Americans lead the way in reducing the effects that future actions might have on global climate change.

International cooperation in global environmental issues would be assured by requiring the President to petition the United Nations to establish a program to coordinate international efforts and provide financial, technical and other assistance to minimize and mitigate environmental problems. Particular and immediate attention would be directed toward halting deforestation and desertification, and to reforest areas already deforested.

This legislation sets a national goal of the United States to generate 100 percent of the Nation's power from nonpolluting energy sources by the year 2050.

While the time is not too late to put in place the mechanics of law described by Senator Stafford's Global Environment Protection Act, neither is the time too soon. As a nation we face tough choices in solving environmental deficiencies; as a planet we are imperiled by the gravity of the situation and by the enormity of the task.

The 101st Congress has a unique opportunity to address these pending issues with competent and effective legislation. Senator LEAHY and I offer this bill as launching point for debate, and as a tribute to a most distinguished Vermont Senator who, in constantly considering the welfare of his fellow man, saw malady at hand for this planet's environment and sat down to the task of describing its remedies.

By Mr. BINGAMAN (for himself and Mr. PELL):

S. 334. A bill to promote state-wide health promotion campaigns, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL HEALTH PROMOTION ACT

Mr. BINGAMAN. Mr. President, I rise today to introduce the National Health Promotion Act, legislation aimed at improving the health and well being of Americans nationwide through the creation of innovative Federal-State health promotion campaigns.

Last year, the Surgeon General issued his first Report on Nutrition and Health. That landmark document revealed that two-thirds—66 percent—of all deaths in the United States are caused by chronic ailments such as coronary heart disease, stroke, atherosclerosis, diabetes, and cancer. The report also, for the first time, detailed important evidence linking diet and disease.

The Surgeon General made some important recommendations for improving our diets and decreasing our risk of developing a chronic disease. These include lowering our consumption of saturated fats, high-cholesterol foods, sugar, sodium, and alcoholic beverages, and eating more foods containing complex carbohydrates and fiber.

Unfortunately, neither these changes nor the other critical steps to better health will come about simply because the Surgeon General issued a report. Change will come only from informed individual action by each

person in our society. But the reality is that many Americans, across the country, will never hear or read the Surgeon General's report. Many Americans will remain unaware of the relationship between their diet and their risk from chronic diseases, and they will remain unsure of what foods they should and should not eat.

If we could find a way to reach into every State, reservation, city, and town in the country with information on diet, fitness, and good health habits, our country would benefit in a multitude of ways. Evidence is clear that better health habits enhance personal well-being and quality of life, improve work-place productivity, and decrease medical costs. These, in turn, lead to greater economic well-being for the country as a whole.

In my home State of New Mexico, I helped develop the type of health promotion program I envision for the Nation. That program, HealthNet New Mexico, has just begun its third year of helping New Mexicans lead healthier lives. By the end of its second year, more than 44,000 New Mexicans in more than 60 communities and 642 worksites and schools had participated in the program.

HealthNet's mission is to help New Mexicans make important diet and fitness changes and live healthier lives. Its goal is to have New Mexicans eating healthy diets, exercising regularly, and living tobacco-free lives.

HealthNet targets individual behavior change annual health campaigns. The campaigns, Eat Right New Mexico and Get Fit—Tobacco Free New Mexico, focus on improving nutrition, encouraging fitness, and eliminating tobacco use. During the campaigns, participants register at worksites, schools, senior centers, health care institutions, and other appropriate locations. They come away with charts and materials to guide them through the 10-week session. The materials include information on diet, fitness, or tobacco use, and outline step-by-step goals that can be tailored to an individual's particular needs.

Each person is responsible for improving his or her health habits and motivation. The program also encourages participation by entire offices, competitions between offices or towns, lectures, demonstrations, group walks and exercise classes. In New Mexico last year, a number of health professionals gave weekly lectures to the public free of charge in communities and worksites throughout the State.

To ensure a successful series of campaigns, community-wide organization is crucial. HealthNet New Mexico, a nonprofit organization funded by private contributions, involves individuals from Federal, State, and local agencies, professional organizations, education institutions, businesses, health care institutions, and the media. Media participation is central, particularly because many New Mexicans live in rural areas. With the cooperation of major television stations, local radio stations, and newspapers, HealthNet messages can reach virtually all of the State's 1.4 million people.

HealthNet now is evaluating the results and benefits of its campaigns. We do not have to wait for the statistical results, however, to know that heightened individual awareness of good health habits is benefiting many people around the State. For many New Mexicans, energy and fitness levels are up, and the State has benefited from lower health care costs and increased worker productivity.

I believe our country as a whole can, and should, share the benefits we have experienced in New Mexico. The legislation that I am introducing will help other States develop their own HealthNet programs. It calls for a grant program administered by the Secretary of Health and Human Services. During the 5-year program, each State can apply for funds for any three consecutive years on a 75-, 50-, and 25-percent Federal matching basis, respectively.

The State would be responsible for developing a program and enlisting the support of appropriate organizations and professionals. The State would also establish an advisory board of individuals from Government, health care organizations, the private business sector, the education profession, and the general public, which will develop a comprehensive plan for the health promotion campaigns.

The plans should focus on improving physical fitness and nutrition, reducing tobacco use and misuse of drugs and alcohol, controlling high blood pressure, preventing lifestyle-related accidents, and reducing stress.

Finally, my bill stipulates that the States must assure an equitable distribution of the grants within their State. And if the States plan to charge individual participation fees, they must do so on a sliding scale, based on ability to pay. This will help assure the widest possible participation in all of the States.

If we in the Federal Government help get these campaigns started, each State eventually will be able to operate the programs on their own. Given the many benefits of these health promotion campaigns, it will be in the States' interest to continue them beyond the 3-year development period.

I am convinced that good health leads not only to a longer life, but to a better life. I am convinced that good health is absolutely essential to remaining a productive, competitive Nation in the world economy. And I am convinced that if this legislation is enacted and effectively implemented, our Nation will experience a revolution in health awareness that will alter significantly, and positively, the quality of life for all Americans.

By Mr. McCAIN:

S. 335. A bill to amend title XVIII of the Social Security Act and other provisions of law to delay for 1 year the effective dates of the supplemental Medicare premium and additional benefits under part B of the Medicare Program, with the exception of the spousal impoverishment benefit; to the Committee on Finance.

MEDICARE CATASTROPHIC COVERAGE REVISION ACT

● Mr. McCAIN. Mr. President, this afternoon I am introducing a bill to delay, for 1 year, certain provisions of the "Medicare Catastrophic Coverage Act of 1988." The legislation I am introducing, the "Medicare Catastrophic Coverage Revision Act of 1989," will afford Congress the opportunity to reevaluate, through public hearings, the "Medicare Catastrophic Coverage Act" to assess whether it truly meets the real catastrophic illness protection needs of our Nation's seniors.

HISTORY OF INVOLVEMENT WITH CATASTROPHIC COVERAGE ISSUE

Last June, Mr. President, just prior to the final vote on the Medicare Catastrophic Coverage Act, I stood on the floor of the Senate to share with my colleagues what I was hearing from Arizonans regarding the legislation which we were about to consider.

In my remarks last June, I reported that I joined Senator DOLE, and others, in February 1987 in introducing the original catastrophic illness protection legislation. As you know, this legislation would have added—for a nominal additional flat premium for Medicare beneficiaries—a long-term hospitalization benefit to the pool of benefits available through the Medicare Program. While some argued this legislation was not comprehensive enough, I felt it was a good start at addressing the catastrophic health care protection needs of our Nation's seniors.

In October 1987, we in the Senate considered a more comprehensive piece of legislation aimed at providing seniors with protection from the financial ravages of a catastrophic illness. While it added a drug benefit, and several other benefits, like the original legislation, it did not provide protection from that which seniors feel is their greatest health care protection need—protection from the financial ravages of long-term care. Because this legislation did not mandate that beneficiaries pay the premiums even if opted not to participate in the part B program, and a perception that this proposal enjoyed the support of the vast majority of our Nation's seniors, I voted for it.

SENSING DISCONTENT AMONG SENIORS

As this issue was further addressed in the House, however, I began to sense some rumblings over the direction that Congress seemed to be moving in this area. Rumblings that seemed to be growing.

VIEWS OF ARIZONA'S SENIORS

I decided the only way to get a good handle on what was going on with respect to the views of seniors, was to take this issue directly to the seniors. So, I sent the majority of seniors in Arizona a comprehensive mailing outlining the major provisions of the Senate bill, including the bill's costs. Mr. President, I heard back from over 30,000 senior Arizonans in response to the mailing.

The response was very telling.

Less than 1 out of every 3 of the respondents supported the legislation.

Many of those responding to the mailing took the time to elaborate on their stated position. The following were the major comments of those who were concerned about the bill:

First, the overwhelming concern expressed was a need for long-term coverage.

Second, very few seemed to support the prescription drug benefit—believing that the money would be better spent on some protection in the area of long-term care.

Third, there was a high level of concern about the issue of spousal impoverishment—which is where the spouse of an individual who is receiving long-term care services is forced to spend the majority of their assets before they get assistance with their health care bills.

And, last, the majority of the respondents wanted the freedom of choice with regard to participation in the plan. They objected strongly to being prohibited from participating in the Medicare Part B Program if they opted not to participate in the catastrophic benefit.

Mr. President, many relayed that they had the option of purchasing much of the acute-care protection through the private sector, and wanted the Federal Government's policy to be geared toward a continuation of the policy that people would purchase insurance in the private sector to provide partial coverage of their needs. Most felt this private-sector coverage was fairly affordable—either paid for by themselves or their former employer, but that insurance policies providing protection against the expenses of long-term care is way out of reach financially for most seniors.

I followed up this mailing by meeting with many senior groups. I would like to briefly touch on one of these occasions—a speech given before 80 to 100 seniors at a typical middle-income mobile home park. After presenting these seniors with the details of the final conference version of the catastrophic illness legislation, I was shocked to find that none of them seemed to support the legislation.

First, they protested the fact that the cost of the supplemental premium had risen so dramatically as the legislation had moved through Congress.

Second, they were extremely upset that under the conference version, participation in the financing was mandatory—regardless of whether or not a beneficiary already had coverage through the private sector.

Third, 80 percent of them cited a desire to see some public-sector coverage of long-term care services. And, they were willing to pay up to an additional $500 or 600 a year for meaningful coverage in this area.

And, last, only about 5 percent believed prescription drug coverage was one of the components that should be included in a catastrophic illness protection bill.

VOTE ON FINAL CONFERENCE VERSION

Mr. President, as I stated in my remarks prior to the final vote on the Medicare Catastrophic Coverage Act, if the views of this typical middle income group from Phoenix, Arizona was going to be representative of the response from the senior community at large, we were considering the wrong solution. It was the input from seniors in my State, and major changes in the legislation—such as participation in the financing of the program becoming mandatory, regardless of whether the individual wanted to participate in the program—that led me to ultimately decide to vote against the final version of the bill.

What made this vote particularly tough for me is that I had been on board this issue from the beginning, and believed that something needed to be done to provide seniors with some catastrophic illness protection. But, the input I was receiving from Arizona's seniors told me that what we were voting for did not represent what the majority of the seniors desired in the say of catastrophic illness protection. And, after all, they are paying the bill.

Mr. President, I am convinced that the views being expressed by the seniors of Arizona were not an aberration. Rather, they were a snapshot of the views many of the Nation's seniors would come to hold of the Medicare Catastrophic Coverage Act as they studied it in detail—learning what the bill does and does not cover, and what it costs. In fact, since its enactment, I have received close to 5,000 letters—and all but a literal handful have been opposed to the Act. And these letters are not generated by special interests or mail campaigns either.

IMAGES EVOKED FROM BILL'S TITLE

When I was working through the legislation with my state's senior population, I found that the title of the legislation—the Catastrophic Coverage Act—conjured up certain images in seniors minds about what would be covered. Seniors thought of health services needed for such illness, or maladies, as Alzheimer's disease, a stroke, or the breaking of a hip. Yet, Mr. President, all of these require long-term care services in one form or another. And, for the most part, seniors found that they will not receive such coverage through this act. And, this has evoked some concern.

In opinion, many seniors thought this new catastrophic coverage would solve their long-term care worries. And, they are upset upon learning that this is just not the case. Thus, in the eyes of seniors, the act does not really live up to the promise of its name. For the most part, it does not cover the "catastrophe" of the huge bills that result from long-term nursing home care, or the "catastrophe" of extended health care provided at home. Because this act so dramatically increases Medicare premiums, I do not know where Congress can responsibly turn to pay for any meaningful provision of long-term care coverage through the public sector.

EFFECT OF MY LEGISLATION

That is why I am offering this legislation this morning. As I stated previously, the legislation I am offering this morning will allow the long-term hospitalization, which has already been implemented to stay online. Second, it will permit the spousal impoverishment protection to come online—as currently scheduled—beginning in July 1989. Third, it will delay implementation of the other benefits in the act for a year. Fourth, it will delay implementation of the supplemental premiums for a year. This would afford Congress the opportunity to review, through public hearings, whether we indeed have taken the wrong road.

Mr. President, I believe the senior population of this country is willing to pay for a benefit package that provides them with protection from the financial ravages of a catastrophic illness. And, given the high deficits, and the fact that our Nation's elderly population is fairly well off financially, I believe the only way we can provide additional benefits is if the elderly population at large supports the bulk of the cost. Mr. President, I think the package we are providing through the Catastrophic Illness Coverage Act is inconsistent with what seniors see as their true need. If it were consistent with the seniors needs, I think the response would be very different—including the response to the supplemental premium.

Mr. President, as Arizona seniors have communicated with me about their catastrophic illness protection needs, long-term hospitalization and spousal impoverishment consistently

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rank at the top of their list. This appears to be consistent with national opinion, according to a recent AARP poll. As a result, I believe it is important that these two benefits are added to the existing pool of benefits available to Medicare beneficiaries. Given the limited resources, however, that are available for adding catastrophic illness benefits on the public sector side, we need to make sure that all the benefits we are offering meet the true need.

COST OF LONG-TERM CARE—GREATEST FEAR OF SENIORS

It is with good reason that the greatest fear of older Americans in the health care area is the expense of long-term care services.

We are told that by the time you hit 65, you stand a 50-percent chance of entering a nursing home during the remaining period of your life. And, with the cost of a year's stay in a nursing home ranging from $22,000 to $35,000, all but the most affluent elderly can be bankrupted. It is alarming that close to 90 percent of single older Americans become impoverished within a year after they enter a nursing home, as a result of the financial burden of the cost of this care.

While many of the benefits in the Medicare Catastrophic Coverage Act, are available—in one form or another—in the private sector, at fairly reasonable cost, the same is not true for long-term care. There are a number of policies available on the private market that cover nursing home services, but the price of those offering real protection is very high. According to a Consumer Reports analysis of 53 policies, published in May, the cost to a 65-year-old for an average plan offering real protection is $1,200 a year and up, and $3,500 a year and up if purchased at age 75. A study by the Brookings Institution, last year, echoed these findings.

While I do not advocate that the public sector take the place of the private sector in this area, I do think there is a legitimate role the public sector might be able to play. Perhaps it could be to provide coverage of those stays that exceed a specific period of time or cost—leaving the individual to fill, through the private sector, the gap. In addition, I believe we need to work with the private sector to make long-term care insurance more affordable, and available to a great many more people. And, for those who cannot afford the full cost, perhaps we should look at ways we might assist them in meeting such costs.

CONGRESS OUGHT TO REVIEW TRUE CATASTROPHIC COVERAGE NEEDS OF SENIORS

Mr. President, I strongly believe we need to review where we have gone with the Medicare Catastrophic Coverage Act. While the process of reviewing the act will certainly take time—which may conflict with all the agenda priorities for this 101st Congress—I believe we have a responsibility to provide the seniors with a package that meets their true needs, particularly since they are paying the bill.

Mr. President, I urge my colleagues to look at what their constituents are saying to them about the Catastrophic Illness Coverage Act. I know many of them, as have I, have been hearing from a great many seniors regarding their discontent with where we went with the catastrophic illness legislation. In doing so, I would encourage them to look at the legislation I am offering this morning to determine whether the approach I am taking would meet the concerns of their senior population.

DIFFERENCE BETWEEN THIS AND OTHER LEGISLATION

Before closing, I would just like to share the difference between this legislation I am offering, and a couple of different approaches that have been taken to date.

First, there are currently a number of proposals that would repeal the entire act. I do not believe, as do some, that we should pull down the whole act—as there are certainly some provisions which are truly catastrophic-related. What's more, we may indeed find that by and large the seniors of this country would prefer to have all of the provisions in the act rather than see us do something in the way of long-term care.

Second, there are a couple of proposals that would delay what has not already been implemented and establish a commission to study whether we should change that portion of the act which has not already been implemented. While I do think we should delay those provisions that have not already been implemented, I think the spousal impoverishment benefit ranks high on the list of catastrophic illness-related benefits that the seniors want. In addition, I think that Congress should be in charge of reviewing the act and not duck behind a commission. I think we owe it to the seniors of this country to take responsibility for what we have done. In saying this, however, I do not believe that seniors will hold it against us to correct our course—given that we were embarking in uncharted waters.

CLOSING

Mr. President, I welcome the participation of my colleagues with the proposal I am introducing this afternoon—legislation to attempt to correct the course, and provide this Nation's seniors with true protection from the financial ravages of those catastrophic illness-related services that are of the greatest concern.

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. 335

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

SECTION 1. That the Act be cited as the "The Medicare Catastrophic Coverage Revision Act of 1989".

SEC. 2. PURPOSES.

It is the purpose of this Act—

(1) to provide Medicare beneficiaries with protection from the financial ravages of an illness that results in a long-term hospitalization (provided for in the Medicare Catastrophic Coverage Act of 1988, already implemented);

(2) to provide Medicare beneficiaries with protection from what is commonly referred to as spousal impoverishment—the near total liquidation of a couple's assets in order to meet the income eligibility requirements for long-term care benefits through the Medicaid program—by permitting the spouse who is not in need of long-term care services to retain a certain level of assets and/or income (provided for in the Medicare Catastrophic Coverage Act of 1988, to be phased-in—beginning in July 1989);

(3) to permit a nominal, flat, increase in Medicare premiums in order to pay for the long-term hospitalization and spousal impoverishment benefit (provided for in the Medicare Catastrophic Coverage Act of 1988, already implemented);

(4) to delay, for a year, implementation of all other benefits provided for in the Medicare Catastrophic Coverage Act of 1988;

(5) to delay, for a year, implementation of the supplemental premium provided for in the Medicare Catastrophic Coverage Act of 1988;

(6) so Congress will be afforded the opportunity to review the portions of the Act which this legislation delays to determine whether it ought re-structure the Act to deal with the concerns of our nation's seniors. Their concerns being that the Act includes some items which are seen by the seniors as not truly catastrophic-related, that the financing ought to be spread more generally across the senior population, and that the Act does not provide much in the way of protection from the financial ravages of an illness requiring long-term care services.

SEC. 3. DELAY IN PART B BENEFITS AND RELATED PROVISIONS.

(1) Section 1833(c) of the Social Security Act (42 U.S.C. 13951(c)), as inserted by section 201(a) of the Medicare Catastrophic Coverage Act of 1988, is amended—

(A) in paragraph (1), by striking "1990" and inserting "1991";

(B) in paragraph (3), by striking "1990" each place it appears and inserting "1991"; and

(C) in paragraph (3)(A)—

(i) by striking the first sentence,

(ii) in the second sentence, by striking "succeeding year" the first place it appears and inserting "year (beginning with 1991)", and

(iii) in the second sentence, by striking "succeeding the second place it appears.

(2) Paragraph (4)(B) of section 1861(t) of the Social Security Act, as added by section 202(a) (2) (C) of the Medicare Catastrophic Coverage Act, is amended by striking "1990" and inserting "1991".

(3) Section 1834(c) of the Social Security Act, as added by section 202(b)(4) of the Medicare Catastrophic Coverage Act, is amended–

(A) in paragraph (1) (C) (i), by striking subclause (I) and (II) and inserting the following:

"(I) 1991 is $600,

"(II) 1992 is $652, and";

(B) in paragraph (1) (C) (i) by striking subclause (III) and redesignating subclause (IV) as subclause (III);

(C) in paragraph (1) (C) (iii), by striking "1992" and inserting "1993";

(D) in paragraph (2) (C) (ii), by striking "1990", "1991", "1992", and "1993" and inserting "1991", "1992", "1993", and "1994" respectively;

(E) in paragraph (3) (A), by striking "1992" and inserting "1993";

(F) in paragraph (3) (C) (i), by striking "1990" and inserting "1991";

(G) in paragraph (4) (A) (i), by striking "1990" or "1991" and inserting "1991" or "1992";

(H) in paragraph (7) (B), striking "1991" and inserting "1992";

(I) in paragraph (8) (A), by striking "6 years" and inserting "7 years"; and

(J) in subparagraphs (B), (C), (D), and (F) of paragraph (8), by striking "1989", "1990", "1991", "1992", "1993" and "1994" and inserting "1990", "1991", "1992", "1993", "1994", and "1995", respectively.

(4) Paragraphs (1) and (4) of section 1842(o) of the Social Security Act, as added by section 202(c) (1) (C) of the Medicare Catastrophic Coverage Act, are each amended by striking "1991" and inserting "1992".

(5) Section 202(e)(4) (B) of the Medicare Catastrophic Coverage Act, is amended by striking "1993" and inserting "1994".

(6) Section 202(i)(2) of the Medicare Catastrophic Coverage Act is amended by striking "1989, 1990, 1991, 1992, and 1993" and inserting "1990, 1991, 1992, 1993, and 1994", respectively.

(7) Section 202(1)(2) of the Medicare Catastrophic Coverage Act is amended by striking "1989" and "1990" and inserting "1990" and "1991", respectively.

(8) Section 202(m) of the Medicare Catastrophic Coverage Act is amended by striking "1989", "1990", and "1991", and "1992", respectively.

(9) Section 1834(d)(2) of the Social Security Act, as added by section 203(c)(1)(F) of the Medicare Catastrophic Coverage Act, is amended by striking "1990" and inserting "1991".

(10) Section 203(c)(2) of the Medicare Catastrophic Coverage Act is amended by "1991" and inserting "1992".

(11) Section 1835(a)(2)(G) of the Social Security Act, as inserted by section 203(d)(1)(C) of the Medicare Catastrophic Coverage Act, is amended by striking "1993" and inserting "1994".

(12) Section 1154(a)(16) of the Social Security Act, as amended by section 203(d)(2) of the Medicare Catastrophic Coverage Act, is amended by striking "1993" and inserting "1994".

(13) Section 203(g) of the Medicare Catastrophic Coverage Act is amended by striking "1990" and inserting "1991".

(14) Section 1834(e) of the Social Security Act, as added by section 204(b)(2) of the Medicare Catastrophic Coverage Act, is amended—

(A) In paragraph (2)(B)(ii), by striking "1992" and inserting "1993",

(B) In paragraph (4)(A)(i), by striking "1990" and inserting "1991", and

(C) In paragraph (4)(B), by striking "1991" and inserting "1992",

(D) In paragraph (5), by striking "1990" and "1991" each place each appears and inserting "1991" and "1992", respectively.

(15) Section 204(3) of the Medicare Catastrophic Coverage Act is amended by striking "1990" and inserting "1991".

(16) Section 205(f) of the Medicare Catastrophic Coverage Act is amended by striking "1990" and inserting "1991".

(17) Section 206(b) of the Medicare Catastrophic Coverage Act is amended by striking "1990" and inserting "1991".

SEC. 4. DELAY IN CERTAIN REVENUE-RELATED PROVISIONS.

(1) Section 59B of the Internal Revenue code of 1986, as added by section 111(a) of the Medicare Catastrophic Coverage Act, is amended—

(A) in the table in subsection (c)(2)(A), by striking the line relating to 1989;

(B) in the table in subsection (d), by striking the line relating to 1989; and

(C) in Subsection (e)(4)—

(i) by striking "before 1998" each place it appears and inserting "before 1999", and

(ii) in the percentage table in subparagraph (A), by striking "1994", "1995", "1996", and "1997" and inserting "1995", "1996", "1997" and "1998", respectively.

(2) Section 111(e) of the Medicare Catastrophic Coverage Act is amended—

(A) in paragraph (1), by striking "1988" and inserting "1990", and

(B) in paragraph (2) by striking "1989" and "1989" and inserting "1990" and "1990", respectively.

(3) Section 112(b) of the Medicare Catastrophic Coverage Act by striking "1990" and "1989" and inserting "1991" and "1990", respectively.

(4) Section 1839(g) of the Social Security Act, as added by section 211(a) of the Medicare Catastrophic Coverage Act, is amended—

(5) Section 1841A of the Social Security Act, as inserted by section 212(a) of the Medicare Catastrophic Coverage Act, is amended—

(A) in subsection (c), by striking "1990" and inserting "1991", and

(B) in subsection (d), by striking "1992" each place it appears and inserting "1993".

(6) Section 1840(i) of the Social Security Act, as added by section 212(b)(1) of the Medicare Catastrophic Coverage Act, is amended by inserting "(1)" after "(i)" and by adding at the end of the following new paragraph:

"(2)(A) Notwithstanding the previous provisions of this subsection but subject to subparagraph (B), premiums collected under this part which are attributable to subsection (g) for any month in 1989 shall, instead of being transferred to (or deposited to the credit) of the Federal Supplementary Insurance Trust Fund, be transferred to (or deposited to the credit of) the Federal Hospital Insurance Catastrophic Coverage Reserve Fund (created under section 1817A).

"(B) The total amount of the transfers or deposits made under subparagraph (A) shall not exceed the Secretary's estimate of the total amount of additional expenditures made under Part A which are attributable to benefits during 1989 and which would not have been made but for the amendments made by the Medicare Catastrophic Coverage Act of 1988."

(7) Section 1841B(c) of the Social Security Act, as inserted by section 213 of the Medicare Catastrophic Coverage Act, is amended by striking "1990" each place it appears and inserting "1991".

SEC. 5. MEDICAID PROVISIONS.

(1) Section 1905(p)(2) of the Social Security Act, as amended by section 301(b) of the Medicare Catastrophic Coverage Act, is amended by striking "1990", "1991", "1992", and "1993" each place each appears and inserting "1991", "1992", "1993", and "1994", respectively.

(2) Clauses (ii) and (iii) of section 1902(1)(2)(A) of the Social Security Act, as added by section 302(a)(2)(iii) of the Medicare Catastrophic Coverage Act, by striking "1990" each place it appears and inserting "1991".

SEC. 6. MAINTENANCE OF EFFORT.

Section 412 of the Medicare Catastrophic Coverage act is amended by striking "1990" each place it appears and inserting "1991".●

By Mr. DODD:

S. 336. A bill to amend title 38, United States Code, to authorize certain additional medical services for veterans with service-connected disabilities; to the Committee on Veterans' Affairs.

ADDITIONAL MEDICAL SERVICES FOR CERTAIN VETERANS

● Mr. DODD. Mr. President, I am today introducing legislation to authorize the provision of certain fertility services to veterans with service-connected disabilities which impair their ability to conceive children.

The Veterans' Administration maintains that it has the authority only to treat a disability medically or surgically, but not to help overcome its effects. On this basis, the VA has declined to provide or pay for fertility services such as in vitro fertilization on the basis that such procedures cannot repair, cure or result in decided improvement of the disability. Many have argued—in my judgment soundly—that this position is inconsistent with the VA's routine provision of items such as prosthetics, orthotics and sensory aids, none of which cure or repair a disability but rather help to overcome its resulting effect.

During the 100th Congress, the Senate Veterans' Affairs Committee labored diligently to craft a positive response to the needs of these veterans. Following a substantial degree of legislative effort and consultation, the committee reported and the Senate passed the Veterans Omnibus Health Care Act, including language to grant the Veterans' Administration the specific authority to provide fertility services. This provision did not survive a Senate-House conference, however, and the bill became law without reference to fertility services.

Mr. President, it is difficult to understand how we as a nation can deny this critical treatment to eligible veterans. Rather than discouraging parenthood, we ought to open every possible avenue to a rich and full family life to those who, in the service of their country, sacrificed the ability to parent a

child without certain essential medical services. I hope that the introduction of this measure will be a catalyst for reopening the debate regarding the provision of fertility services for eligible veterans, and that the list of accomplishments of the 101st Congress will include its enactment into public law.

I ask unanimous consent that the full 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. 336

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

SECTION 1. MEDICAL SERVICES RELATING TO CONCEPTION.

(a) TREATMENT OF SERVICE-CONNECTED INABILITY TO PROCREATE.—Section 612 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(1) The Administrator may provide medical services to a veteran (and, if necessary, a veteran's spouse) to the extent reasonably necessary to overcome the effects of a service-connected disability of the veteran which prevents or impairs the ability of the veteran and the veteran's spouse from conceiving a child. Such services may not include—

"(A) procedures to achieve pregnancy using gametes of an individual other than the veteran and the veteran's spouse;

"(B) the services of a surrogate gestational mother; or

"(C) services other than those reasonably necessary to overcome the effects of the veteran's service-connected disability.".

(b) EFFECTIVE DATE—The amendment made by subsection (a) shall take effect on October 1, 1989.●

BY Mr. HARKIN (for himself and Mr. GRASSLEY):

S. 338. A bill to authorize the Secretary of the Interior to provide for the development of a trails interpretation center in the city of Council Bluffs, IA, and for other purposes; to the Committee on Energy and Natural Resources.

ESTABLISHMENT OF WESTERN HISTORIC TRAILS CENTER

● Mr. HARKIN. Mr. President, today I am introducing legislation to authorize the establishment of a Western Historic Trails Center along the Missouri River in my State of Iowa. I am pleased to be joined in offering this legislation by my friend and colleague from Iowa, Mr. GRASSLEY.

The westward expansion of this country is one of the great historical events which shaped our Nation. Indeed, I would put it on a par with the Revolutionary War and the signing of the Declaration of Independence. For while these well-known events set the framework for our great democratic experiment, the explorers and pioneers who settled the West carried that experiment across an entire continent. If any of my colleagues think I overstate my case, I would ask them to try to imagine a United States which ended at the Missouri River.

I think every Senator understands the importance of studying and learning from our past. Within just a few miles of this Capitol Building, we can visit the National Archives, President Washington's Mount Vernon, the Manassas National Battlefield, and a host of other historic sites. Yet when I began to look several years ago at the history of the westward expansion of the United States, I found that there is no single facility where one can learn about this pivotal event in American history.

One of the reasons, perhaps, for this lack of a center for the recognition and teaching of the westward movement is the difficulty in memorializing an event, rather than a place. It is estimated that some 350,000 persons migrated west from 1841 through 1866. While you can see signs indicating the route of the Oregon Trail, the Mormon Trail, and the route followed by the great explorers Lewis and Clark, there is no one place to gain a real understanding of the people who made this great migration. And that's what history is really about—people.

Because of what I saw as this great need to fill a gap in American history, I introduced legislation in the last Congress to create a Western Historic Trails Center near Council Bluffs, IA. Council Bluffs, on the banks of the Missouri River, was the single most important starting point for the emigrants, so it is an ideal place for a center to interpret this event for today's Americans.

Last year, the Senate Committee on Energy and Natural Resources held hearings on this bill. Following those hearings the committee indicated several concerns it had with the legislation Senator GRASSLEY and I had introduced and suggested several changes. Those changes have been incorporated in the bill we introduced today.

It is my hope that the Senate will move quickly to approve this revised legislation so that Americans can soon learn more about this important chapter in our history.●

● Mr. GRASSLEY. Mr. President, there is one city in the United States where three major historical trails meet, the city is Council Bluffs, IA. It is there that the Lewis and Clark Trail, the Mormon Pioneer Trail, and the Oregon Trail all intersect. These trails were the courses our ancestors chose in their westward movement. They each possess traditional, historical, and cultural value.

These trails met at Council Bluffs and created a crossroads, it offered a stopping point for weary travelers. Thousands of pioneers stopped in Council Bluffs before beginning on the long laborious journey West. In fact, available information proves that more people passed through Council Bluffs on the way West than through any other place in the country. The reason for this is largely due to the location of Council Bluffs, it is situated on the plains along the Missouri River. Even today Council Bluffs is an accessible area to travelers, it is set between Interstates 80 and 29. This accessibility combined with the historical relationship would prove to make the Council Bluffs area a prime location for a National Western Historic Trail Center.

Today, I join Senator HARKIN and allow all Americans access to and preservation of our historical western trails movement. I am introducing legislation that would establish such a center in Council Bluffs. The establishment of the Center would stimulate interest, further educate, and also facilitate research. This would be accomplished by centrally locating documentation of the westward movement in one place.

Most Americans take pride in the westward movement. It was a time of bravery, courage, and boundless vision. These characteristics of our ancestors should not be lost. By supporting this legislation we may preserve part of our heritage while also educating.●

By Mr. BRADLEY (for himself, Mr. RIEGLE, Mr. CHAFEE, Mr. MATSUNAGA, Mr. DURENBERGER, and Mr. MOYNIHAN):

S. 339. A bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the Medicaid Program; to the Committee on Finance.

INFANT MORTALITY AND CHILDREN'S HEALTH ACT

Mr. BRADLEY. Mr. President, I rise to introduce the Medicaid Infant Mortality and Children's Health Act of 1989. Joining me in introducing this legislation are Senators RIEGLE, CHAFEE, MATSUNAGA, DURENBERGER, and MOYNIHAN. This legislation amends the Medicaid Program to require States to provide health care coverage for pregnant women and infants up to 185 percent of the Federal poverty level, to phase in coverage for children up to age 18 from families living at or below 100 percent of the Federal poverty level, and to increase provider participation in the Medicaid Program.

Mr. President, one of the ways that we judge progress in a society is the health of its people—particularly through such indicators as life expectancy and infant mortality. Although we can be proud of the progress we have made in extending life, we can take no pride in our progress in protecting the lives of infants and chil-

dren. It is appalling that the infant mortality rate of a nation as technologically advanced and wealthy as ours ranks so far behind most other industrialized nations.

Unless we, as a nation, take further action the United States will have little chance of meeting the Surgeon General's goal of reducing the infant mortality rate from its current level of 10.4 deaths per 1,000 live births to 9 deaths per 1,000 live births by 1990. In recent years, we have instead seen a serious decline in the progress we had been making in reducing the rate of infant mortality. The infant mortality rate in some of our central cities is higher than the rate in some developing countries. Neonatal mortality actually increased by 4 percent between 1984 and 1985 for black infants. It will be virtually impossible to reach the Surgeon General's goal unless we concentrate on eliminating the discrepancy in infant mortality rates among different segments of our population. The infant mortality rate for whites is already 9.3 per 1,000 live births, but for blacks it is a disgraceful 19.4 per 1,000 live births.

The Institute of Medicine has determined that the most critical step we can take to reduce infant mortality is to expand access to early prenatal care and services for infants in the first year of life. Quality prenatal care can reduce the incidence of low birthweight, a major contributor to infant mortality. It is also extremely cost-effective; for every $1 spent on prenatal care, $3 is saved over the first year of the infant's life. The Office of Technology Assessment recently reported that every low birthweight birth avoided by prenatal care saves the U.S. health care system between $14,000 and $30,000 in initial hospitalization and long-term costs. OTA further concluded that the health care savings from preventing low birthweight would outweigh the costs of extending Medicaid eligibility to all poor pregnant women.

Mr. President, good prenatal care is certainly an important step but it is not the only one needed to ensure that the children of this country are healthy. After a baby is born, developmental checkups are essential, especially for poor infants and children who are more likely to start life sick and in deprived surroundings. Yet even infant or well baby care is not enough. The ongoing availability of medical screenings and checkups is critical to the health and development of children, which as we all know is the foundation of good performance in school.

Despite the obvious benefits of expanding access to health care for pregnant women, infants, and children, serious gaps in access persist. One-third of all poor children, a fast growing population in this country, are uninsured and nearly 15 million women of child-bearing age have no private or government health insurance covering maternity. Each year, 555,000 of these women give birth. Overall, 3 in every 10 women—including 1 in every 2 black women—do not receive adequate prenatal care.

Since 1984, we have been slowly moving forward to correct this unfortunate situation by expanding and strengthening public health programs for pregnant women and children. Many of us in the Senate worked hard to give States the option to expand health care coverage to pregnant women and infants up to 185 percent of the Federal poverty line and to children through age 8 from families living up to 100 percent of the Federal poverty line. The Bradley-Waxman initiatives contained the catastrophic care legislation mandated State coverage of pregnant women and infants up to 100 percent of the Federal poverty level.

Mr. President, Medicaid eligibility is not the only problem. Even when Medicaid coverage is available to women and children, they may not get medically appropriate services. Many health care providers are simply unwilling to serve Medicaid patients because they find Medicaid payments to be insufficient and require burdensome paperwork. Furthermore, Medicaid patients tend to fall on and off coverage so that providers are never sure whether or not they will receive any reimbursement at all.

Other Federal programs aimed at meeting the needs of pregnant women and children have also fallen short because of limited funding and poor coordination among programs aimed at serving the same population. We all know how effective the WIC Program is. Yet it serves only half of all financially eligible, nutritionally at-risk women, infants, and children and in many States is not coordinated with the Medicaid Program.

My bill would greatly improve the system of health care for pregnant women, infants, and children by addressing some of major problems with the current system. It would require that States offer Medicaid coverage for all pregnant women and infants up to 185 percent of the poverty level and it would phase in coverage for children up through age 18 in families at or below the Federal poverty level; it would increase beneficiary as well as provider participation in the Medicaid Program; it would overcome several of Medicaid's administrative barriers by requiring States to streamline the eligibility process for pregnant women and by requiring them to provide continuous Medicaid coverage for pregnant women and infants, even if their financial status were to change; it would also better coordinate the Medicaid Program with the WIC Program.

The esteemed colleague Congressman LELAND is today introducing a companion bill in the House of Representatives. Joining him are Congressmen WAXMAN, HYDE, and PAYNE. I look forward to working with them in our continuing effort to reach pregnant women and children with needed health care.

Mr. President, we frequently talk about the problems facing our poor. Inadequate prenatal care is among the most serious because it contributes to incidence of low birth weight infants. These low birth weight infants, if they survive, experience a range of health problems. If these health problems go unresolved, they contribute to school difficulties and failure. Children who do poorly in school are more likely to become dropouts and join the ranks of the unemployed. And, in turn, these unemployed, undereducated, and welfare-dependent individuals are more likely to become teen parents who, in turn, are unable to secure prenatal care. Thus, the cycle continues unabated.

Mr. President, if there ever was a place to intervene, this is it. We can have an impact on our citizens, giving them a chance to be the best they can be from the very beginning. We can no longer afford, in dollar costs or human costs, not to extend prenatal care and health services to pregnant women, infants, and children. I strongly urge my colleagues to support this bill.

Mr. President, before I conclude, I would like to tell my colleagues about a women from New Jersey. Diane Frazier lives in Little Falls, NJ. About 4 years ago, she became pregnant with her second child. Her husband's accident, a broken leg, followed by a new job, left the family without any health insurance for an extended period of time. Because of the absence of health insurance, Mrs. Frazier delayed seeking prenatal care. She delayed seeking out a doctor until her medical bills would be covered by health insurance.

Six and a half months into her pregnancy, still without health insurance, Mrs. Frazier went into labor. She gave birth to a tiny baby boy, Noah. He lived his first 2 months at St. Joseph's Hospital in Paterson, NJ, in the Neonatal Intensive Care Unit. Noah overcame his medical problems and is now a thriving, happy 3-year-old.

The cost for Noah's hospitalization exceeded $50,000. Would early prenatal care have prevented Noah's premature birth? No one can say for sure. But all the evidence indicates that early and regular prenatal care significantly lowers the incidence of low-birth weight babies. Government needs to help the Diane Fraziers and the Noahs of the world by expanding access to quality prenatal care.

I ask unanimous consent that the text of the bill, short and detailed

summaries of the legislation appear at this point.

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

S. 339

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 "Infant Mortality and Childrens Health Act of 1989".

SEC. 2. PHASED-IN MANDATORY COVERAGE OF CHILDREN UP TO 100 PERCENT OF POVERTY LEVEL.

(a) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(10)(A)(i)—

(A) by striking "or" at the end of subclause (III),

(B) by striking the semicolon at the end of subclause (IV) and inserting ", or", and

(C) by adding at the end the following new subclause:

"(V) who are described in subparagraph (C) of subsection (l)(1) and whose family income does not exceed the income level the State is required to establish under subsection (l)(2)(B) for such a family;";

(2) in subsection (a)(10)(A)(ii)(IX), by inserting "or clause (i)(V)" after "clause (i)(IV)";

(3) in subsection (l)—

(A) by amending subparagraph (C) of paragraph (1) to read as follows:

"(C) children born after September 30, 1983, who have attained one year of age but have not attained 18 years of age,";

(B) by striking subparagraph (B) of paragraph (2) and inserting the following:

"(B) For purposes of paragraph (1) with respect to individuals described in subparagraph (C) of that paragraph, the State shall establish an income level which is equal to the minimum percentage provided under subclause (I) or (II) of subparagraph (A)(ii) of the income official poverty line described in subparagraph (A) applicable to a family of the size involved.";

(C) in paragraph (3)—

(i) by inserting ", (a)(10)(A)(i)(V)," after "(a)(10)(A)(i)(IV)",

(ii) by amending subparagraph (A) to read as follows:

"(A)(i) no resource standard or methodology shall be applied to individuals who are eligible for medical assistance because of subsection (a)(10)(A)(i) (IV) or (V), and (ii) application of a resource standard for individuals who are eligible for medical assistance because of subsection (a)(10)(A)(ii)(IV) shall be at the option of the State;";

(iii) by striking subparagraphs (B) and (C);

(iv) in subparagraph (E), by striking "the methodology employed" and inserting "a methodology which is no more restrictive than the methodology employed"; and

(v) in subparagraph (E), by inserting "and except that there shall be disregarded costs for such child care as is necessary for the employment of the pregnant woman or the caretaker relative of the child)" after "(a)(17)".

(D) in paragraph (4)(A), by inserting "and for children described in subsection (a)(10)(A)(i)(V)" after "(a)(10)(A)(i)(IV)";

(E) in paragraph (4)(B), by inserting "or (a)(10)(A)(i)(V)" after "(a)(10)(A)(i)(IV)"; and

(4) in subsection (r)(2)(A), by inserting "(a)(10)(A)(i)(V)," after "(a)(10)(A)(i)(IV),".

(b) OPTIONAL 1 YEAR CONTINUED ELIGIBILITY FOR CHILDREN.—Section 1902(e)(6) of such Act (42 U.S.C. 1396a(e)(6)) is amended by inserting "(A)" after "(6)" and by adding at the end the following new subparagraph:

"(B) At the option of a State, in the case of an individual described in subsection (a)(10)(A)(i)(IV), (a)(10)(A)(i)(V), or (a)(10)(A)(ii)(IX) who, because of a change in income of the family of which the individual is a member, would not otherwise continue to be described in such subsection, the State may nonetheless treat the individual as being an individual described in that respective subsection and subsection (B) or (C) of subsection (l)(1) (as the case may be) without regard to such change of income through the end of the 1-year period beginning on the last date on which the individual was determined to be eligible for medical assistance as an individual described in such subsection.".

(c) APPLICATIONS USING OUTREACH LOCATIONS.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (51),

(2) by striking the period at the end of paragraph (52) and inserting "; and", and

(3) by inserting after paragraph (52) the following new paragraph:

"(53) provide for receipt and initial processing of applications of individuals for medical assistance under subsections (a)(10)(A)(i)(IV), (a)(10)(A)(i)(V), or (a)(10)(A)(ii)(IX) at locations which include locations (such as hospitals or clinics providing covered services to such individuals) which are other than those used for applications for aid under part A of title IV;".

(d) CONFORMING AMENDMENT TO QUALIFIED CHILDREN.—Section 1905(n)(2) of such Act (42 U.S.C. 1396d(n)(2)) is amended by striking "age of 7 (or any age designated by the State that exceeds 7 but does not exceed 8)" and inserting "age of 18".

(e) ADDITIONAL CONFORMING AMENDMENT.—Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended by inserting "(a)(10)(A)(i)(V)," after "(a)(10)(A)(i)(IV),".

(f) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as otherwise provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1990, without regard to whether or not final regulations to carry out such amendment 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 subsection (a), 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.

(3) During the period beginning on January 1, 1990, and ending on June 30, 1990, a State may substitute, for the minimum percentage otherwise described in section 1902(l)(2)(B) of the Social Security Act (as amended by this section), any percentage greater than 75 percent (but not more than 100 percent, or, if less, the percentage established by the State under section 1902(l)(2)(A) of such Act).

SEC. 3. MEDICAID COVERAGE OF PREGNANT WOMEN AND INFANTS.

(a) PHASED-IN COVERAGE OF PREGNANT WOMEN AND INFANTS WITH INCOME BELOW 185 PERCENT OF THE POVERTY LEVEL.—Section 1902(l)(2)(A) of the Social Security Act (42 U.S.C. 1396a(l)(2)(A)) is amended—

(1) in clause (ii)—

(A) in subclause (I), by striking "by striking "and" at the end of subclause (I), and

(B) in subclause (II), by striking the period at the end and inserting "or, if greater, the percentage provided under clause (iv),", and

(C) by adding at the end the following new subclauses:

"(III) July 1, 1991, 125 percent, or, if greater, the percentage provided under clause (iv),

"(IV) July 1, 1992, 150 percent, or, if greater, the percentage provided under clause (iv), and

"(V) July 1, 1993, 185 percent."; and

(2) by adding at the end the following new clause:

"(iv) In the case of a State which, as of the date of the enactment of this clause, has established under clause (i), or has enacted legislation authorizing, or appropriating funds, to provide for, a percentage (of the income official poverty line) that is greater than 100 percent, the percentage provided under clause (ii) for medical assistance on or after July 1, 1990, shall not be less than—

"(I) the percentage specified by the State in an amendment to its State plan (whether approved or not) as of the date of the enactment of this clause, or

"(II) if no such percentage is specified as of the date of the enactment of this clause, the percentage established under the State's authorizing legislation or provided for under the State's appropriations.".

(b) FLEXIBILITY IN INCOME METHODOLOGY AND DEDUCTION OF CHILD CARE IN COMPUTATION OF INCOME.—Section 1902(l)(3)(E) of such Act (42 U.S.C. 1396a(l)(3)(E)) is amended by striking "(E)" and inserting the following:

"(E)(i) with respect to an individual described in subparagraph (A) or (B) of paragraph (1), family income shall be determined in accordance with a methodology which is no more restrictive than the methodology employed under the State plan under part A or E of title IV (except to the extent such methodology is inconsistent with clause (D) of subsection (a)(17) and except that there shall be disregarded costs for such child care as is necessary for the employment of the pregnant woman or the caretaker of the infant), and costs incurred for medical care or for any other type of remedial care shall not be taken into account, and

"(ii) with respect to an individual described in paragraph (1)(C),".

(c) PROHIBITING APPLICATION OF RESOURCE TEST.—Section 1902(l)(3) of such Act (42 U.S.C. 1396a(l)(3)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) the State may not apply any resource standard or methodology;",

(2) by striking subparagraphs (B) and (C), and

(3) by redesignating subparagraphs (D) and (E) as subparagraphs (B) and (C), respectively.

(d) MANDATORY CONTINUATION OF BENEFITS THROUGHOUT PREGNANCY OR FIRST YEAR OF LIFE.—Section 1902(e) of such Act (42 U.S.C. 1396a(e)) is amended—

(1) in the first sentence of paragraph (4), by striking "so long as" and all that follows through "the woman remains eligible for such assistance"; and

(2) in paragraph (6)—

(A) by striking "At the option of a State, in" and inserting "In", and

(B) by striking "the State plan may nonetheless treat the woman as being" and inserting "the woman shall be deemed to continue to be".

(e) REPORT AND TRANSITION ON ERRORS IN ELIGIBILITY DETERMINATIONS.—

(1) REPORT.—The Secretary of Health and Human Services shall report to Congress, by not later than July 1, 1990, on error rates by States in determining eligibility of individuals described in subparagraph (A) or (B) of section 1902(l)(1) of the Social Security Act for medical assistance under plans approved under title XIX of such Act. Such report may include data for medical assistance provided before July 1, 1989.

(2) ERROR RATE TRANSITION.—There shall not be taken into account, for purposes of section 1903(u) of the Social Security Act, payments and expenditures for medical assistance which—

(A) are attributable to medical assistance for individuals described in subparagraph (A) or (B) of section 1902(l)(1) of such Act, and

(B) are made on or after July 1, 1989, and before the first calendar quarter that begins more than 12 months after the date of submission of the report under paragraph (1) .

(f) EFFECTIVE DATES.—

(1) HIGHER INCOME STANDARDS.—The amendments made by subsection (a) shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1990, with respect to eligibility for medical assistance on or after such date, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) INCOME METHODOLOGY AND RESOURCE STANDARD.—The amendments made by subsections (b) and (c) shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1990, with respect to eligibility for medical assistance on or after such date, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(3) CONTINUATION OF MEDICAL ASSISTANCE.—

(A) INFANTS.—The amendment made by subsection (d)(1) shall apply to individuals born on or after January 1, 1990, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

(B) PREGNANT WOMEN.—The amendments made by subsection (d)(2) shall apply to women effective with respect to determinations to terminate eligibility, based on change of income, is made on or after January 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date. For purposes of the previous sentence, in the case of a woman who is provided ambulatory prenatal care pursuant to section 1920 of the Social Security Act during a presumptive eligibility period, the determination that the woman is not eligible for medical assistance (other than under such section) shall not constitute a termination of eligibility.

SEC. 4. OPTIONAL COVERAGE OF ALL CHILDREN UP TO 100 PERCENT OF POVERTY LEVEL.

(a) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in subsection (l)(1), as amended by section 2(a)(3)(A) of this Act—

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

(B) by adding "and" at the end of subparagraph (C), and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) at the option of the State, children not described in subparagraph (B) or (C) who have not attained 18 years of age (or such lesser number of years of age as the State may specify),";

(2) in subsection (l)(2)(B), as amended by section 2(a)(3)(B) of this Act, by inserting "or (D)" after "subparagraph (C)";

(3) in subsection (l)(3), as amended by section 2(a)(3)(C)(iii), by inserting after subparagraph (A) the following new subparagraph:

"(B) any resource standard or methodology that is applied with respect to an individual described in subparagraph (D) of paragraph (1) may not be more restrictive than the corresponding methodology that is applied under the State plan under part A of title IV;".

(b) OPTIONAL 1 YEAR CONTINUED ELIGIBILITY FOR CHILDREN.—Section 1902(e)(6)(B) of such Act (42 U.S.C. 1396a(e)(6)), as amended by section 2(b) of this Act, is amended by striking "(B) or (C)" and inserting "(B), (C), or (D)".

(c) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as otherwise provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1990, without regard to whether or not final regulations to carry out such amendment 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 subsection (a), 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. 5. PRESUMPTIVE ELIGIBILITY AND OUTREACH FOR PREGNANT WOMEN.

(a) MAKING PRESUMPTIVE ELIGIBILITY A STATE PLAN REQUIREMENT.—

(1) IN GENERAL.—Section 1902(a)(47) of the Social Security Act (42 U.S.C. 1396a(a)(47)) is amended by striking "at the option of the State,".

(2) CONFORMING AMENDMENT.—Section 1920(a) of such Act (42 U.S.C. 1396r-1(a)) is amended by striking "may provide" and inserting ", in order to meet the requirement of section 1902(a)(47), must provide".

(b) EXTENSION OF PRESUMPTIVE ELIGIBILITY PERIOD TO DATE OF ELIGIBILITY DETERMINATION.—Section 1920(b)(1)(B) of such Act (42 U.S.C. 1396r-1(b)(1)(B)) is amended—

(1) by inserting "or" at the end of clause (i),

(2) by striking clause (ii), and

(3) by redesignating clause (iii) as clause (ii).

(c) FLEXIBILITY IN APPLICATION.—Section 1920(c)(3) of such Act (42 U.S.C. 1396r-1(c)(3)) is amended by inserting before the period at the end the following: ", which application may be the application used for the receipt of medical assistance by individuals described in section 1902(l)(1)(A)".

(d) REQUIRING OUTREACH FOR PREGNANT WOMEN AND INFANTS UNDER THE MATERNAL AND CHILD HEALTH PROGRAM.—Section 505(2)(E) of such Act (42 U.S.C. 705(2)(E)) is amended—

(1) by striking "participate" before clause (i),

(2) by inserting "participate" after "(i)", after "(ii)", and after "(iii)",

(3) by striking "and" at the end of clause (ii),

(4) by striking the period at the end of clause (iii) and inserting ", and", and

(5) by adding after clause (iii) the following new clause:

"(iv) provide, directly and through their grantees and institutional contractors, for outreach services for pregnant women and infants (described in section 1902(l)(5)).".

(e) OPTIONAL COVERAGE OF OUTREACH SERVICES FOR PREGNANT WOMEN AND INFANTS.—

(1) PERMITTING PAYMENT FOR OUTREACH SERVICES FOR PREGNANT WOMEN AND INFANTS AT FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—Section 1903(a)(1) of the Social Security Act (42 U.S.C. 1396b(a)(1)) is amended by inserting "for outreach services for pregnant women and infants described in section 1902(l)(5) or" after "total amount expended during such quarter".

(2) OUTREACH SERVICES FOR PREGNANT WOMEN AND INFANTS DEFINED.—Section 1902(l) of such Act is amended by adding at the end the following new paragraph:

"(5) For purposes of section 1903(a), the term 'outreach services for pregnant women and infants' means, with respect to pregnant women and infants, services to identify individuals described in subparagraph (A) or (B), respectively, of paragraph (1) and, once identified, to assist them in applying for medical assistance under this title.".

(f) EFFECTIVE DATES.—

(1)(A) The amendments made by this subsections (a) and (b) apply (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(B) 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 subsection (a) or subsection (b), 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 regular legislative session of 2 years, each year of such session shall be deemed to be a separate regular session of the State legislature.

(2) The amendment made by subsection (c) shall be effective as if included in the enactment of section 9407(b) of the Omnibus Budget Reconciliation Act of 1986.

(3) The amendments made by subsection (d) shall apply to payments for allotments for fiscal years beginning with fiscal year 1990.

(4) The amendments made by subsection (e) shall apply to outreach services provided on or after January 1, 1990.

SEC. 7. PAYMENT FOR OBSTETRICAL AND PEDIATRIC SERVICES.

(a) CODIFICATION OF ADEQUATE PAYMENT LEVEL PROVISIONS.—Section 1902(a)(30)(A) of the Social Security Act (42 U.S.C. 1396a(a)(30)(A)) is amended by inserting before the semicolon at the end the following: "and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population".

(b) ASSURING ADEQUATE PAYMENT LEVELS FOR OBSTETRIC AND PEDIATRIC SERVICES.—Title XIX of such Act, as amended by section 303 of the Family Support Act of 1988, is amended by redesignating section 1926 as section 1927 and by inserting after section 1925 the following new section:

"ASSURING ADEQUATE PAYMENT LEVELS FOR OBSTETRIC AND PEDIATRIC SERVICES

"SEC. 1926. (a)(1) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(30)(A) with respect to obstetric services (as defined in paragraph (4)(A)), as of July 1 of each year (beginning with 1990), unless, by not later than April 1 of such year, the State submits to the Secretary an amendment to the plan that specifies, by obstetric procedure, the payment rates to be used for such services under the plan in the succeeding period and includes in such submission such additional data as will assist the Secretary in evaluating the State's compliance with such requirement.

"(2) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(30)(A) with respect to pediatric services (as defined in paragraph (4)(B)) for infants under one year of age, as of July 1 of each year (beginning with 1990), unless, by not later than April 1 of such year, the State submits to the Secretary an amendment to the plan that specifies, by pediatric procedure, the payment rates to be used for such services under the plan in the succeeding period and includes in such submission such additional data as will assist the Secretary in evaluating the State's compliance with such requirement.

"(3) The Secretary, by not later than 90 days after the date of submission of a plan amendment under paragraph (1) or (2), shall—

"(A) review each such amendment for compliance with the requirement of section 1902(a)(30)(A), and

"(B) approve or disapprove each such amendment.

If the Secretary disapproves such an amendment, the State shall immediately submit a revised amendment which meets such requirement.

"(4) In this section:

"(A) The term 'obstetrical services' means services relating to pregnancy covered under the State plan provided by an obstetrician, family practitioner, certified nurse midwife, or family nurse practitioner and does not include inpatient or outpatient hospital services or other institutional services.

"(B) The term 'pediatric services' means services covered under the State plan provided by a pediatrician, family practitioner, or pediatric nurse practitioner to infants under 1 year of age and does not include inpatient or outpatient hospital services or other institutional services.

"(b) For amendments submitted under subsection (a)(1) in 1992 and thereafter, the data submitted under such subsection must include, for the second previous year, at least the following:

"(1) The number of obstetricians, family practitioners, family nurse practitioners, and certified nurse midwives who were licensed in the State in the year and the percentage of such number who provided obstetrical services to medicaid pregnant beneficiaries.

"(2) An estimate of—

"(A) the number of pregnant women who were in the State in the year, and the percentage of such number of women who received, before their third trimester, prenatal services in the State in the year, and

"(B) the number of pregnant women who were medicaid pregnant beneficiaries in the State in the year, and the percentage of such number of women who received, before their third trimester, prenatal services in the State in the year.

"(3) The statewide average payment rates under the State plan for obstetrical services furnished by obstetricians, family practitioners, family nurse practitioners, and certified nurse midwives, by procedure, stated in dollar amounts and as a percentage of the statewide average payment rates for such procedures other than under the State plan.

Information described in paragraphs (1) and (3) shall be provided separately for providers located in each of the urban and rural service areas in the State and the information described in paragraph (2) shall be provided, to the extent practicable, for individuals located in each of the urban and rural service areas in the State. In this subsection, the term 'medicaid pregnant beneficiaries' means women who are pregnant and who are entitled to benefits for obstetrical services under the State plan under this title.

"(c) For amendments submitted under subsection (a)(2) in 1992 and thereafter, the data submitted under such subsection must include, for the second previous year, at least the following:

"(1) The number of pediatricians, family practitioners, and pediatric nurse practitioners who were licensed in the State in the year and the percentage of such number who provided pediatric services to medicaid infant beneficiaries.

"(2) An estimate of—

"(A) the number of infants under one year of age who were in the State in the year, and the percentage of such number of infants who received pediatric services in the State in the year, and

"(B) the number of medicaid infant beneficiaries in the State in the year, and the percentage of such number of beneficiaries who received pediatric services in the State in the year.

"(3) The statewide average payment rates under the State plan for pediatric services furnished by pediatricians, family practitioners, and pediatric nurse practitioners by procedure, stated in dollar amounts and as a percentage of the statewide average payment rates for such procedures other than under the State plan.

Information described in paragraphs (1) and (3) shall be provided separately for providers located in each of the urban and rural service areas in the State and the information described in paragraph (2) shall be provided, to the extent practicable, for infants located in each of the urban and rural service areas in the State. To the extent practicable, information described in paragraphs (1), (2), and (3) with respect to pediatric services shall be provided separately for 'EPSDT' services (described in section 1905(a)(4)(B)) and for other pediatric services. In this subsection, the term 'medicaid infant beneficiaries' means infants under one year of age who are entitled to benefits under the State plan under this title.

"(d) Nothing in this title (including section 1902(a)(30)(A)) shall be construed as preventing a State from establishing payment levels for obstetrical or pediatric services that are higher for those services furnished in rural areas than those furnished in urban areas.".

(c) EFFECTIVE DATE.—The amendments made by this section (except as otherwise provided in such amendments) shall take effect on the date of the enactment of this Act.

SEC. 9. DEMONSTRATION PROJECTS TO IMPROVE ACCESS TO NEEDED PHYSICIAN SERVICES BY PREGNANT WOMEN, INFANTS, AND CHILDREN.

(a) IN GENERAL.—The Secretary of Health and Human Services shall provide for demonstration projects by States to reduce infant mortality and childhood morbidity through improving the access of eligible pregnant women, infants, and children under the medicaid program to obstetricians and pediatricians.

(b) NATURE OF PROJECTS.—Demonstration projects under this section shall incorporate innovative approaches to increasing participation (including participation in a back-up capacity for health centers and public health clinics) of obstetricians, pediatricians, or family practitioners under the medicaid program, by means (other than payment rate adjustments under section 4) such as—

(1) expediting reimbursement and using innovative payment mechanisms, including global fees for maternity and pediatric services (with guaranteed periodic payments);

(2) assisting in securing, or paying for, medical malpractice insurance or otherwise sharing in the risk of liability for medical malpractice;

(3) decreasing unnecessary administrative burdens in submitting claims or securing authorization for treatment; and

(4) covering medical services to meet the needs of high-risk pregnant women and infants.

(c) SUPPLEMENTAL FUNDING.—With respect to the additional expenditures for medical assistance made under a State plan under title XIX of the Social Security Act to carry out a demonstration project under this section, the Federal medical assistance percentage (otherwise determined under section 1905(b) of such Act) shall be increased by 25 percentage points (but in no case to a percentage greater than 90 percent).

(d) WAIVER AUTHORITY.—(1) Except as provided under paragraphs (2) and (3), the Secretary is authorized to waive the require-

ments of title XIX of the Social Security Act to the extent necessary to implement demonstration projects under this section.

(2) Except as permitted under section 1915(b)(1) of the Social Security Act, the Secretary may not waive under paragraph (1) the requirements of sections 1902(a)(23) and 1916 of such Act.

(3) The Secretary may not approve a demonstration project under this section, or a waiver under paragraph (1), that reduces the amount, duration, or scope of medical assistance made available under title XIX of the Social Security Act or that results in a loss of eligibility for individuals otherwise eligible for such assistance.

(e) TIMELY ACTION ON APPLICATIONS.—A request to the Secretary by a State for approval of a demonstration project under this section (and any accompanying waiver of a requirement of title XIX of the Social Security Act) shall be deemed granted unless the Secretary, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the State in writing with respect to any additional information which is needed in order to make a final determination with respect to the request. After the date the Secretary receives such additional information, the request shall be deemed granted unless the Secretary, within 90 days of such date, denies such request.

(f) AMOUNTS AND USE OF FUNDS.—The Secretary may not approve demonstration projects under this section that result in aggregate, additional Federal expenditures under title XIX of the Social Security Act that exceed $30,000,000 in fiscal year 1990. Amounts appropriated and obligated to carry out this section shall be available until expended.

(g) REPORT.—The Secretary shall report to Congress, not later than March 1, 1992, on the demonstration projects carried out under this section and on how the results of such projects may be used to lower infant mortality and morbidity through improving the access of indigent pregnant women and infants to needed physician services.

SEC. 10. EXTENSION OF PAYMENT PROVISIONS FOR MEDICALLY NECESSARY SERVICES IN DISPROPORTIONATE SHARE HOSPITALS TO CHILDREN UNDER 18 YEARS OF AGE.

(a) COVERAGE OF MEDICALLY NECESSARY SERVICES FOR CHILDREN.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended, in the subdivision (X) following subparagraph (E), inserted by section 302(b)(1)(B) of the Medicare Catastrophic Coverage Act of 1988, by striking "under one year of age" and inserting "under 18 years of age".

(b) ASSURING ADEQUATE PAYMENT FOR INPATIENT HOSPITAL SERVICES FOR CHILDREN IN DISPROPORTIONATE SHARE HOSPITALS.—Section 1923(a)(2) of such Act (42 U.S.C. 1396r-4), as amended by section 302(b)(2) of the Medicare Catastrophic Coverage Act of 1988, is amended by adding at the end the following new subparagraph:

"(D) If a State plan under this title provides for payments for inpatient hospital services on a prospective basis (whether per diem, per case, or otherwise), in order for the plan to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1990, the State must submit to the Secretary by not later than April 1, 1990, a State plan amendment that provides, in the case of hospitals defined by the State as disproportionate share hospitals under paragraph (1)(A), for an outlier adjustment in payment amounts for medically necessary inpatient hospital services provided on or after July 1, 1990, involving exceptionally high costs or exceptionally long lengths of stay for individuals one year of age or older, but under 18 years of age.".

(c) EFFECTIVE DATE.—(1)(A) The amendment made by subsection (a) applies (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1990, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

(B) 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 requirement imposed by the amendment made by subsection (a), 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 this additional requirement 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.

(2) The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 11. REQUIRED MEDICAID NOTICE AND COORDINATION WITH SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC).

(a) STATE PLAN REQUIREMENTS OF NOTICE AND COORDINATION.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (11), by striking "and" before "(B)" and by inserting before the semicolon at the end the following: ", and (C) provide for coordination of the operations under this title with the State's operations under the special supplemental food program for women, infants, and children under section 17 of the Child Nutrition Act of 1966";

(2) by striking "and" at the end of paragraph (51);

(3) by striking the period at the end of paragraph (52) and inserting "; and"; and

(4) by inserting after paragraph (52) the following new paragraph:

"(53) provide—

"(A) for notifying in a timely manner all individuals in the State who are determined to be eligible for medical assistance and who are pregnant women, breastfeeding or postpartum women (as defined in section 17 of the Child Nutrition Act of 1966), or children below the age of 5, of the availability of benefits furnished by the special supplemental food program under such section, and

"(B) for referring any such individual to the State agency responsible for administering such program.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1990, without regard to whether regulations to carry out such amendments have been promulgated by such date.

SEC. 12. MATERNAL AND CHILD HEALTH TOLL FREE PHONE NUMBER.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall study and develop a design for a national toll free phone number to provide basic health education, information, and referral to health services for pregnant women, new mothers, and other interested individuals. The toll free number shall be developed to also provide a means to collect information on the needs and concerns of women and families regarding prenatal, delivery, and postpartum care. Such toll free phone number shall be developed and in service no later than January 1, 1990.

(b) REPORT.—The Secretary shall issue a report to the Senate Committee on Finance describing the proposed design for the national toll free number described in subsection (a) no later than January 1, 1990.

(c) EFFECTIVE DATE.—The provisions of this section shall become effective upon the date of enactment of this Act.

SHORT SUMMARY—INFANT MORTALITY AND CHILDREN'S HEALTH ACT OF 1989

This legislation builds on prior initiatives enacted by Congress, including optional state Medicaid coverage of pregnant women and infants up to 185 percent of the poverty level, mandated coverage of pregnant women and infants living below 100 percent of the poverty level, and optional coverage of children up to age 8 in families living below 100 percent of the poverty level. The proposed legislation builds on the policies President Bush outlined during the campaign as part of his agenda for investing in children.

HEALTH CARE COVERAGE OF PREGNANT WOMEN AND INFANTS

This legislation requires states to cover pregnant women and infants with incomes below 125 percent of poverty as of 7/1/91, 150 percent of poverty as of 7/1/92, and 185 percent of poverty as of 7/1/93.

HEALTH CARE COVERAGE OF CHILDREN

States would also be required to phase-in coverage of children up to age 18 in families with incomes below 100 percent of poverty. Effective 1/1/90, states would cover all poor children age 6 and under and continue to do so until they reach age 18. States would be given a new option of extending Medicaid coverage immediately to all children up to age 18 with incomes below the poverty level.

PAYMENT FOR OBSTETRICAL AND PEDIATRIC SERVICES

According to a National Governor's Association survey, in 1986, Medicaid reimbursement for obstetric services averaged approximately 44 percent of the private insurance reimbursement rate. This legislation requires state Medicaid payments to providers of obstetric and pediatric services to be sufficient to maintain or increase provider participation so that services are available to Medicaid beneficiaries to the extent that the same services are available to the general population.

CUTTING RED TAPE

Under this legislation, states would have to streamline their eligibility process for pregnant women so that pregnant women are automatically covered for prenatal care for at least 45 days from the earliest point of contact until final eligibility is determined. Also, the legislation would guarantee that eligible pregnant women have continuous Medicaid coverage through 60 days after her delivery, and that eligible infants are continuously covered through their first year of life.

INCREASING ACCESS TO WIC BENEFITS

States would be required to coordinate their Medicaid plans with the WIC program and make information about, and referrals for, Special Supplemental Food Programs for Women, Infants, and Children available to all pregnant, breast-feeding and post-partum women and children applying for Medicaid.

DETAILED SUMMARY—INFANT MORTALITY AND CHILDREN'S HEALTH ACT OF 1989

COVERAGE OF PREGNANT WOMEN AND INFANTS

Current Law: States must cover all pregnant women and infants with incomes at or below 75 percent of the poverty level as of 7/1/89, and 100 percent of the poverty level as of 7/1/90. States may cover all pregnant women and infants with incomes at or below 185 percent of the poverty level. States have the option of imposing resource tests, but these may be no more restrictive than those under SSI in the case of pregnant women and AFDC in the case of infants. States also have the option of imposing an income-related premium with respect to pregnant women with incomes above 150 percent of poverty. In 1985, three in ten women and one in two black and nonwhite women did not receive adequate prenatal care.

Bush Policy: "George Bush supports mandatory Medicaid coverage for prenatal care and infant services." George Bush supports phasing in coverage of all pregnant women and children under one year of age, up to 185 percent of poverty. Building on measures enacted this year, he proposes that the Maternal and Child Health Block Grant be expanded for an extensive education effort which would provide all pregnant women at the time their pregnancy is confirmed with health education materials and information about Medicaid and the availability of community prenatal services if the mother is uninsured. In addition, he proposes that case management be provided as an essential component for high-risk and teenage pregnancies that are likely to result in low birthweight babies." From Bush-Quayle 88, *Access to Health Care for all Americans Fact Sheet;* and Bush/Quayle 88, *Invest in Our Children,* p. 5 (October 1988).

Proposal: States would be required to cover pregnant women and infants with incomes below 125 percent of poverty as of 7/1/91, 150 percent of poverty as of 7/1/92, and 185 percent of poverty as of 7/1/93. the states that, as of 7/1/91 (the effective date for the 100 percent mandate), had already opted to cover pregnant women and infants with incomes above 100 percent of poverty would be required to continue to do so.

This legislation would prohibit states from imposing any resource test on pregnant women and infants receiving Medicaid only, whether above or below 100 percent of poverty. It would require the states, in calculating income for pregnant women and infants, to deduct the costs of necessary child care from gross income (parallel to the Medicaid transition benefit policy), and to use a methodology that is no more restrictive than that under AFDC.

The legislation would also require the Secretary, by 7/1/90, to report to the Congress on error rates with respect to pregnant woman and infants receiving Medicaid only, and suspend any error rate penalties attributable to payments made on behalf of this population on or after July 1, 1989, until 12 months after the receipt of the Secretary's report.

Expansion of continuation coverage

Currently, states have the option to provide Medicaid coverage for pregnant women through the end of the 60 day period beginning on the last day of pregnancy. As of April 1988, 27 states had begun providing this option. In most states, pregnant women can lose their Medicaid eligibility in the middle of pregnancy. In these cases, the physician may be unable to receive compensation for the delivery of the baby and as a result are often unwilling to treat Medicaid recipients. In an effort to encourage physician participation and expand access to prenatal and well-baby care, this legislation would mandate states to provide continuous Medicaid coverage to eligible women until the end of the month in which the 60 day post-partum period expires, and to eligible infants throughout their first year of life.

Presumptive eligibility

The Medicaid eligibility determination process is often a barrier to the timely and appropriate receipt of prenatal care. In response to this problem, states were recently given the option to provide "presumptive eligibility" for pregnant women. This allows for short-term eligibility, which begins at the earliest point of contact between the patient and the provider. By April, 1988 16 states had implemented this option.

This legislation would require states to provide presumptive eligibility for ambulatory prenatal care from private practitioners who are not qualified to do eligibility determinations. It would also require state Title V MCH agencies and their grantees and institutional contractors (i.e., hospitals, clinics) to notify pregnant women and infants of their potential eligibility for Medicaid-only coverage and to help them apply for coverage. Finally, this legislation would clarify that application for presumptive eligibility need not be application used for regular Medicaid or AFDC eligibility.

Outreach services

Many Medicaid-eligible pregnant women are unaware that they are eligible for Medicaid and consequently, forego appropriate prenatal care. Starting 1/1/90, states would be given the option to cover outreach services for pregnant women and children.

COVERAGE OF CHILDREN

Current Law: States are currently required to extend Medicaid coverage to all children born after September 30, 1983, in families with incomes and resources below state AFDC standards, up to age 7. States have the option of covering children born after September 30, 1983, in families with incomes at or below 100 percent of the federal poverty level, up to age 8. With respect to this optional coverage group, states may impose a resource test, but it may not be more restrictive than that under the state's AFDC program. Infants up to age one from families with incomes below the poverty level must be covered by July 1990. In recent years, only one half of this nation's poor children have been covered by Medicaid.

Bush Policy: "George Bush supports proper health care through mandatory Medicaid coverage for all children with family incomes below 100 percent of the federal poverty level, working with those at highest risk as a first priority." From Bush/Quayle 88, *Invest in Our Children,* p. 4 (October, 1988).

Proposal: This legislation would require states to phase-in coverage for children up to age 18 in families with incomes below 100 percent of poverty. The phase-in process would proceed according to both age (retaining the current birthdate with date eligibility cut-off of post September 30, 1983) and family income. The income threshold for families would be tied to the mandatory minimums established in current law for pregnant women and infants (i.e., 75 percent of poverty on 7/1/89, and 100 percent of poverty on 7/1/90), thus retaining the current law principle that requires states to keep their income limits for children age 1 or older at or below the income limits for pregnant women and infants.

As a result of these provisions, states would be required to cover all children born after September 30, 1983, with incomes at or below 75 percent of the federal poverty level by 7/1/89. States would then be required to cover all children born after September 30, 1983, with incomes at or below 100 percent of poverty by 7/1/90. States would not be required to, and would not have the option of, extending coverage to children over age 1 with incomes above 100 percent of poverty.

States would continue to have the current law option of extending coverage to children born on or after September 30, 1983, with incomes below 100 percent of poverty, thereby allowing them to accelerate the mandatory phase-in schedule described above.

The legislation would prohibit the states from imposing assets tests on this class of children. In determining family income it would require states to disregard the costs of child care, and to use income methodologies that are no more restrictive than those under AFDC.

States would be given a new option of extending coverage immediately to all children up to age 18 with incomes below the poverty level, rather than aging them in, as implied by the September 30, 1983, cutoff. States would be allowed to impose an assets test no more restrictive than that under AFDC, but would be required to follow the same income methodologies as would apply to the mandatory group described above. This option would be effective January 1, 1990.

States would be given the option of guarantee eligibility for children in either the mandatory and optional child groups at locations other than welfare offices, including hospitals and clinics that serve large numbers of low-income families.

Demonstration project to improve access to obstetrical and pediatric health care

The Secretary would be required to provide for demonstration projects to improve the access of Medicaid-eligible women, infants and children to obstetricians, pediatricians or family practitioners. Participating states would receive a 25 percentage point increase in their regular matching rates. $30 million would be designated for this purpose in FY90, with funds available until expended.

ASSURING PROVISION OF NECESSARY SERVICES

Payment for obstetrical and pediatric health care services

A minority of physicians and other health care providers deliver the bulk of services to low-income patients. This is especially true, and increasingly so, for providers of obstetric and pediatric services. Rising malpractice premiums coupled with low Medicaid reimbursement rates, as well as administrative complexities, are the primary reasons for low participation. Almost all state Medicaid agencies report that ob-gyns are dropping

obstetrical practice and the majority claim that ob-gyns are not taking new patients.

This legislation would codify current regulations requiring that state payments to providers of obstetric and pediatric care be sufficient enough to enlist enough providers so that services under Medicaid are available to recipients at least to the extent that those services are available to the general population. States would have to report on Medicaid reimbursement levels and the extent of provider participation to the Secretary on an annual basis.

An important component of this legislation requires the states to file with the Secretary no later than April 1, 1990, a Medicaid plan amendment setting forth the payment rates it will use for obstetric and pediatric services as of July 1, 1990. The states will also have to provide additional data to assist HCFA in determining whether the rates are sufficient enough to elicit the requisite participation. Within 90 days of receiving the state plan amendment, the Secretary must approve or disapprove the amendment; if the Secretary disapproves, the state must immediately submit a revised amendment which brings the state into compliance. These plan amendments would be submitted annually on April 1, with implementation of the new rates annually on July 1.

The legislation would also allow states the option of setting higher payment levels for prenatal delivery and pediatric services delivered by ob-gyns, pediatricians, and other qualified providers (e.g. family practitioners, certified nurse midwives) with practices located in rural areas.

In addition to the payment adjustments, the legislation would require the Secretary to conduct Medicaid demonstration projects to increase participation of obstetricians and pediatricians in the Medicaid program. The demonstrations would include assistance in securing or paying for malpractice insurance coverage. Participating states would receive a 25 percentage point increase in their regular matching rates. $15 million would be designated for this purpose in FY90, with funds available until expended.

Payment for exceptionally lengthy hospital stays

Under current law, states must establish exceptions to payment limits for inpatient hospital services for medically necessary inpatient services received by an infant (up to age (1) in a disproportionate share hospital, or one that serves a large proportion of low income patients. Many state Medicaid programs still place limits on coverage for young children with expended or highly medically intensive hospital stays. Some hospitals place limits on the number of days for which they provide reimbursement for inpatient care, with virtually no exceptions for cases of medical necessity. Others place limits on the prospective payment Medicaid makes, with no additional coverage for high cost "outlier" cases. These benefit limitations lead to inadequate coverage for low income children with special health care needs

This legislation would require states to extend these exceptions to children through age 17.

INCREASING COORDINATION WITH WIC

Under current law, all Medicaid-eligible pregnant women and children are also eligible for benefits under the Special Supplemental Food Program for Women, Infants, and Children (WIC). This program provides food assistance and nutritional screening to low-income pregnant and post-partum women and their infants as well as to low-income children. The WIC program is aimed at women and children who are considered "at risk" for nutritionally-related medical problems. Recent evidence proves that WIC's services aid in the prevention of premature births, fetal deaths, and other problems among pregnant women and infants.

This legislation would make the WIC program more accessible to Medicaid-eligible pregnant women and children up to age 5 by requiring states to coordinate their Medicaid plans with the WIC program and requiring states to make information about and referrals for, WIC services available to all pregnant, breast-feeding and post-partum women and children applying for Medicaid.

MATERNAL AND CHILD HEALTH HOTLINE

The Department of Health and Human Services would be required to develop a national 1-800 hotline to provide basic health education, information and referral to needed services for pregnant women, new mothers and other interested parties. The hotline would also provide a means to collect information on the needs and concerns of women and families regarding prenatal, delivery and postpartum care.

Mr. DURENBERGER. Mr. President, I am pleased to rise to introduce the Infant Mortality and Children's Health Act of 1989 with my colleagues, Senators BRADLEY, RIEGLE, and CHAFEE. This bill amends title XIX of the Social Security Act to require all States to provide health care for pregnant women and for infants in families with incomes below 125 percent of the poverty level as of July 1, 1991, expanding to cover those at 150 percent of poverty 1 year later, and to 185 percent of poverty on July 1, 1993.

It was my privilege to serve on the National Commission to Prevent Infant Mortality last year. We learned, to our shame that with all our country has to offer, we rank 15th in reducing infant deaths, 10.8 for every 1,000 births. Japan, which ranks first in that effort, loses 6 out of every 1,000 live births.

In June 1988, I chaired a hearing of the National Commission in Minneapolis at which a number of local and national experts on infant mortality offered testimony. One of those testifying was Dr. George Malkasian who is chairman of the American College of Obstetrics and Gynecologists.

Dr. Malkasian made the observation that even in a State like Minnesota—that ranks fourth or fifth among the 50 States in infant mortality—there are serious problems.

"Not all Minnesotans are equally blessed," Dr. Malkasian testified. "We know that a black infant in Minnesota is almost twice as likely to die in the first year of life as a white infant. * * * And, about half of all pregnant teenagers in Minnesota do not receive early prenatal care."

Dr. Malkasian went on to urge action on two fronts, both dealt with the legislation we are introducing today. The first is that we need to eliminate the financial barriers to prenatal care. And, second, we need to make the information and services available to all women to enable them to take advantage of the assistance that are available.

Mr. President, this legislation will clearly move us farther along in our efforts to prevent death and disability in our Nation's newborns. In 1987, my distinguished colleague Senator BRADLEY teamed up with me on this issue to introduce legislation to allow States to enroll pregnant women and children in Medicaid up to 185 percent of the Federal poverty level. That legislation was passed by Congress and takes effect July 1, 1988, improving health for many pregnant women and their children while attacking the problem of infant mortality.

Clearly, the cost of infant mortality is borne by all of American society. And that cost is outrageous—both in dollars and in human misery—in comparison to the cost of the preventive care that would be provided through this bill. As the National Commission to Prevent Infant Mortality stated in its concluding report, "Every low birthweight that could be averted would save the U.S. health care system between $14,000 and $30,000. The lifetime costs of caring for a low birthweight infant can reach $400,000. The costs of prenatal care—care that might prevent the low birthweight condition in the first place—can be as little as $400."

A landmark study by the National Institute of Medicine reported that for every dollar spent on prenatal care, over $3 can be saved in the first year of a child's life, not to mention the improvement in quality of life for the whole family and country.

Under current law, in addition to Medicaid coverage provided through Aid to Families with Dependent Children, the Deficit Reduction Act of 1984, and the Consolidated Omnibus Budget Reconciliation Act of 1985 requires States to provide Medicaid coverage to certain categories of pregnant women and children. DEFRA required States to provide Medicaid coverage for women who would qualify for AFDC and Medicaid when their children are born and pregnant women in two-parent families where the primary wage earner is unemployed. COBRA, by requiring States to provide Medicaid coverage to pregnant women in two-parent families even when the primary wage earner is employed, further expanded eligibility for women who meet AFDC income and resource standards.

Although I support presumptive eligibility, I am not certain it is the answer for all States. I'd like to clarify what my home State is doing with eligibility issues. Minnesota has chosen to address presumptive eligibility by developing a one-page application

form and requiring an expedited review of 15 days for all women applicants. Since Minnesota relies primarily on private providers to serve low-income women for prenatal and obstetrical/gynecological care who already offer the first prenatal visit free, Minnesota adequately meets these same needs that presumptive eligibility would. Thus, my State would prefer that the moneys designated for mandatory presumptive eligibility be used for outstationing eligibility worker. Then this money could be used to expand utilization of services for prenatal and child health care.

Currently, they are streamlining and requiring expedited review for pregnant women applying for medical assistance. These women must be seen and eligibility determined within 15 working days. Thus, Minnesota has chosen not to add presumption eligibility.

The responsibility for ensuring the provision of health care for pregnant women and for children is fundamental to our basic character as a country. Of the 3.7 million women that deliver babies each year, 40 percent are unemployed or work only part time and 25 percent are poor. Four out of every 10 mothers have a major health problem during pregnancy, and one in seven had health problems prior to the pregnancy. Every year, about 10 percent of babies are born with major health problems, and 40,000 infants die during the first year of life.

Nowhere is the reality of those problems more evident than in the urban and rural parts of this country that are populated by low-income and minority families. One such area is the west side of the city of St. Paul, MN.

At last year's National Infant Mortality Commission hearing in Minnesota, some of the most telling testimony came from health professionals who work in such communities. One was Angeles Juarez who is head nurse at the West Side Community Health Center in St. Paul.

"It is a shame that a country as rich as the United States is just ahead of Cuba in infant mortality," Ms Juarez noted in her testimony. "This should not be happening, and it can be prevented, if we really care."

"Look at the women out of the main stream," she said. "They are poor, either do not speak English or speak it poorly; live under an incredible amount of stress; are physically or emotionally abused, either by their partner or by the system; have more children than they can handle, and have no assistance and are generally powerless".

Ms. Juarez then went on the describe both the challenges and successes that her clinic has experienced in increasing the level of prenatal care in her community.

"I can proudly say," she said, "that the incidence of infant mortality and morbidity and C sections among West Side Clinic patients are much lower than in other similar communities. Our success is due to our commitment to high quality prenatal care from educational to nutritional needs and everything in between."

Despite the success, new challenges are emerging, Ms. Juarez said, including the special problems of dealing with pregnant mothers who are recent immigrants and have language and cultural barriers to overcome in seeking and accepting prenatal care.

Mr. President, these and other experiences in Minnesota have convinced me that health care in America must be judged not only on its ability to cure the sick, but on its capacity to keep people well. Isn't it better, more sensible and farsighted, to strive for wellness, for self-responsibility, for accident prevention, and for research and development in delivery, not just new treatment of diseases? Can we afford as a nation, to turn our backs on women who are poor, who are black or native American, who have no health insurance, who live in inner cities or heavily rural areas? These women are much more likely to lose their children in the first year of life, simply because they don't have access to the proper health care to the information telling them how to get it.

In a nation that prides itself on equity and compassion that is a crime. As I have said so many times, the best incubator of all is the mother's womb, not the machinery of the neonatal intensive care. If we are going to make better lives for our children, we need to assure a better start for all, through adequate, available health care even before they are born.

I am convinced that as a nation, we must commit ourselves to treating every baby as a national treasure. We must begin before conception, but certainly we must have early prenatal care and make sure that no barrier stands in the way of the most physically and emotionally nurturing environment. The essential protections must be made available throughout pregnancy, delivery and through the first critical years of life.

The older I get and the more I see—as a public official, as a father, and a neighbor—the devastating effects of individual and societal neglect and abuse on the coming generation, the more committed I become to redirecting our national priorities to salvaging this generation and stopping the damage before it happens to the next generation. Even if we did not want to do these things for reasons of compassion and humanity, we would have to do them for our own futures and the future of our children and grandchildren.

Herbert Humphrey once said, "The moral test of government is how it treats those in the dawn of life, the children; those in the twilight of life, the elderly; and those in the shadows of life, the sick, the needy and the handicapped." Let us live up to our commitment.

Mr. CHAFEE. Mr. President, I am pleased to join with Senator BRADLEY in introducing the Infant Mortality and Children's Health Amendments of 1989. This legislation is our next step forward in reducing the rate of infant deaths and illness in this country and ensuring that all children have access to necessary health care services.

When infant mortality trends deteriorate as they have in the United States, we must step back and ask whether our health delivery system is adequate and effective. When the United States has poorer pregnancy outcomes than 11 other developed countries, we must ask why. When low birthweight is excessive among the poor, the poorly educated and those that do not receive proper prenatal care, we must take action. Our bill is necessary in order to ensure that those who do not currently receive proper health care services have access to them.

Eleven babies die out of every 1,000 born in this country. Few events are as tragic as the death of a baby or the birth of a child with a disability that could have been prevented. It has been estimated that half the birth defects which occur in this country could be prevented through proper prenatal care. Such care can drastically reduce the frequency of low-birthweight babies who are 40 times more likely than other infants to die within the first year and who tend to suffer a wide range of long-term health problems.

Think of the incalculable human cost which can be avoided if we improve the delivery of prenatal services. In purely economic terms, an average investment of $600 for routine prenatal services and counseling could save as much as $120,000 to $200,000 for extended neonatal intensive care and an average of $40,000 per year for 50 years for a person with disabilities in an institution.

As a member of the Senate Finance Committee and the Subcommittee on Health one of my highest priorities has been to provide widespread and effective preventive health care for low-income children. Since 1984, we have been successful in moving forward in incremental steps toward this goal.

The legislation we are introducing today will improve the delivery of prenatal care and health services to pregnant women, infants, and children. State Medicaid Programs would be required on a phase-in basis to provide coverage for pregnant women and in-

fants with incomes under 185 percent of the Federal poverty level.

Our legislation also addresses an important problem that exists under the current system; because Medicaid's application process can take several months, pregnant women may not begin receiving prenatal care until well into their pregnancies. This legislation would require States to assume presumptive eligibility of pregnant women and begin providing necessary ambulatory care early in the pregnancy.

Senator BRADLEY and I believe that further extension of Medicaid coverage is critical for low-income children. Therefore, we have included a phase in of coverage for impoverished children up to age 18. Children need a good healthy start in their lives. We must recognize this now and act on it before its too late for a generation of children living in poverty.

This legislation also fine tunes present law regarding assets tests and reimbursement for physicians—changes that are all necessary to create a system of services that will achieve our goals.

I know there is concern about how we can afford to address this problem in light of the continuing problem of the deficit. In my opinion it is a question of choosing priorities. I believe there are few goals more important than ensuring that the coming generations of Americans begin life with good health and have the opportunity to grow and flourish.

Mr. President, I commend Senator BRADLEY for his continued efforts in this critical area of infant mortality and child health. Our successful work in the past to improve access to health care for mothers and children leaves me encouraged about the prospects for this legislation. I hope my colleagues agree that Federal dollars for this legislation would be well spent and that even during a time of fiscal restraint it is sound economic policy to invest in the health of mothers and children.

By Mr. PELL:

S. 340. A bill to amend the Presidential Election Campaign Fund Act to curtail negative campaign advertising; to the Committee on Finance.

NEGATIVE CAMPAIGN ADVERTISING

Mr. PELL. Mr. President, I am introducing today a bill to amend the Presidential Election Campaign Fund Act to elevate the tone of Presidential election campaigns by placing limits on the use of public funds for media advertising.

While memories of the 1988 election campaign are fading into historical perspective, those that linger are of a rancorous contest waged on TV screens by media specialists more interested in defaming the opposition than in promoting an honest examination of the issues.

What escaped general public notice was that some of these advertisements were purchased by public funds raised through the voluntary checkoff of funds for the Presidential Election Campaign Fund, as provided under chapter 95 of the Internal Revenue Code. Each of the major party contenders in 1988 drew $46 million from that fund, although each in turn raised more than that amount in additional funds from other sources.

This intrusion of additional soft money into publicly funded campaigns is a separate issue that needs to be addressed by regulation or law, but in the meantime we should do what we can to see that the public funds which are provided are used in ways which the public finds acceptable. The case for doing so was perhaps summed up in a recent article by John Chancellor:

George Bush and Michael S. Dukakis each got more than $46 million of taxpayers money for their fall campaigns. They spent much of it on television advertising that voters found insulting. It is our money, and we should instruct the Congress to set conditions on how it can be spent.

The legislation which I am introducing today would hopefully do just that. It would amend the Presidential Election Campaign Fund Act by expanding the definition of expenses qualifying for public subsidy to include the cost of media advertising only to the extent the eligible candidate presents his own program, opinions and qualifications. The same limitation would apply to the operative provisions of the statute by dealing with the entitlement of eligible candidates to payments.

My proposal of course would not cure the whole problem of negative campaign ads, nor does it purport to outlaw such advertising altogether. As long as soft money continues to be available, a campaign bent on airing such ads could finance them from this source. And of course they can always be purchased by independent, third party sponsors.

But my proposal, if enacted, does impose a limitation on the one area of campaign expenditure where the public has a right to impose standards, and that is the sector which is financed from public funds. And hopefully the existence of a clear standard in this area might have the effect of elevating standards in the unregulated area as well.

I am aware that any regulation in the realm of advertising treads close to the first amendment guarantees of freedom of expression. But it seems to me that the limitation which I propose falls within the accepted scheme of public financing, namely that the acceptance of public funds carries with it the obligation to accept public limits.

In Buckley versus Valeo, the landmark decision of Federal election law, the Supreme Court stated that "acceptance of public financing entails voluntary acceptance of an expenditure ceiling." And in a separate notation, the Court expanded on the idea:

Congress may engage in public financing of election campaigns and may condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations. Just as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forgo private fundraising and accept public funding.

The Court in 1975 was considering limitations in terms of magnitude of expenditures, which was the problem which the Federal Election Campaign Act sought to address. The whole question of defamatory advertising was not then an issue. But it seems likely that in the context of today's world this remedy for a new problem would fall within the ambit of the doctrine of limitations as a condition for public financing.

At any rate, the events of recent months suggest that we are dealing with a new phenomenon which requires new solutions. If the remedy which I suggest requires further testing of the doctrine of limitations, that test will never be made unless we proceed with the remedy. So I urge my colleagues to consider and support this reasonable restraint on the use of public funds in Presidential campaigns. Hopefully, it could help avoid a repetition of the ugly campaign of 1988.

By Mr. HOLLINGS (for himself, Mr. FORD, Mr. METZENBAUM, Mr. MCCAIN, Mr. JEFFORDS, Mr. SANFORD, Mr. DODD, Mr. DIXON, Mr. THURMOND, Mr. DOMENICI, Mr. SIMON, Mr. DURENBERGER, Mr. HARKIN, Mr. PRYOR, Mr. MOYNIHAN, Mr. BINGAMAN, Mr. SHELBY, Mr. ADAMS, and Mr. LEVIN):

S. 341. A bill to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel; to the Committee on Commerce, Science, and Transportation.

AIR TRAVEL RIGHTS FOR BLIND INDIVIDUALS ACT

Mr. HOLLINGS. Mr. President, I am introducing legislation today to ensure that no passenger flying aboard a U.S. air carrier is discriminated against by that airline. This bill is to clarify and strengthen existing law to ensure that seating restrictions in commercial airlines are prohibited if based on the visual impairment or blindness of any passenger, or the use by any such passenger of a white cane or dog guide.

I am pleased to be joined by a number of my distinguished colleagues in sponsoring this legislation, including Senator FORD, chairman of our Aviation Subcommittee, and Senator MCCAIN, the subcommittee's new rank-

ing member, as well as Senator METZENBAUM, Senator JEFFORDS, Senator SANFORD, Senator DODD, Senator DIXON, Senator THURMOND, Senator DOMENICI, Senator SIMON, Senator DURENBERGER, Senator HARKIN, Senator PRYOR, Senator MOYNIHAN, Senator BINGAMAN, Senator SHELBY, Senator ADAMS, and Senator LEVIN.

Mr. President, the Air Travel Rights for Blind Individuals Act of 1989, is identical to a bill I introduced in the 2d session of the 100th Congress. It has the strong support of not only the National Federation of the Blind, but the Society for the Advancement of Travel for the Handicapped as well.

In 1986, Congress attempted to guarantee that commercial airlines not discriminate against any individual with a physical or mental impairment. The Air Carrier Access Act of 1986 [P.L. 99-435] was overwhelmingly approved to ensure that no individual be subjected to discrimination by any airline. More than 2 years have elapsed since that legislation became law and we are still awaiting issuance of the final implementing regulations. It now appears that the Department of Transportation [DOT] and the Federal Aviation Administration [FAA] intend to issue regulations that would begin eliminating the protections against discrimination that Congress strongly mandated in the 99th Congress.

Specifically, the FAA has announced its intention to issue regulations concerning the seating of passengers near emergency exits. The premise for this rulemaking is that blind passengers will be hazardous to themselves and others in emergency evacuations of commercial aircraft. But the FAA has never before had a regulation to limit seat assignments of the blind, and there is no present or known justification for a new regulation now.

Mr. President, blind people are as capable and competent to use and enjoy the benefits and privileges of air transportation as any other group of individuals. Their only disability is the lack of eyesight, which cannot and should not be a barrier to travel. Those of us who can see often forget that maneuvering effectively without sight is a normal way of life for the blind. They are accustomed to using other senses and skills that the sighted are not trained to use.

It is unfortunate that the blind have been subjected to many unreasonable restrictions in air travel. These restrictions are not caused by the physical conditions of blindness, but rather the lack of knowledge about blindness and the understandable fear that many people have in dealing with blindness. This fear and lack of knowledge have in numerous instances led to policies that restrict the activities, movement, or rights of the blind.

Air transportation for the blind is now an essential part of business and commerce, as well as leisure time activities. Blind people who travel by air are rightfully concerned that they be treated in a dignified and respectful manner. And it is appalling to me that exactly the opposite trend has developed.

In a rising tide of incidents, Mr. President, blind passengers have become the targets of abusive treatment and harassment on board airplanes. The situations I am referring to have involved flight delays of up to 2 hours or more, and in some cases the arrest of blind persons who are seated near emergency exit windows or doors, after they have been assigned to those seats by airline personnel.

Airline personnel admit that they do not reliably screen or assess passenger abilities to perform as required in the event of an emergency. In many instances, they do not even challenge passengers who pose obvious safety problems for themselves and others. For example, passengers who have already had too much to drink are often, without question, seated near emergency exists. In many other instances, an airline will seat an infant, small children, or elderly people in emergency exist rows, which many will argue puts the other passengers on the aircraft at risk.

Mr. President, last year, when I introduced similar legislation, I stated that it was up to DOT to resolve this problem as expeditiously as possible. I had hoped that legislation would serve as a signal to DOT and the airlines that we were serious in our efforts to ensure that blind travelers are no longer subjected to harassment and discriminatory treatment aboard commercial aircraft. It is indeed unfortunate that legislation now appears to be the only way that we have to assure the blind of fair and safe treatment when they fly.

Our passage of the Air Carrier Access Act in 1986 was intended to provide the blind and other handicapped passengers with a legal means of protection against unwarranted airline demands and improper arrests. But implementation of this law has broken down. Therefore, I have concluded that legislation clarifying our intent is in the best interest of the aviation industry and the blind consumer of air travel services.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at this point, and I urge my colleagues to join me in protecting this important segment of the traveling public.

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

S. 341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Air Travel Rights for Blind Individuals Act".

SEC. 2. Section 404(c)(1) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1374(c)(1)) is amended by adding at the end thereof the following: "An air carrier shall not restrict seating in aircraft on the basis of the visual acuity of a passenger or the use by a passenger of a white cane, dog guide, or other such means of assistance.".

Mr. McCAIN. Mr. President, today I am cosponsoring Senator HOLLINGS' Air Travel Rights for Blind Individuals Act, a measure to amend the Federal Aviation Act of 1958 in order to prohibit discrimination against blind individuals in air travel. The blind community, as with all people who are differently abled, have in the past faced unjust discrimination and been the victims of numerous misconceptions. These discriminations and misperceptions are some of the most difficult handicaps that face the disabled community, and removing them is the best way to ensure equal opportunity for all citizens.

This legislation seeks to strengthen existing laws to ensure that discrimination against a person on a commercial airliner does not occur because of a person's visual impairment or use a white cane or a guide dog. Section 404(c) of the 1958 Federal Aviation Act, enacted by Public Law 99-435, prohibits discrimination against qualified handicapped individuals in air travel. The spirit of this law, however, has not been fulfilled. Today blind citizens have faced humiliation and undue discrimination as passengers on this Nation's air travel system.

I do not believe the airlines deliberately embarass blind passengers, but it happens too often. As I said before, increasing awareness of this problem may be the best solution. There is no question that safety hazards to all passengers must be considered while simultaneously not violating individual rights. The Department of Transportation and the Federal Aviation Administration must thoroughly investigate this situation so that discrimination not only against the blind, but against any air traveler does not occur, while also ensuring that our air travel system remains the safest in the world.

Half a million blind Americans have been able to overcome the physical loss of sight with proper instruction and education. We must now overcome the misconceptions that many of the sighted hold. The Air Travel Rights for Blind Individuals Act brings the attention to this situation that is due. There may be different or better ways to address this problem, and I would be happy to get everyone's perspective on this issue, but it is time to ensure that all citizens are treated in a fair and equitable manner.

By Mr. DANFORTH (for himself, Mr. MITCHELL, Mr. BOND, Mr. DURENBERGER, Mr. CHAFEE, Mr. HEINZ, Mr. PRYOR, Mr. BOREN, Mr. MCCAIN, Mr. COHEN, Mr. FOWLER, Mr. DASCHLE, Mr. SASSER, Mr. KENNEDY, and Mr. DODD):

S. 342. A bill to amend the Internal Revenue Code of 1986 to provide that certain credits will not be subject to the passive activity rules, and for other purposes; to the Committee on Finance.

COMMUNITY REVITALIZATION TAX ACT

Mr. DANFORTH. Mr. President, today I am introducing a bill that represents the first step in an effort to help revitalize the cities in our country and to provide affordable housing for low-income Americans. Specifically, my bill is designed to reinvigorate the rehabilitation tax credit and low-income housing tax credit programs. The Community Revitalization Act would provide access to the investment capital required by both the low-income housing and rehabilitation credit programs, thus allowing the programs more effectively to meet the needs that prompted Congress to create them. In this effort, I am pleased to be joined by my colleagues, Senators MITCHELL, BOND, CHAFEE, DURENBERGER, HEINZ, PRYOR, BOREN, MCCAIN, COHEN, FOWLER, DASCHLE, SASSER, KENNEDY, and DODD. Identical legislation is being introduced today in the House by Representatives KENNELLY and SCHULZE.

Mr. President, during the last several decades, our Nation's cities have become increasingly blighted. Widespread deterioration and squalid living conditions in many older residential areas stand in dramatic contrast to the large comfortable and beautifully landscaped residences of the new suburbs. Neighborhoods that once flourished are now ghettos that offer no hope for those who live there. With moderate income individuals and families moving out to the suburbs, the poor and less educated are often left in the inner cities. Often, these people do not have the time or interest to spend on the welfare of the general community. This lack of economic mix perpetuates the ghetto and destroys communities.

In middle American cities, the problem is particularly severe. Disinvestment has ravaged these cities during the last several decades. Economic activity does not just happen there; it needs to be aggressively encouraged. In the last 7 or 8 years, we have begun to see successes with reinvestment in many of these cities. However, many neighborhoods still do not have the critical mass of development necessary to sustain their communities. As a result, entire cities are left without an adequate tax base, and vital services cannot be provided.

At the same time, we are in the midst of a vast and growing housing affordability and availability crisis. There is a large and expanding gap between the cost of decent housing, as provided by the private sector, and the income which is available to pay for it. The most tragic and visible indicator of the low-income housing crisis is homelessness. As many as 700,000 persons could be homeless on a given night in 1989, and considerably more could experience homelessness over the course of the year. National estimates range from 350,000—from a report by HUD—to over 3 million—National Coalition for the Homeless. This figure is expected to rise by as much as 25 percent each year. While there is no satisfactory method of counting the homeless, there is general consensus that the problem is a growing one. Whatever the number of homeless people and families was 2 or 3 years ago, it is substantially larger now.

The housing affordability crisis is creating a more severe economic situation in inner cities. City governments are being forced to spend much larger percentages of their resources on the provision of low-income housing. As a result, those cities with soft real estate markets have fewer resources to spend on neighborhood stabilization or the development of housing for more moderate income individuals. Without any relief, these cities will only decline further, increasing the problems that already exist.

Clearly, these problems are extremely complex and deserve comprehensive solutions. Today, I am introducing a bill that will reinvigorate existing tax credits and provide a first step in our fight to address these problems. The low-income housing and rehabilitation credits were created by Congress specifically to revitalize aging downtowns and neighborhoods and provide increased access to affordable housing for Americans nationwide. They were restablished to encourage investment in areas and projects that Congress considered desirable, but unlikely to attract capital on their own because of their high risk, high cost, and low projected rate of return. It is this type of investment that is crucial to our Nation's inner cities and the poor who need affordable places to live.

Unfortunately, the Tax Reform Act of 1986 ensured that these important credits would not work. Congress destroyed the effectiveness of the existing tax incentives and created a low-income tax credit that has been unable to produce a meaningful amount of affordable housing. In fact, the National Council of State Housing Agencies reports that States used only 20 percent of available low-income housing credits in 1987. While this percentage rose in 1988 to approximately 60 percent, investment in low-income housing still needs further encouragement.

The effect of the inadequacy of the credits has been devastating for poor people across the country. The production of multifamily housing has dropped considerably since 1986. In 1985, 666,000 units were built. In 1987, only 474,000 units were built. The National Association of Home Builders blamed the slow down primarily on the 1986 tax changes. In my own State of Missouri, the city of St. Louis developed an average of 210 units a year of below-market rate housing before the Tax Reform Act of 1986. In 1988, the city only developed 133 units of subsidized housing. This is a shocking drop that will certainly create additional suffering and homelessness in that city.

The rehabilitation of historic buildings, a key to urban revitalization, has also plummeted due to the Tax Reform Act of 1986. The most recent National Park Service study of historic rehabilitations reveals that historic rehabilitation activity in 1988 declined to the lowest levels since the first year of the rehabilitation tax credit program. According to the National Park Service report, "Tax Incentives for Rehabilitating Historic Buildings: Fiscal Year 1988 Analysis," both the amount of yearly investment and the number of projects is approximately one-third of levels existing before the 1986 Tax Reform Act.

Provisions of the Tax Reform Act of 1986 limit how the tax credit can be used, and by whom, thereby dramatically reducing the viability of historic rehabilitation as an investment program. Applications for rehabilitation certification nationwide declined by 46 percent between 1987 and 1988. The decline between 1985 and 1988 is a startling 69 percent. Applications for approval of rehabilitation work since 1986 are down 52 percent from the level of a 12-month period in 1985 prior to congressional action on tax reform. Even worse, the National Park Service expects that those levels showed a further decline in 1988. In St. Louis, renovations using the rehabilitation tax credit fell by more than 75 percent between 1985 and 1988. The city rehabilitated 908 units in 1985 and only 80 units in 1988.

Both the low-income housing and the rehabilitation tax credits suffer from the inability to attract capital. Because of their interaction with the passive loss rules, enacted as part of the Tax Reform Act of 1986, neither program is able to function as Congress intended. The passive loss rules were designed to prevent individual taxpayers from using losses from certain "passive" activities to shelter income from wages, salaries, and other types of investment income. The rules addressed the significant increase in

the use of losses from certain investments, typically those involving heavily leveraged investments in real estate, to offset "active" income. These transactions, often structured as limited partnerships, would allow investors to take advantage of generous depreciation deductions available for real estate as well as deductions for interest expense to create extensive tax losses in the early years of an investment.

Unfortunately, in addition to restricting the use of passive losses, the rules enacted in 1986 also restrict the use of credits, primarily the rehabilitation tax credit and the low-income housing credit. Under the rules, a taxpayer generally may use the credits only to offset tax liability from passive activities. In an attempt to lessen the negative impact of the passive activity rules on the rehabilitation and low-income housing credit programs, Congress provided a special exception for both credits in the 1986 act. In general, the exception permits taxpayers with adjusted gross incomes of less then $250,000 to use up to $7,000 of either credit annually to offset nonpassive income. This limited exception phases out as an individual's income exceeds $200,000. This exception has been underutilized and has created two major problems in the financing of low-income housing and rehabilitation projects.

Low-income housing and rehabilitation projects have traditionally been structured as private placements under the regulation D exception to public offering registration requirements of the SEC. Generally, regulation D requires that all but 35 investors in a project be accredited investors—individuals with annual income of over $200,000 or net worth over $1,000,000. Since virtually all such accredited investors do not qualify for the credit exception to the passive activity rules because of the income cap, project sponsors are increasingly hard pressed to find accredited investors who can utilize these incentives in a private placement. The main investment alternative, a registered public offering, requires extensive Federal submissions and individual submissions in every State in which the investment is to be marketed. These requirements make such approach prohibitively expensive for all but the largest low-income and rehabilitation projects.

Vitality and viability must be restored to both the rehabilitation and the low-income housing credit programs. Under the Community Revitalization Tax Act of 1989, this would be accomplished by shifting the credit use limitations for these programs from the passive loss rules into the general rules that limit use of business credits. This is not a complete answer to the problems created in 1986 for low-income housing. I want to make it clear that it will still be necessary to modify and extend the low-income housing credit in the future.

The Community Revitalization Tax Act of 1989 would increase the pool of investors eligible to use the rehabilitation and low-income housing credits and expand the number of practical financing mechanisms available to project sponsors.

The bill would have the additional benefit of simplifying the tax law in two ways. First, it would modify the passive activity rules to limit their scope to include only losses, not credits. Second, it would leave any limitations on credits where they conceptually belong, in the general business credit limitation. More specifically, the bill would tighten the limitation as it applies to individuals to limit the amount allowable for a taxable year to the sum of the first $20,000 of a taxpayer's net tax liability plus 20 percent of liability exceeding $20,000. As an additional check on tax avoidance, taxpayers attempting to zero out through use of the credits are also subject to the alternative minimum tax system, where credits cannot be used to reduce alternative minimum tax liability.

Mr. President, Congress reaffirmed its commitment to affordable housing and community revitalization by creating the low-income housing credit and preserving the rehabilitation credit in the 1986 Tax Reform Act. We have monitored these credit programs carefully since that time and have watched a steady and sharp decline in the effectiveness of the rehabilitation tax credit and a disappointing start for the low-income housing credit. Simply put, if Congress is to make good on its commitment to create housing opportunities for our most needy citizens and revitalize our neighborhoods, we must ensure the vitality of the low-income housing and rehabilitation credits. The Community Revitalization Tax Act of 1989 is an important first step in our efforts to ensure that the credits work and that low-income housing is available and cities in our Nation are decent, safe places to live.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 342

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 "Community Revitalization Tax Act of 1989".

SEC. 2. EXCEPTION FROM PASSIVE ACTIVITY RULES FOR REHABILITATION CREDIT AND LOW-INCOME HOUSING CREDIT.

(a) GENERAL RULE.—Paragraph (2) of section 469(d) of the Internal Revenue Code of 1986 (defining passive activity credit) is amended by adding at the end thereof the following new flush sentence:

"For purposes of the preceding sentence, and rehabilitation investment credit (within the meaning of section 48(o)) and any credit determined under section 42 shall be treated as a credit which is not from passive activities."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 469(i) of such Code is amended by striking subparagraphs (B) and (C) and by redesignating subparagraph (D) as subparagraph (B).

(2) Paragraph (6) of section 469(i) of such Code is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1988, in taxable years ending after such date.

SEC. 3. LIMITATION PROVISIONS OF GENERAL BUSINESS CREDIT MODIFIED WITH RESPECT TO INDIVIDUALS.

(a) IN GENERAL.—Subparagraph (A) of section 38(c)(4) of the Internal Revenue Code of 1986 (relating to special rules for limitation of general business credit based on amount of tax) is amended to read as follows:

"(A) INDIVIDUALS.—

"(i) IN GENERAL.—Except as provided in clause (ii), in the case of an individual—

"(I) the amount specified under subparagraph (B) of paragraph (1) shall be $20,000 in lieu of $25,000, and

"(II) the percentage specified under subparagraph (B) of paragraph (1) shall be 80 percent in lieu of 25 percent.

"(ii) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a husband or wife who files a separate return, clause (i)(I) shall be applied by substituting '$10,000' for '$20,000'. This clause shall not apply if the spouse of the taxpayer has no business credit carryforward or carryback to, and has no current year business credit for, the taxable year of such spouse which ends within or with the taxpayer's taxable year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1988.

Mr. MITCHELL. Mr. President, I am pleased to join Senator DANFORTH and other Senators today in the introduction of the Community Revitalization Act of 1989. This legislation would remove the low-income housing tax credit and historic rehabilitation credits from the passive loss rules. In place of the passive loss restrictions, the bill would limit the ability to taxpayers to reduce their tax liability by tightening the general business credit limitation in current law.

The Tax Reform Act of 1986 preserved tax incentives for investment in historic rehabilitation and established new incentives for investment in low-income housing. It then imposed limitations on investors through the passive loss rules that prevent the credit incentives from working as Congress intended.

The passive loss rules were proposed during Senate consideration of the 1986 tax reform legislation as a means of limiting the ability of taxpayers to

reduce their tax liability through passive investments that generate paper losses. The passive loss rules were originally designed to limit tax losses but were also applied to tax credits so that taxpayers could not use credits from passive investments as a means of reducing salary and portfolio income. In the case of historic rehabilitation and low-income housing, a limited exception applies that permits taxpayers with less than $200,000 of adjusted gross income to use credits that provide up to $25,000 of loss equivalents, notwithstanding whether the taxpayer materially participates in the activity. Thus, taxpayers that meet the income test who are in the 33-percent tax bracket can use up to $8,250 of tax credits annually.

The special rules for low-income housing and rehabilitation credits are useful. They create a small market of investors that would not otherwise exist under the general passive loss rules. But the market is indeed quite small making it far more difficult and expensive to attract capital to low-income housing and historic rehabilitation projects. Congress gave credits with one hand and then sharply limited their use with the other hand.

It has been estimated that 90 percent of the equity invested in low income housing prior to tax reform came from taxpayers whose income makes them ineligible for the full low-income housing tax credit under the passive loss rules. It is even worse than that, however, because the low-income credit is a multiyear program that provides tax incentives over a 10-year period. Thus, in order to utilize the full benefits, an investor must have less than $200,000 adjusted gross income in the first year and also in every year he holds the investment through the 10th year.

Syndicators of the low-income credit must locate that small market of individuals with sufficient income to invest in low-income housing but who do not expect to exceed the income limits for a 10-year period. Obviously, that market is quite limited.

The Tax Credit Program was created in 1986 and there has been some success in attracting equity investors. But the equity investors already attracted are locked out of the market for a 10-year period once they invest up to the limit of the tax benefit. It will thus be even harder in the future to find investors.

The more important concern is that this artifical constriction of the market makes the low-income credit less efficient. It is simply a matter of supply-demand economics. To induce capital out of a smaller market, higher rates of return must be offered investors and greater overhead cost must be expended to reach the market. That means less of the tax incentive goes into housing to directly subsidize the availability of housing units at affordable rents to low-income families.

In tax reform, Congress established a well targeted low-income housing program through the low-income housing credit. Then, through the passive loss rules it reduced the efficiency and effectiveness of the credit by imposing artificial constraints on who can use the credit.

Last year Senator DANFORTH and I established a task force of individuals to study the low-income housing tax credit and to make recommendations to us for ways to make the credit program more effective and efficient in encouraging the availability of affordable housing. That task force completed its work last month and identified this passive loss rule as one of the most important issues to be addressed.

The historic rehabilitation community has found it just as difficult to attract capital to its projects as a result of the passive loss rules. When the 1986 tax reform legislation was considered in Congress, we thought we were preserving incentives for historic rehabilitation. However, because of the passive loss rules, that turns out not to have been the case. According to a recent report by the National Park Service, Tax Incentives for Rehabilitating Historic Buildings: fiscal year 1988 analysis, "the yearly investment is now about one-third of the pre-Tax Reform Act levels of more than $2 billion per year" and "the number of projects is now at about one-third" as well.

The Community Revitalization Act attempts to deal with this problem by removing the historic and low-income housing credits from the passive loss rules. However, this would be done in a way that is consistent with the intent of tax reform because other means would be used to ensure that no individual's taxes are reduced too much. First, the bill would make the general credit limitation much tougher. Under current law, taxpayers may use $25,000 of credits annually, plus an amount that would reduce up to 75 percent of any additional tax liability. As a practical matter, the alternative minimum tax operates to prevent even this much credit from being used. We propose to establish a general credit limitation even more strict than the alternative minimum tax by limiting the use of credits to no more than $20,000 annually, plus an amount that would not reduce tax liability by more than 20 percent. In addition, for those individuals who would not be sufficiently restrained by the business credit limitation, the alternative minimum tax would continue to apply.

I was an early supporter of tax reform and continue to fully support the tax policy principle that no individual should be permitted to use the tax laws to reduce their tax liability in excessive amounts. I believe this legislation we are introducing today is consistent with that principle. It would greatly expand the market for historic and low-income housing credits making these program more efficient. But, it would not permit individuals to reduce their tax liability to an excessive degree.

Mr. CHAFEE. Mr. President, today I am joining in the introduction of legislation that is vitally important to all low-income Americans, especially the homeless. This bill is also important to the preservation of historically significant buildings, through the rehabilitation tax credit for certified historic structures.

We created this low-income housing tax credit as part of the Tax Reform Act of 1986 to encourage the construction and rehabilitation of housing for low-income Americans. The credit has the potential for expanding the supply of available and affordable housing and, in fact, it is necessary to provide the incentive to develop or renovate housing for the poor.

The tax credit for rehabilitation expenditures was created in the Revenue Act of 1978 to provide an incentive for developers to restore and preserve historical structures. This incentive was necessary to avoid the demolition of thousands of historically significant buildings across the country. The studies that have been done on this credit show a dramatic response to our concerns and millions of dollars have been spent on rehabilitating historic building in all part of this Nation.

Unfortunately, the application of the new passive loss rules to both of these credits has significantly reduced the effectiveness of both programs. The limitations on the available credits have caused a sharp decline in the availability of equity capital for low-income housing and rehabilitation projects. I have received specific information from the Rhode Island Historical Preservation Commission that shows a dramatic decline in the number of rehabilitation projects that have been started since the passive loss rules went into effect.

History has shown that investment in low-income housing and rehabilitation projects is highly dependent on the tax benefits provided by these credits. I would therefore urge my colleagues to give this bill their full support.

By Mr. BINGAMAN (for himself and Mr. BOREN):

S. 343. A bill to amend the Internal Revenue Code of 1986 to extend for 10 years the credit for producing fuel from a nonconventional source; to the Committee on Finance.

NONCONVENTIONAL FUELS

● Mr. BINGAMAN. Mr. President, I rise today on behalf of myself and Senator BOREN to introduce legislation

to extend the nonconventional fuels tax credit. This tax credit was originally established in 1980 to provide an incentive to produce energy resources from new, less established sources. The fuels that would qualify for this credit include: Oil produced from shale and tar sands; gas produced from geopressurized brine, Devonian shale, coal seams, a tight formation, or biomass; liquid, gaseous, or solid synthetic fuels produced from coal, qualifying processed wood fuels, and steam produced from solid agricultural byproducts. These fuels constitute an important resource for our energy future.

The 1980 statute establishing this credit provided the credit for wells drilled after 1979 and before 1990. The credit was extended an additional year in 1988. The credit applies to all qualifying production from those wells and is calculated on a Btu-oil equivalent to the amount of gas produced. My legislation would extend those provisions for 10 years.

The extension is warranted to ensure continued development of our fossil fuel resources. At a time when imports of crude oil out-paced domestic oil output in 1988, and when our domestic production is at alarming low levels, it is essential that we provide incentives to ensure a viable domestic oil and gas industry. The incentive provided by the nonconventional fuel tax credit will help accomplish this goal.

The tax credit extension is important to my constituents in New Mexico. One of the most significant coal seam methane finds in the Nation is located in the San Juan Basin in northwestern New Mexico. This resource has provided new jobs and opportunities to the people of San Juan County and a reliable source of gas to serve the area.

My legislation also makes clear that the qualified fuels for the tax credit includes natural gas found in geologic formations known as tight sands. A Supreme Court ruling last year made it necessary to reinstate the credit for tight sands. Tight sands are gas filled rock formation of varying complexities with low permeability. This is a difficult resource to develop. The reinstatement of the tax credit for tights sands will help avoid the premature abandonment of many natural gas wells in the United States.

As is the case with coal seam methane gas, New Mexico has one of the largest tight sands resources in the United States and the continued development of this resource is in my State's interest as well as the national interest.

In summary, I ask my colleagues to give serious consideration to this legislation. Our Nation's future depends on a reliable domestic energy supply at a reasonable cost. The action I am taking today is one step toward meeting our energy security needs.

I urge my colleagues to support this legislation.●

By Mr. NICKLES (for himself, Mr. BOREN, and Mrs. KASSEBAUM):

S. 344. A bill to require certain work on aircraft to be performed by a domestic repair station; to the Committee on Commerce, Science, and Transportation.

DOMESTIC REPAIR OF AIRCRAFT

Mr. NICKLES. Mr. President, I rise today to offer legislation, with Senator BOREN, to address a problem that threatens the safety of our skies and the jobs of thousands of aircraft maintenance workers across the United States. This problem was created when the Federal Aviation Administration promulgated rules which allow domestic airlines to have their aircraft maintained and repaired overseas.

These rules were enacted over the objection of Congress and after a comment period in which the overwhelming majorty opposed the rules. In fact, the FAA reported in the Federal Register of November 22, 1988, that of the 1,116 comments received, there were only 79 in favor of the proposed rules.

It is hard for me to understand why the FAA sought to push through rules that had little support outside of the agency. It concerns me that labor and safety concerns were seemingly ignored in this bureaucratic attempt to legislate. The FAA's reasons for promulgating the new repair rules simply do not outweigh their disadvantages.

At the encouragement of the FAA, many airlines have invested large sums of money into their domestic maintenance operations which are the best in the world. The enactment of the new rules are counterproductive to this FAA policy, and undercut these investments. Because of the threat that foreign repair stations pose to our domestic maintenance operations, the 5,800 employees at the American Airlines maintenance facility in Tulsa are worried that they may lose their jobs. As a result of these concerns, American Airlines and their union, the Transport Workers of America, both support the bill that I am introducing today.

The FAA ruling should be repealed for safety's sake as much as for the economic considerations. It is clear to me that the addition of more than 200 foreign repair stations, which are unnecessary to meet the demand for work, will be an inspection nightmare. There is no way possible for the FAA to inspect and certify these stations in the comprehensive manner that is required. Therefore, there are no assurances that the repairs performed at foreign stations are of the quality normally demanded by the FAA.

These safety concerns, combined with an increased vulnerability to terrorist attacks, are reasons enough to strike down the new rules. We simply cannot assure quality repairs free from sabotage on work done beyond our borders.

The bill I am introducing with Senator BOREN today would do two things. First of all, it would again restrict the use of foreign repair stations except in cases of emergency when foreign repair is necessary for a plane to return safely to the United States. Second, the bill would clarify that aircrafts or their components that are manufactured overseas can be repaired there by the manufacturer or their recognized subsidiary. In most instances this would include only warranty work.

In conclusion, I would like to cite the results of a recent Media General-Associated Press poll which I believe further points out the need for this legislation. This poll was conducted January 4 to 12 of this year and consisted of interviews of 1,162 adults. Of those respondents, more than 56 percent stated that they did not feel security on international flights was adequate. Asked whether or not they felt terrorism or inadequate airline maintenance posed a greater threat, 64 percent stated that they felt a greater danger from improper maintenance.

It is obvious, Mr. President, that the public needs reassurances from the Federal Government that our planes are safe. We cannot give those guarantees by allowing foreign maintenance. Therefore, I ask my colleagues to join with me in striking down the ill-conceived rules recently adopted by the FAA, which only increase the concern of the public that airline maintenance is being done properly. The flying public deserves prudent action and a guarantee of safer skies. It is our responsibility to give them that guarantee.

Mr. BOREN. Mr. President, I am pleased to rise today with my colleague from Oklahoma, Senator NICKLES, to offer a bill to address recent regulations by the Federal Aviation Administration allowing for the use of foreign repair stations by domestically operated airlines. We are concerned about these revisions in the Federal air regulations and their effect on not only our constituents in Oklahoma, but everyone who depends on the safety of air travel.

Mr. President, very simply, this legislation will ensure that safety in the air is provided at all costs. Although this bill requires that the Secretary of Transportation issue rules to assure that only domestic repair stations are used on U.S.-registered aircraft and parts, two exceptions are made to accommodate special situations: First, where equipment is manufactured by

a foreign company and therefore maintenance is protected by that company; and second, where safety is at risk and an aircraft or parts need immediate repair to safely fly.

In addition, there are repair stations in the United States that employ thousands of people who depend on these jobs. The last thing we want to do is take these jobs away. I want to encourage jobs and work to be done here on American soil, not discourage it. We need this business, and I will do everything I can to prevent services like this from being moved abroad.

Mr. President, similar legislation has been offered in the House of Representatives by Congressman INHOFE and Congressman SYNAR. I hope that Congress will move quickly to require the Secretary of Transportation to repeal these rules and protect our own workers. Air safety will only be enhanced.

By Mr. DODD (for himself, Mr. KENNEDY, Mr. PACKWOOD, Mr. METZENBAUM, Mr. HATFIELD, Ms. MIKULSKI, Mr. JEFFORDS, Mr. PELL, Mr. MOYNIHAN, Mr. KERRY, Mr. SIMON, Mr. ADAMS, Mr. INOUYE, Mr. BURDICK, Mr. BIDEN, Mr. ROCKEFELLER, Mr. GORE, Mr. WIRTH, Mr. LIEBERMAN, Mr. KOHL, and Mr. LAUTENBERG):

S. 345. A bill to grant employees family and temporary medical leave under certain circumstances, and for other purposes; to the Committee on Labor and Human Resources.

FAMILY AND MEDICAL LEAVE ACT

Mr. DODD. Mr. President, I rise today to introduce the Family and Medical Leave Act of 1989. I am pleased to be joined by 19 of my Senate colleagues and over 150 national children's, family, health, labor, and business organizations in reintroducing this legislation today. We are united behind an important and timely idea—that parents ought to be able to have jobs and their families too.

The American family is changing right before our eyes. Ozzie and Harriet and June and Ward Cleaver have been replaced by Roseanne and My Two Dads. Only 1 in 10 American families has dad at work while mom stays home with the kids. Fifty-six percent of all American women and more than one-half of all mothers with infants under 1 year of age work outside the home. We have 29 million two-earner families with 25 million children; almost 8 million single parent families with an equal number of children. And by 1995, two-thirds of all preschool children will have mothers working full time. The statistics go on and on—we can run, but we can't hide.

What do these people do when a family crisis hits? The sad news is that many working people are on their own—caught in a Hobson's choice between their families and their jobs. Let's set aside the stories we heard from parents in seven hearings across the country last year—good people and productive workers losing their jobs because they have families too. Let's just look at the numbers.

According to a recent survey of Fortune 500 companies, only half the employers surveyed offer critical infant-mother bonding leave beyond the childbirth-related disability period. The U.S. Chamber of Commerce reported a survey last fall which revealed that 82 percent of employers provide no leave to care for sick children; 85 percent provide no leave for elder care; and 75 percent offer no leave for fathers. Only six States and about a quarter of employers offer the leave time for adoption which most adoption agencies require. A recent survey in my home State of Connecticut—one of the most progressive States in the Nation—revealed that fewer than 10 percent of the 750 firms surveyed offer infant care leave over and above normal sick leave policies. As a nation, I believe we can do better.

The Family and Medical Leave Act. The idea is simple, the cost is small. Ten weeks of unpaid leave for birth, adoption, or the serious illness of a child or elderly parent. Thirteen weeks of unpaid leave if an employee is incapacitated by a serious illness and cannot work. Job protection during the two kinds of crises which can remove the primary breadwinner from the labor force and cripple a family's economic security.

What is the cost of this bill? Well, it doesn't cost the Federal Government 1 red cent. And according to the General Accounting Office study released this morning, the cost to American business will be less than $236 million each year. That's $4.35 per covered worker; less than 2 cents a day. Eighty-eight percent of all businesses are exempt and some of those covered already offer similar plans. Two cents a day for job security during a family crisis; less than 2 cents a day.

We often hear the Washington business lobby make "educated guesses" about the effect of the bill on employer flexibility and the potential reduction of existing employee benefits. This despite repeated assertions by State departments of labor, unions, and businesses with leave policies in place, that there simply is no relationship between family leave and the costly ongoing benefits which businesses typically provide. They tell us what they think family leave will do to business if this bill is enacted. But we also hear from independent business people who already offer leave policies similar to this bill which actually save them money—in reduced turnover, absenteeism, and hiring and training costs.

As Yogi Berra used to say, "this is deja vu all over again." Over the last 50 years, in times of national consensus, when the Government has stepped in to ensure a minimum floor of protection and human decency for American workers, we have heard the same "Chicken Little" arguments from the business lobby that we will hear today. Child labor laws, occupational safety and health, minimum wage and civil rights—each time we put fair labor standards in place, we were told the sky was falling. And yet, I think most Americans agree that these laws have not only made us a more decent and humane nation but have made us stronger economically as well. Five years from now, when this family leave policy is in place throughout the Nation, we too will be wondering what all the fuss was about in 1989.

Mr. President, I would like to begin the 101st Congress with our best feet forward. To our colleagues in the business community, we extend a hand of mutual interest and cooperation. We want to work with them to develop legislation which provides job security for American parents in a way that is fair and affordable to American business too. To those in Congress and the administration who oppose this legislation, we extend the very same offer. We all want profamily policies which make it economically feasible for parents to be home with their children; that's what this legislation is all about. We all want adoption to expand women's pregnancy-related options; that's what this legislation is all about. We are all concerned about children at risk of drug abuse—children whose future productivity as employees depends on the early intervention which only parental bonding can provide; that's what this legislation is all about too. I look forward to working with the business community and my colleagues in the Senate to see if—together—we can achieve the mutual goals which we all espouse.

A list of endorsing organizations follows:

ORGANIZATIONS ENDORSING THE FAMILY AND MEDICAL LEAVE ACT OF 1989

9 to 5, National Association of Working Women.
ACTWU.
ACORN.
ALF-CIO.
AFL-CIO Dept. of Occupational Safety, Health and Social Security.
AFSCME.
Amalgamated Transit Union.
Ambulatory Pediatric Association.
American Academy of Child and Adolescent Psychiatry.
American Academy of Pediatrics.
American Association of University Professors.
American Association of University Women.
American Bar Association.
American Civil Liberties Union.

American Federation of Government Employees.
American Federation of Teachers.
American Home Economics Association.
American Jewish Committee.
American Jewish Congress.
American Medical Women's Association.
American Nurses Association.
American Occupational Therapy Association.
American Postal Workers Union.
American Psychological Association.
American Psychiatric Association.
Americans For Democratic Action.
Association for Children and Adults with Learning Disabilities.
Association for Gerontology in Higher Education.
Association for Retarded Citizens.
Association of Flight Attendants.
Association of Junior Leagues.
Berry T. Brazelton, M.D.
Center for Law and Social Policy.
Child Welfare League of America.
Children's Defense Fund.
Church of the Bretheren.
Church Women United.
Citizen Action.
Coal Employment Project.
Coalition of Labor Union Women.
Colorado Psychiatric Association.
Commission on Human Rights.
Committee for Children.
Committee of Interns and Residents.
Communications Workers of America.
County of Santa Clara Commission on the Status of Women.
Disability Rights Education and Defense Fund, Inc.
Economic Policy Council, United Nations Association.
Epilepsy Foundation of America.
Families for Private Adoption.
Fathering Support Services.
Federally Employed Women.
Feminists for Life of America.
Food and Allied Service Trades Dept. AFL–CIO.
Gray Panters.
ILGWU.
Institute for Child Mental Health.
Institute for Peace and Justice.
International Brotherhood of Teamsters.
International Association of Fire Fighters.
IUE.
Jewish Labor Committee.
Alfred Kahn.
Sheila Kamerman.
Leadership Conference on Civil Rights.
Longshoreman's and Warehousemen's Union, International.
March of Dimes.
Men's Rights, Inc.
Mennonite Central Committee, U.S. Peace Section, Wash. Office.
Mental Health Law Project.
Mexican American Business and Women's Professional Club of San Antonio.
Mothers Matter.
NA'AMAT USA.
NAACOG.
National Adoption Center.
National Alliance for the Mentally Ill.
National Association of Area Agencies on Aging.
National Association of Developmental Disabilities Councils.
National Association of Letter Carriers.
National Association of Protection and Advocacy Systems.
National Association of Social Workers.
National Center for Clinical Infant Programs.
National Committee to Preserve Social Security and Medicare.
National Conference of State Legislators.
National Conference of Women's Bar Association.
National Consumers League.
National Council of Catholic Women.
National Council for Children's Rights.
National Council for Research on Women.
National Council of Jewish Women.
National Council of the Churches of Christ in the USA.
National Council on Family Relations.
National Down Syndrome Congress.
National Education Association.
National Federation of Business and Professional Women's Clubs.
National Federation of Federal Employees.
National Federation of Temple Sisterhoods.
National Jewish Community Relations Advisory Council.
National Multiple Sclerosis Society.
National Parents and Teachers Association.
National Perinatal Association.
National Treasury Employees Union
National Union of Hospital and Health Care Employees.
National Woman's Party.
National Women's Law Center.
National Women's Political Caucus.
NETWORK: A Catholic Social Justice Lobby.
New Ways to Work.
Northeastern Gerontological Society.
Office and Professional Employees International Union.
Older Women's League.
OURS, Inc.
Pension Rights Center.
SEIU.
Society for Research in Child Development.
U.S. Catholic Conference.
UAW.
UFCW.
Union of American Hebrew Congregations.
United Cerebral Palsy Association, Inc.
United Church Board for Homeland Ministries.
United Methodist Church, General Board of Church and Society.
Washington Council of Lawyers.
Wider Opportunities for Women, Inc.
WEAL.
WEAL of Ohio.
Women's Legal Defense Fund.
YWCA of the USA, National Board.

Mr. PACKWOOD. Mr. President, I am proud to be a cosponsor of the Family and Medical Leave Act being introduced here today, and even prouder still to acknowledge my home State of Oregon which has already taken the lead and implemented similar parental leave protection last year. Earlier today, Oregon's commissioner of labor, Mary Wendy Roberts, by invitation of the Subcommittee on Children, Family, Drugs and Alcoholism, testified to the wonderful success of the Oregon parental leave law. It is her agency which has been responsible for enforcement of the Oregon law and which wrote the administrative rules implementing that statute.

Mr. President, I ask unanimous consent that the testimony of Oregon's labor commissioner be printed at this point in the RECORD.

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

TESTIMONY OF MARY WENDY ROBERTS, COMMISSIONER, OREGON BUREAU OF LABOR AND INDUSTRIES, ON THE 1989 PARENTAL AND MEDICAL LEAVE ACT

Thank you, Chairman Dodd. I deeply appreciate this opportunity to testify before the subcommittee on the Parental and Medical Leave Act of 1989 and to share our experience in administering Oregon's Parental Leave Law.

My name is Mary Wendy Roberts. I am Commissioner of the Oregon Bureau of Labor and Industries, elected statewide. Currently I am serving my third 4-year term.

My agency enforces the State's civil rights and wage and hour laws and also coordinates apprenticeship training. When the legislature enacted Oregon's parental leave law it assigned enforcement of the statute to the Bureau's Civil Rights Division. In addition, we were responsible for drafting the administrative rules implementing parental leave.

BACKGROUND

The 1987 legislature enacted the parental leave law, effective Jan. 1, 1988 (Chapter 319, Oregon Laws 1987). The law provides up to 12 weeks unpaid leave following the birth of a child, or the adoption of a youngster under the age of 6 years. Businesses and government entities with 25 or more fulltime and parttime employees are covered by the statute. Temporary employees are not eligible for this leave, unless employed 6 months or more during the year that leave is requested.

Both mothers and fathers working for covered employers are eligible for parental leave, but not concurrently. For example, the mother may wish to take the first 6 weeks off and the father the remaining 6 weeks, or any combination thereof.

Upon completion of the leave, an employee must be reinstated in his or her old position at the same work site, without loss of seniority, vacation, sick leave or other accrued benefits, service credits under a pension plan or any other company or union benefits. These benefits do not accumulate during the period of unpaid parental leave.

If an employee's position has been eliminated due to a company reorganization or other condition not related to parental leave, that employee must be offered an equivalent position. If that is not available, then, he or she must be put in a job that is available and suitable. An employer cannot eliminate a position solely because the employee took parental leave.

In Oregon, about 11.5 percent of the private employers come under the provisions of the law because they employ 25 or more. That 11.5 percent accounts for 70 percent of the work force in the State.

I noticed in General Accounting Office Analysis of the Federal Legislation that the Parental and Medical Leave Act of 1989 covers about 12 percent of the U.S. firms employing 20 or more. But only 47 percent of the Nation's employees.

I mentioned the Oregon law provides for unpaid leave. However, an employee is entitled to use any accrued compensable leave for parental leave, for example sick leave or vacation time. An employer may require the employee to utilize any of his or her accrued level unless otherwise provided by employer

policy or a union collective-bargaining agreement.

In other words, our rules interpreting the law give the employee the absolute right to the use of any accrued paid leave; an employer, however, cannot force a worker to use other leave for parental leave if company policy or a union collective-bargaining agreement bars such a practice

Other provisions of the Oregon law include a 30-day notice provision prior to the anticipated date of delivery or taking of custody in an adoption. Exceptions are if the birth is premature, the mother is incapacitated due to birth or physical custody in an adoption comes with no notice.

Companies that offer a cafeteria plan with a parental leave component equal to the Oregon statute are exempt from the law.

Those are some of the highlights of the Oregon law, Mr. Chairman. Many of the provisions parallel those of the federal act as it relates to parental leave. The Orgeon statute does not provide medical leave.

SURVEY RESULTS

Mr. Chairman. When you were considering the parential and medical leave bill last year, you and the chairman of the Senate Committee on Labor and Human Resources, Mr. Kennedy, contacted the Bureau for information on how our law was working. Specifically you asked us to address the issue of whether mandated parental leave resulted in employers reducing or limiting other employee benefits.

We were pleased to respond. We complied a list of employees in Oregon and posed the question, concentrating in the Portland metropolitan area but also including businesses in Eugene, the State's second most populous city; Salem, the State capital, and eastern Oregon where the population is small.

We were able to reach companies employing an estimated 34,500. In addition we surveyed six insurance brokerages that specialize in employee benefit packages.

To prepare for my testimony today, Bureau staff talked to another 42 companies (personnel managers) employing between 60,000 and 70,000 in Oregon. A note of caution, however. Our surveys are not statistically valid as we did not utilize a random selection process, and are weighted to large companies because time constraints prevented us from reaching more busineses on the cutting edge of the 25 employee threshhold.

The results were heartening. Not one company that we surveyed had concrete plans to reduce other benefits because of parental leave, including smaller companies ranging from 35 to 114 employees. A few said they "might" consider offsets if costs dictate. Any reductions in benefits currently under way are motivated by rising costs, primarily for health benefits, and not imposition of a parental leave law.

Our survey found that many companies have generous leave policies in place for new mothers (but not fathers) over and above the normal medical disability leave for pregnancy. For example, Nordstrom's Department Stores with 1,800 employees in Oregon grants 6 weeks paid maternal leave. That will be extended to 12 weeks on March 1. A Portland architectural firm. Zimmer Gunsul Frasca, provides up to 6 months unpaid personal leave. Standard Insurance of Portland, with 1,000 employees, also grants 6 months maternal leave.

US West Communications' Oregon division provides 6 months parental leave for all employees following birth of a child. With the passage of the State law, it plans to extend that to adoptive parents. In addition, US West is considering bringing the 14 States in the western region under the same leave provisions. ESCO, a Portland-based electronics firm which employees 900 in Oregon and 600 in other States plans to extend parental leave benefits to all employees.

In short, virtually every company we surveyed said passage of the parental leave law will not result in a reduction in other benefits. Many personnel managers expressed support for the law, and I am including letters of endorsement from several major companies as part of the record.

The extent to which employees availed themselves of parental leave varied widely. Some companies said few of their personnel had sought parental leave. They tended to have generous leave policies already in place for female employees. Others said usage was fairly high the first year, for example, Good Samaritan Hosptial with just over 3,000 employees had between 150 and 200 employees go on parental leave. (The hospital offers an employee-paid short term disability plan but otherwise has paid leave limited to the time the mother is medically disabled.) Few men have elected to use the leave time, according to our survey. However, the personnel manager for Precision Castparts said he was "surprised" at how many of his firm's male employees had taken parental leave. The Portland machinist employs 3,100.

Most employees elected to use accrued leave time such as vacation or sick leave when taking parental leave. Again, these tended to work for firms with limited or unpaid pregnancy leave policies.

In summary, Mr. Chairman, Oregon's parental leave law has not resulted in other benefits being reduced. To date the Bureau has received only 20 complaints involving parental leave, the majority involving failure of management to allow the use of sick leave during parental leave. One case, involving a male employee of a large utility, was the subject of a contested hearing. In my final order I found for the employee and directed the utility pay the value of the 9 weeks and 2 days of sick leave requested that he had requested plus an additional $2,000 for mental anguish and distress.

CLOSE

Mr. Chairman, members of the subcommittee, I hope the Oregon experience will convince Congress to approve a Federal Family and Medical Leave Act. I support the bill before you without reservation. Many of the provisions parallel the Oregon statute and address the needs and concerns of a work force that includes more and more women and two-earner households.

I am very proud of my State for its foresight in providing parental leave. I consider both the Oregon law and the Federal act to be probusiness and profamily, despite some of the testimony you have heard from various business groups and what we heard when our bill was before the Oregon Legislature.

Our work force has changed dramatically from the days when the traditional breadwinner was the white, male head of household. The fastest growing segment of the labor force is women of child bearing age. Between now and the year 2000 women, minorities and immigrants will constitute 85 percent of the new entrants into the labor market. The majority of two-parent households include dual wage earners, and the reason is simple: women are in the workforce out of economic necessity. Two out of three women working outside the home today are either the sole providers for their children, or have husbands who earn less than $15,000 a year.

Parental and medical leave is a recognition of this startling shift in demographics. The fact that 6 States have a parental leave law, that 16 others are considering it, and that this panel is deliberating on a Federal Parental/Medical Leave Act attests to the need to give new parents an opportunity to bond with their children during the formative first weeks of their lives, at the same time guaranteeing that they will have their jobs back following expiration of the leave.

Thank you very much, Mr. Chairman, members of the subcommittee. I would be happy to answer any questions you may have.

Mr. PACKWOOD. Mr. President, the need for Federal law has become urgent. President Bush talks of a kinder, gentler nation. We now have the opportunity to be that kinder, gentler nation. The measure is a step in the right direction.

What we are saying with this bill is simple justice: A single mother shouldn't be forced to lose her job to take care of a dangerously ill child. A father should be able to count on returning to work after taking care of his family's emergency at home.

Fairness in the workplace will pay off for employers, too. Understanding the problems that families face will bring dividends in the way workers feel about their work. Instead of losing valuable productivity on the job, employers will motivate more initiative from their workers by building an important sense of trust and compassion.

The demographic revolution in the American work force is having a profund effect on the lives of working men and women and their families. Today, more than half of the 45.6 million children in two parent families have both parents in the work force. Fifty-two million women work outside the home, an increase of 178 percent since 1950. By 1990, 75 percent of all mothers will be working outside the home. More than one-half of all mothers with infants under 1 year of age now work outside the home. We are no stranger to these statistics. We have heard them here before. It is time we face up to the changing reality of our economy—single parents and two wage-earning parents dominate the work force. It is time now to take action, to ensure that no longer will American workers have to face difficult choices as they seek to balance family and workplace responsibilities. The dual goals of family and work are important to our Nation's well-being. It is time we support working parents by providing flexible leave options which promote family stability and job security.

The Family and Medical Leave Act being introduced today is the vehicle which can ameliorate the tremendous

pressures parents face in balancing workplace and family responsibilities. Under this proposal, all employers with 20 or more employees would be required to allow employees up to 10 weeks of unpaid leave within any 2-year period upon birth, adoption, or serious illness of a child or parent. Employees would also be allowed up to 13 weeks of leave within any 1-year period in the event of the worker's own illness or injury. Only workers who have been on the job for a year or more, and who have worked an average of half time or more during that year would be eligible for unpaid leave. Employees would be assured of reinstatement to the same or equivalent job upon their return, and would continue to receive health care coverage during their absence. The General Accounting Office estimates the cost of the bill to be no more than $236 million, most of which will result from the continuation of health insurance coverage for employees.

This bill is a reasonable approach. It seeks to meet the needs of families while helping businesses plan for workers taking leave. An estimated 88 percent of all firms, those with fewer than 20 employees, would be exempt from the bill's requirements. The Family and Medical Leave Act is not antibusiness. Indeed, many firms that already have leave policies in place report improved employee loyalty, reduced turnover and absenteeism, and enhanced productivity. It seems clear that business owners and their employees will benefit mutually from an unpaid leave policy such as envisioned in this bill. I urge my colleagues to support this long-overdue measure to help America's families.

Mr. KENNEDY. Mr. President, I am proud to join in sponsoring the Family and Medical Leave Act of 1989 and I look forward to moving this bill as quickly as possible in the Senate Labor Committee this spring.

It is no secret that the reason we have a Family and Medical Leave Act of 1989 is that the Family and Medical Leave Act of 1988 was defeated in the Senate by an election-eve filibuster.

I am hopeful that the new Congress and the new administration can agree on the importance of this measure and work together to expedite its enactment. No working mother in this day and age should be forced to choose between the child she loves and the job she needs.

When we say "family leave," we mean both paternal and maternal leave. When my son Teddy was hospitalized with cancer in the 1970's, I spent a great deal of time away from my Senate office in order to be with him. As a Senator, I could do that and still keep my job. But millions of other working parents are not as fortunate. This legislation is designed to remedy that need, and give all workers the opportunity to meet their responsibility as parents when a new baby is born or a child is seriously ill.

In a new provision added to our bill this year, we also permit workers to take leave to perform another responsibility that should be encouraged, in our society—caring for an elderly parent.

Some of the most distressing aspects of last year's debate were the distortions and scare tactics used by the opponents. The chamber of commerce initially claimed that the legislation would cost business $16 billion a year. That preposterous figure was later revised downward to a preposterous $2.6 billion. Now, as I understand it, our opponents prefer to do battle this year by criticizing our cost estimate, without offering as estimate of their own.

Our estimate is prepared by the Congressional General Accounting Office, which is known for both its impartiality and its accuracy. According to GAO, the cost of the bill will be $236 million year—approximately $4.35 per employee, or a bit more than 8 cents a week. That is a small price to pay for this large benefit to working in all parts of the Nation.

Finally, it is at least half a century too late to argue that it is wrong for Congress to mandate benefits like this. Where workplace injustices and abuses abound, Congress has not hesitated to step in, whether the issue is minimum wages, maximum hours, child labor, safe and healthy workplaces, or other fair labor standards.

The reality is that a revolution in the workplace has taken place in recent years. Millions of women have entered the work force—because they want to work or have to work, They are entitled to know that they will not risk their jobs or their careers or their futures because they need reasonable time off from work to nurse a new baby, care for a sick child, or help a disabled parent.

This measure is years overdue. It is simple workplace justice. I find it hard to believe that President Reagan would have vetoed this bill last year. I am condfident that President Bush will sign it this year—and when he does, I suspect we will all wonder what all the controversy was about.

Mr. METZENBAUM. Mr. President, I rise as an original cosponsor of the Family and Medical Leave Act of 1989. This legislation is critical so that America's working families can have a chance to grow and prosper.

It is no secret that last Congress, when we debated this issue, the Reagan administration did everything in its power to stop the bill. The opposition strategy of blocking any amendments while engaging in a filibuster successfully killed the legislation.

President Bush has promised that a fresh breeze will blow; that he wants a kinder, gentler nation. The Family and Medical Leave Act will be a test of whether the new President's words are more than just high-flown rhetoric. Senator DODD has been a tireless champion for this bill. I know he is prepared to work with the administration to enact a bill this year.

Working families need the job protection afforded by this legislation. We must face facts. The once typical family where the father is the sole earner while the mother stays at home to care for the family is rapidly vanishing. Less than 10 percent of America's families fit that model. Instead, today's typical family depends on two incomes to survive. Nearly 60 percent of American women are now in the work force. Two out of every three working women are either the sole support for their families or have husbands earning less than $15,000 per year.

Workplace practices have not kept pace with this revolutionary change in the makeup of the work force. Workers are being forced to choose between a job and a family. This bill allows workers to have both—job security along with the time needed to care for a family member. No worker should lose a job because he or she needs to take a few days or a few weeks off to care for a newborn infant, a sick child, or a dying parent.

The bill is also fair to employers. All leave authorized under the bill is unpaid. There is a generous small business exemption—though nearly one-half the work force will be eligible for unpaid leave, over 85 percent of the firms in the country are exempted from coverage. For those firms that are covered, the only cost results from the continuation of health insurance coverage for employees on unpaid leave. The General Accounting Office estimates the cost at $4.35 per covered employee per year.

I am particularly pleased that the Family and Medical Leave Act of 1989 includes a provision on elder care—unpaid leave to care for a seriously ill parent. The combination of an increasing number of working women and the tremendous growth in the elderly population has created a critical need for job protection for elder care.

Last week's New York Times reported that nearly 7 million caregivers, three-fourths of them women, are assisting elderly family members. Over half of those caregivers have jobs outside the home which in many cases must be compromised or even sacrificed because of caregiving responsibilities. I ask unanimous consent that the complete New York Times article be inserted in the RECORD.

The workplace must adjust to the work force. The Family and Medical Leave Act will help all working families, both young and old, function better at home and on the job. It is a

matter of simple fairness and basic decency that should be adopted as a national standard. I urge all my colleagues to support this pro-family legislation.

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

[From the New York Times, Jan. 25, 1989]

JUGGLING FAMILY, JOB AND AGED DEPENDENT

WASHINGTON, DC.—A substantial number of working mothers are finding that they must juggle another responsibility: providing unpaid personal care in the homes of elderly relatives and friends.

Close to seven million people, three-fourths of them women, provide such assistance to elderly relatives and friends, according to a recent study conducted for the American Association of Retired Persons and the Travelers Companies Foundation. Fifty-five percent of all care givers work in jobs outside the home, and 39 percent care for their own children as well.

The survey was based on telephone interviews to 750 households that had been previously screened to find the care givers, those who provided unpaid assistance in 1987 to a person outside the home aged 50 or older.

BURDENS AND SACRIFICE

The report draws a portrait of care givers who are shouldering such a substantial burden of care that they must sacrifice part of their own lives, losing time and benefits from their own jobs and paying significant sums out of their own pockets to care for the elderly. The report makes clear the burdens are not equally shared by the sexes.

"Women end up as care givers of the elderly because it is expected of them," said Elizabeth Mullen, an association official. "As part of our religious and social backgrounds, women cook, clean, and take care of people. And though women have been in the work force for years, their careers have usually taken a back seat to their husband's when a crisis situation comes up."

The task of taking care of the elderly has become increasingly complicated as the American family has evolved, Mrs. Mullen said. Many people who postponed having children until later in life are coping with frail parents at the same time they raise their own families. And because medical technology has allowed people to live longer, more parents are reaching an age at which they will need help in caring for themselves. Roughly 30 million Americans are now 65 or older, and about 3 million are 85 or older.

Care givers can involve a number of demanding tasks, from grocery shopping, cooking, cleaning and giving medicine to managing household finances. According to the survey, these duties can often strain work schedules: one-third of those care givers with full-time jobs and 37 percent with part-time positions said they lost time from work as a result of the extra responsibilities.

12 HOURS A WEEK

Those with jobs spent an average of 12 hours a week providing care. About 31 percent of those employed full time and 24 percent of part-time workers spent from 9 to 20 hours a week on care.

As a result of lost job time, 38 percent of the employed care givers reported that they had to change their working status from full-time to part-time. About 20 percent of the working care givers said that such benefits as vacation and health insurance had been reduced, the survey said.

The care givers also jeopardized their own Social Security benefits.

The study also found that care givers have substantial financial responsibilities: 26 percent said they spent up to 10 percent of their monthly income on expenses for the elderly, and 7 percent spent up to 25 percent. Care givers spend an average of $117 a month for travel, telephone calls, special foods and medicines for the elderly.

Mrs. Mullen urged employers and the Federal Government to develop leave programs for care givers.

THE CAREGIVERS

A survey of 750 households found this profile of the people who provide unpaid care for an elderly relative or friend.

	Percent
Gender:	
Male	25
Female	75
Age:	
Under 35	28
35–49	29
50–64	26
65 and older	15
Median age:	45
Marital status:	
Married	66
Not married	34
Children in household:	
Yes	39
No	49
Current employment:	
Full-time	42
Part-time	13
Retired	16
Not employed or homemaker	27

Source: American Association of Retired Persons.

By Mr. WIRTH (for himself, Mr. LEAHY, Mr. ROTH, Mr. MOYNIHAN, Mr. HARKIN, Mr. REID, Mr. BURDICK, Mr. LUGAR, Mr. PELL, Mr. JEFFORDS, Mr. FOWLER, Mr. LIEBERMAN, Mr. KERRY, Mr. SANFORD, and Mr. GORE):

S. 346. A bill to amend the Alaska National Interest Lands Conservation Act, and for other purposes; to the Committee on Energy and Natural Resources.

TONGASS TIMBER REFORM ACT

● Mr. WIRTH. Mr. President, today I am introducing a bill that simultaneously reduces the Federal deficit and protects the environment.

The Tongass Timber Reform Act of 1989 would bring fiscal sanity and responsible multiple-use management to our Nation's largest national forest by repealing sections 705(a) and 705(d) of the Alaska National Interest Lands Conservation Act of 1980 [ANILCA] and by providing an orderly process for ending decades of fiscally and environmentally unbalanced management.

These reforms will save the American taxpayers hundreds of millions of dollars and protect one of the last rain forests in the world's temperate latitudes, the Tongass National Forest in southeast Alaska.

The Tongass is bigger than the State of West Virginia. It is home to the greatest concentrations of bald eagles and grizzly bears in the world. Its streams provide the spawning grounds for a salmon fishery that is vital to the economy of Alaska. Just as important to the future of that State's economy is the rapidly growning number of tourists who come to the Tongass to experience its spectacular wilderness. As John Muir described it more than 100 years ago, the Tongass is a place of "endless rhythm and beauty."

The unique qualities that make the Tongass an important resource for the Nation are threatened by the Federal timber program and particularly, by the U.S. Forest Service's interpretation of ANILCA. Section 704 of ANILCA, included as part of a broad amendment package prior to Senate passage of that act, contains provisions that we now know are environmentally and economically unsound.

First, section 705 sets a goal of supplying 4.5 billion board feet of timber per decade from the Tongass to dependent industry. Second, it provides an open-ended appropriation of at least $40 million annually or as much as the Secretary of Agriculture finds is necessary to enable the USFS to achieve the timber supply goal. Unlike virtually all other Federal expenditures, including expenditures for national defense, these funds are not subject to deferral or rescission by the administration. Nor are they subject to the annual appropriations process in Congress.

My bill repeals these provisions. It deletes a timber goal which is so high that the land managers can't see the forest for the trees. And it cancels the blank check which supports uneconomic logging in that forest.

ECONOMICALLY UNSOUND MANAGEMENT

Mr. President, the Tongass program's net receipts and expenditures show the forest losing money every year in the past decade. The losses total more than $360 million. In fact, annual net receipts show losses even when ignoring capital costs, such as roads, bridges and facilities.

The Forest Service has cooked their books every way they can, but still admits to losing $18 million on timber sales in Alaska in 1987, the most recent year for which data is available. That loss occurred despite a boom year for timber prices—the best since 1981. Even in a great timber year, and even utilizing every accounting trick in the books to fudge the figures, this program lost millions.

Economists from outside the agency believe that the Forest Service's figures reflect serious biases, especially in the way they treat road costs. I believe that the real losses of the Tongass timber program in 1987 were at least $30 million, and perhaps more.

Section 705 of ANILCA made an exception to usual Forest Service prac-

tices, ratifying a series of unproven economic assumptions aimed at preserving the regional timber industry by guaranteeing timber supply without addressing timber demand. The existing pulp and sawmills in southeast Alaska were built as a direct result of Forest Service efforts to create a major timber industry in the region. The current law attempts to sustain the timber economy by relying on federal subsidies.

But in spite of increasing Federal subsidies, regional timber industry employment fell sharply after ANILCA became law, from more than 3,000 full-time equivalent jobs in 1980 to fewer than 1,800 in 1986. In today's boom, jobs are up again. But tomorrow, this boom-and-bust industry will falter again—regardless of subsidy.

Following their interpretation of section 705(a) of ANILCA, the Forest Service offered 450 million board feet of timber for sale each year, regardless of demand. As a result the Forest Service wasted millions of dollars preparing far more timber sales than there was any demand for. From 1980, when ANILCA was enacted, through 1986, the Forest Service spent $257 million of the Tongass Timber Supply Fund to put about 2.8 billion board feet of timber on sale. But only about 1.5 billion board feet was sold. In other words, only 53 percent of their work paid off.

Worse still, subsidized timber from the Tongass competes with unsubsidized, private timber grown in the same area. Native corporations established under the 1971 Alaska Native Claims Settlement Act are wholly owned by Alaska Natives. The Native corporations own some of the best timber lands in southeast Alaska. Their share of the regional timber harvest climbed from 13 percent in 1980 to 58 percent in the first two quarters of 1986. But subsidies to the Tongass National Forest undercut the ability of the Native corporations to profitably manage their lands.

TIMBER CONTRACTS

Part and parcel of the same problem are the two 50-year timber contracts the Forest Service granted to two large pulp mills. These deals commit the Forest Service to sell huge volumes of timber to these mills at bargain-basement prices. They effectively commit two-thirds of the commercial forest land to the exclusive use of the mills.

In 1981, a Federal court found the contract holders guilty of two decades of using anticompetitive practices to drive small, independent loggers out of business. A subsequent Forest Service study found that the mills had cheated the government out of $60 to $80 million through illegal bookkeeping practices, and the Forest Service reported to the Department of Justice that the mills, by these actions, had breached the contracts. The Forest Service settled this with the mills—but to date, only a small fraction of the damages to the Government have been recovered. Worse, the contracts still stand, despite many instances of the mills not holding up their end of the contracts.

My bill would cancel these anachronistic contracts. In their place, the Forest Service would use the same system of short-term timber sales used on all other national forests. The two companies still would be able to bid on timber under my bill, but it would be in free competition with other companies in the area. In a review of the two long-term timber contracts on the Tongass, the Congressional Research Service concluded compensation is unlikely to be required for cancellation of these contracts. I believe that contract cancellation is in the broad public interest and must be done to protect the natural resources of the Tongass National Forest.

Tragically, the Federal timber program endangers a large number of jobs in southeast Alaska that depend on the preservation of the Tongass. The fishing and tourism sectors of the economy combined provide more than twice as many jobs as timber, but depend on renewable natural resources. The Tongass timber industry, on the other hand, depends on the one-time harvest of high volume, old growth timber that, for practical purposes, is nonrenewable.

In 1988, salmon caught and sold in southeast Alaska brought $139 million to the region and accounted for the equivalent of nearly 4,000 full-time jobs. The salmon depend on spawning and rearing habitat in the streams whose watersheds are prime targets for logging to meet the inflated timber goals of the Tongass, much to the concern of fisheries biologists—and commercial fishermen—who have witnessed the impact of logging on salmon runs in the lower 48 States.

CONGRESS MUST ACT

Congress must cancel the blank check we have given for logging the Tongass. We must repeal section 705(a) of ANILCA and require that the Forest Service justify its spending. The savings for such a change will be significant.

In the last two appropriations cycles, we have taken a first step, by sidestepping the permanent appropriation. But as long as the Forest Service program on the Tongass is driven by a single goal—the 4.5-billion-board-feet timber harvest required by section 705(a) of ANILCA—at the expense of all other goals or values, we will be wasting million of dollars on the Tongass. My bill will repeal that goal.

FOREST PLANNING

The Forest Service has a plan for managing the Tongass National Forest. It is now revising that plan. But any plan which has as its cornerstones the $40 million permanent appropriation, the 4.5-billion-board-foot goal, and the two 50-year timber contracts which commit the Forest Service to sell huge volumes of timber at unconscionably low prices—will not be a multiple-use plan.

No number of bells and whistles added to such a plan will staunch the flow of taxpayer dollars or give any assurances of adequate protection for the fisheries, tourism and natural values of southeast Alaska.

Because the Forest Service's plan controls their actions on the Tongass, congressional action to repeal the permanent appropriation is not enough. Our repealing the legislated timber goal is not enough. And even our canceling the 50-year timber contracts is not enough, if those items live on in a Forest Service management plan that is built around those three factors.

To deal with that problem, my bill directs the Forest Service to revise its plan, to emphasize protection of fish and wildlife, and to protect 23 of the most important and most sensitive areas in the forest from further timber harvest until a new, balanced plan is complete.

The areas selected for protection in the bill have exceptional values for fish, wildlife, recreation, subsistence hunting and fishing, and scientific research. They are areas of high-volume old-growth forest, portions of the Tongass' rainforest with trees 200 to 800 years old, which provides essential habitat for deer, grizzly bear, bald eagles and other wildlife. And this special forest occurs primarily along rivers and streams where clear-cutting leads to erosion, siltation and other degradation of salmon habitat.

We are not just dealing with a legislative error. We are dealing with the momentum of decades of managing the Tongass as if there were no tomorrow. These decades have taken their toll. Since 1950, more than half of the highest-volume old-growth forest on the Tongass has been logged. Less than 5 percent of this habitat is protected in wilderness. By the Forest Service's own rating system, 70 percent of the high value wildlife areas and 72 percent of the high value fishery areas lie outside the Tongass' designated wilderness areas—and are subject to whatever management the forest plan prescribes for them.

If we don't provide an orderly transition to more rational management, we may lose much of what we hope to preserve. Old growth forest is not an easily renewable. It takes 200 or more years to developing under natural conditions which we do not know how to duplicate.

TIMBER AND WILDERNESS

Some have argued that the provisions of section 705 of ANILCA, which

this bill would repeal, were compensation for areas that were set off-limits to timber harvesting by the wilderness designations made in that act. They claim that the wilderness designations caused the decline in the number of jobs in the timber industry of southeast Alaska. But, in fact, less than 4 percent of the 5.5 million acres of wilderness in the Tongass contains commercially important timber. Moreover, the Forest Service has provided the two pulp mills with substitute timber for any they lost through those wilderness designations. And the General Accounting Office found that the decline in Tongass timber industry employment after ANILCA was enacted was due to declining demand for timber, not wilderness designation.

GAO STUDY

The General Accounting Office recently analyzed the costs and revenues of the Tongass timber program at the request of Senators STEVENS and PROXMIRE. The GAO report recommends that Congress "revise the 4.5 billion board feet per decade requirement * * * of ANILCA" so that timber goals can be set through the land management planning process—as they are in every other national forest. My bill will do that.

The GAO study did not, however, consider the important natural resource issues involved in management of the Tongass. It looked at dollars and cents, and board feet of timber, but it did not consider salmon, fisheries, wildlife, tourism, hunting and fishing, subsistence uses for Alaskan Natives, or the many important natural values of the Tongass and its low-elevation, old-growth forests.

My bill tries to assure that these values—as well as timber values—are given the consideration they deserve in the management of the Tongass, and that they are not decimated by continuation of outdated management while the Forest Service formulates a new, better, and more balanced way to manage our largest national forest.

I urge my colleagues to join me in supporting this measure, and I ask unanimous consent that this statement, the text of the bill, and a section-by-section analysis of the legislation be printed in the RECORD.

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

S. 346

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 "Tongass Timber Reform Act".

SEC. 2. DEFINITIONS.

As used in this Act—

(a) The term "the Secretary" means the Secretary of Agriculture.

(b) Unless otherwise specified, any other term has the same meaning as used in the Alaska National Interest Lands Conservation Act as amended (Public Law 96-487), hereinafter referred to as ANILCA.

TITLE I—ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT AMENDMENTS

SEC. 101. ANNUAL APPROPRIATIONS FOR TIMBER MANAGEMENT AND RESOURCE CONSERVATION ON THE TONGASS NATIONAL FOREST.

Section 705(a) of ANILCA (16 U.S.C. 539d(a)) is hereby repealed effective September 30, 1989, and subsections (b) and (c) of section 705 are redesignated as subsections (a) and (b), respectively.

SEC. 102. IDENTIFICATION OF LANDS UNSUITABLE FOR TIMBER PRODUCTION.

Section 705(d) of ANILCA (16 U.S.C. 539d(d)) is hereby repealed.

SEC 103. REPORTS ON THE TONGASS NATIONAL FOREST.

(a) MONITORING.—Section 706(a) of ANILCA (16 U.S.C. 539e(a)) is hereby repealed.

(b) STATUS.—Section 706(b) of ANILCA (16 U.S.C. 539e(b)) is amended as follows:

(1) Strike out "(b)" and insert in lieu thereof "(a)".

(2) Strike out "and (4)" and insert in lieu thereof "(4)".

(3) Strike out the period at the end of the section and insert in lieu thereof "; (5) the impact of timber harvest on subsistence resources, wildlife and fisheries resources, commercial fisheries, recreation resources and tourism; (6) effects of timber harvest on biological diversity and measures to conserve biological diversity; (7) effects of timber harvest on the old growth rain forest ecosystem, especially in areas of high volume, and measures to conserve the old growth ecosystem; (8) timber supply and demand in southeastern Alaska; and (9) costs and revenues of the timber sale program.".

(c) CONSULTATION.—Section 706(c) of ANILCA (16 U.S.C. 539e(c)) is amended as follows:

(1) strike out "(c)" and insert in lieu thereof "(b)".

(2) strike out "and the Alaska Land Use Council" and insert in lieu thereof "the southeast Alaska commercial fishing industry, and the Alaska Land Use Council".

SEC. 104. TERMINATION OF LONG-TERM TIMBER SALE CONTRACTS IN ALASKA

Title V of ANILCA is amended by adding at the end thereof the following new section:

"SEC. 508. TERMINATION OF LONG-TERM TIMBER SALE CONTRACTS IN ALASKA.

"Not later than 90 days after the date of enactment of this section, the Secretary shall terminate the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 between the United States and Alaska Pulp Corporation, and between the United States and Ketchikan Pulp Company, respectively.".

TITLE II—MANAGEMENT OF THE TONGASS NATIONAL FOREST

SEC. 201. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) natural resources of the Tongass National Forest possess outstanding natural characteristics of high value and benefit to the American people, and these resources are essential for subsistence activities and for the commercial fishing, recreation, and tourism industries which contribute significantly to the economy of southeast Alaska;

(2) The Tongass National Forest contains one of the last largely intact rain forests in the world's temperate latitudes, and must serve as an example of the type of protection, preservation and management that will be required to stop the destruction of rain forest resources in other nations;

(3) current Forest Service management of the Tongass National Forest, in particular the amount of high volume of old growth timber offered for sale and harvested, gives priority to timber harvest over other uses of the forest and thus is not consistent with the principle of multiple use or with requirements of the Forest and Rangeland Renewable Resources Act of 1974 and the National Forest Management Act of 1976, and cannot be sustained without jeopardizing natural resources that are of national significance and upon which the commercial fishing, recreation, and tourism industries and subsistence users of southeast Alaska depend;

(4) the Tongass National Forest Land Management Plan of 1979, as amended, which guides current Forest Service management practices, is predicated on sections of ANILCA that are repealed or amended by this Act and therefore should be revised consistent with the provisions of this Act and with other laws applicable to the National Forest System, to significantly increase protection and enhancement of fish, wildlife, watershed, recreation, cultural, biological diversity, and old growth forest ecosystem resources, and to support the long-term best interest of all natural resources dependent industries and subsistence communities in southeast Alaska.

(b) PURPOSE.—

The purpose of this title is to require revision of the Tongass National Forest Land Management Plan of 1979, as amended, in conformance with this Act and other laws applicable to the National Forest System, to significantly increase protection of resources that are critical to the long-term best interests of the commercial fishing, recreation, and tourism industries, and the subsistence users in southeast Alaska, and which are of high value and benefit to the people of the United States. These include the fish, wildlife, watershed, recreation, cultural, biological diversity and old growth ecosystem resources and subsistence values of the Tongass National Forest.

SEC. 202. DIRECTIVE AND REPORTS.

(a) In furtherance of the purpose of this title, the Secretary is hereby authorized and directed to fully revise the Tongass National Forest Land Management Plan of 1979, as amended, to conform with provisions of this Act and other laws applicable to the National Forest System. This revision shall supersede the Forest Plan revision currently underway.

(b) In revising the Forest Plan, the Secretary shall significantly increase the protection of fish, wildlife, watershed, recreation, cultural, biological diversity and old growth ecosystem resources and subsistence values of the Tongass National Forest. Planning and management of old growth resources shall give specific attention to areas of high volume old growth timber (30,000 board feet per acre or greater) and shall consider both individual species of plants and animals and the old growth ecosystem as a whole.

(c) In revising the Forest Plan, the Secretary shall ensure that priority is given to the protection of fish, wildlife, watershed, recreation, cultural, biological diversity, and old growth ecosystem resources and subsistence values of the areas listed in section 302(b) of this Act.

(d) Within 30 days after this Act takes effect, the Secretary shall provide the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives with a report on the schedule for revision of the Tongass Land Management Plan, including the expected dates of publication of the draft and final plans.

(e) Within one year after this Act takes effect, and each year thereafter until the revised Tongass National Forest Land Management Plan is completed and ready for implementation, the Secretary shall provide the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives with a report describing the steps taken in furtherance of section 201(b) of this Act.

TITLE III—MORATORIUM ON TIMBER SALES AND HARVEST

SEC. 301. PURPOSE.

The purpose of this title is to impose a moratorium on the sale or commercial harvest of timber in certain areas having special values for fish and wildlife, subsistence, recreation, old growth, and other resources, pending revision of the Tongass National Forest Land Management Plan to conform with the new management directives provided in this Act.

SEC. 302. MORATORIUM.

(a) MORATORIUM.—During the revision of the Tongass National Forest Land Management Plan there shall be no sale or harvest of timber, nor any associated development (including timber sale preparation or road construction), within any area specified in subsection (b) of this section. This moratorium shall remain in effect until 90 days after publication of the Record of Decision for the Forest Plan.

(b) AREAS AFFECTED.—The moratorium shall apply to lands administered by the Forest Service, as generally depicted on appropriately referenced maps, as follows:

Area	*Approximate Acreage*
Anan Creek	37,331
Berners Bay	35,379
Calder-Holbrook	62,335
Chichagof	253,540
Chuck River	125,574
Kadashan	33,641
Karta River	38,671
Kegan Lake	23,858
Naha River	31,926
Nutkwa	53,635
Outside Islands	95,524
Pleasant Island-Lemesurier Islands	15,527
Pt. Adolphus-Mud Bay	72,091
Port Houghton-Sanborn Canal	59,712
Rocky Pass	74,423
Sarkar Lakes	23,500
South Etolin Island	81,939
South Kuiu	190,301
Sullivan Island	3,985
Trap Bay	6,446
West Duncan Canal	118,812
Yakutat Forelands	232,962
Young Lake	18,173

Copies of maps depicting these areas shall be on file and available for public inspection in the offices of the Chief of the Forest Service in Washington, D.C., and the Regional Forester in Juneau, Alaska.

SECTION-BY-SECTION ANALYSIS OF THE TONGASS TIMBER REFORM ACT

Title I of the bill amends the Alaska National Interest Lands Conservation Act.

Section 101 repeals ANILCA section 705(a), which requires the Tongass National Forest timber supply to be maintained at a rate of 4.5 billion board feet per decade and guarantees an annual appropriation of at least $40 million for the timber program. The effect of repealing 705(a) is that the Tongass will be administered in the same manner as all other National Forests, i.e., appropriations will be made on an annual basis and the timber supply will be determined through the regular Forest Service land management planning process, rather than being dictated by statute.

Section 102 repeals ANILCA section 705(d). The effect of repealing 705(d) is to require the Forest Service to designate lands unsuitable for timber production on the Tongass, as the Forest Service has done on all other National Forests.

Section 103(a) repeals ANILCA section 706(a), which requires the Secretary of Agriculture to annually monitor and report on timber supply and demand in southeast Alaska. This special annual report on timber will no longer be needed once this bill is enacted and the Tongass is managed for multiple use. Timber supply and demand will be addressed, along with other resources, in a biennial report on the status of the Tongass.

Section 103(b) amends section 706(b) of ANILCA, which requires a biennial report to Congress on the status of the Tongass. The Tongass Timber Reform bill requires an addition to the biennial report to include information on the impact of timber harvest on subsistence, fish, wildlife, recreation, old growth, biological diversity, commercial fisheries, and tourism, plus a section on timber supply and demand in southeast Alaska and a section on the costs and revenues of the timber sale program.

Section 103(c) amends ANILCA 706(c) to add the southeast Alaska commercial fishing industry as one of the groups to be included in preparing the biennial forest status report.

Section 104 amends ANILCA by adding a section requiring termination of two 50-year timber sale contracts involving 13.3 billion board feet of timber.

Title II of the bill addresses the management of the Tongass National Forest.

Section 201 is a statement of the findings and purpose.

Section 202 directs the Secretary of Agriculture to fully revise the Tongass National Forest Land Management Plan of 1979, as amended. In revising the plan, the Secretary is to ensure that significantly increased protection is given to fish, wildlife, watershed, recreation, cultural, biological diversity and old growth ecosystem resources and subsistence values.

Title III of the bill places a moratorium on timber sales and harvest in 23 areas with significant wildlife, fish and subsistence values, pending completion of a revised forest plan.●

By Mr. KERRY (for himself, Mr. LUGAR, and Mr. LAUTENBERG):

S. 347. A bill to combat international terrorism and otherwise further the national security and foreign policy interests of the United States; to the Committee on Foreign Relations.

ANTITERRORISM AND ARMS EXPORT AMENDMENTS ACT

Mr. KERRY. Mr. President, today Senator RICHARD LUGAR, Senator FRANK LAUTENBERG, and I are reintroducing legislation we proposed during the last session of the Congress.

This legislation reaffirms, strengthens, and clarifies existing law prohibiting the exports of military weapons and equipment to countries which have been designated by the Secretary of State as supporters of international terrorism. The bill requires more detailed and periodic reporting of arms exports by the executive branch, and imposes new criminal and civil penalties on those who violate the prohibition on arms exports to terrorist countries.

In 1986, section 40 of the Arms Export Control Act was amended to ban the export of items on the U.S. Munitions List to any country which the Secretary of State determines consistently supports acts of international terrorism. A Presidential waiver is included in section 40, if the President determines it to be in the national interest of the United States to provide weapons to a country designated as supporting terrorism. If the waiver authority is exercised, the President is required to submit a report to the Congress describing the proposed export of weapons and detailing the national interest justification for such a sale.

Two months after the enactment of this seemingly straightforward prohibition on exporting arms to terrorist states, 500 TOW missiles were shipped to Iran without a notification being forwarded to the Congress. During the Iran/Contra investigation, questions were repeatedly raised as to the meaning and intent of section 40 and its relationship to antiterrorism provisions appearing in laws other than the Arms Export Control Act.

Over the years, the laws governing the export of weapons to countries supporting terrorism have established differing standards which can lead to confusion and misinterpretation. There is not a single standard in law for: (1) determining whether a country supports international terrorism; (2) identifying which U.S. official should make such a determination; (3) identifying which arms are subject to restrictions; (4) identifying the criteria that empower the President to waiver statutory restrictions; (5) informing Congress of such exports of arms, including covert exports. These conflicting and inconsistent provisions of existing law have served to undermine the effectiveness of U.S. antiterrorism policy, both in terms of what is required of the executive branch of government and activities engaged in by private U.S. citizens who look to the law for guidance.

During the 100th Congress, Congressman HOWARD BERMAN and Congressman HENRY J. HYDE undertook an initiative to bring coherence and consistency to the vague and ambiguous

statutes which currently comprise our antiterrorism policy. In a truly bipartisan fashion, they developed legislation which lays out U.S. antiterrorism policy in a clear, uniform, and consistent manner. That legislation was adopted by the House of Representatives on three separate occasions during the last Congress.

In September, 1988, Senator LUGAR, Senator LAUTENBERG, and I introduced companion legislation in the Senate. Subsequent to hearings held by the Senate Committee on Foreign Relations, a number of relatively minor changes were made. These changes were made at the suggestion of the ranking minority member of the committee, Senator JESSE HELMS, which were acceptable to the Department of State and the principal sponsors of the legislation in the House of Representatives.

In the waning hours of the 100th Congress, the House passed legislation, the first title of which was virtually identical to the bill we are introducing today. Although there was bipartisan agreement to adopt the legislation in the Senate, we adjourned before the Senate had the opportunity to take final action.

Mr. President, early introduction of the Anti-terrorism and Arms Export Control Act Amendments of 1989 will assure that the Senate has the opportunity to act expeditiously on this legislation which is designed to strengthen the statutory underpinnings of a strong U.S. antiterrorism policy.

The major objectives embodied in the bill are as follows:

One, to clarify and strengthen the prohibition on the export of military arms and equipment ("munition items") to countries which the Secretary of State has determined repeatedly provide support for acts of international terrorism ("terrorist countries"), including the imposition of criminal and civil penalties for violations of the prohibition;

Two, to establish uniform standards in the Arms Export Control Act, the Foreign Assistance Act of 1961, and the Export Administration Act of 1979 for the designation of a country as one whose government repeatedly provides support for acts of international terrorism and provides for the Presidential authority to waive statutory prohibitions or to rescind the Secretary of State's determination;

Three, to require validated licenses for the export of any good or technology which could significantly contribute to the military potential of terrorist country or could enhance that county's ability to support international terrorism;

Four, to require quarterly reports from the executive branch listing all Presidential approved transfers of munitions list items exceeding $1 million in value from a recipient country to a third country, to require quarterly reports, classified if necessary, of interagency transfer of munitions list items which will not ultimately be disposed of within the United States but excluding from such reports those munitions list items which are used solely in connection with intelligence activities and therefore subject to other reporting requirements under the National Security Act; and

Five, to clarify that the President's authority under the Hostage Act of 1868 to take action to release hostages cannot be carried out in a manner which would otherwise be prohibited by law.

Mr. President, as I stated at the outset of my remarks, the Anti-terrorism and Arms Export Control Act Amendments of 1989 is largely a restatement of existing law, closing potential loopholes and revising certain existing provisions to ensure that uniform standards are established in the United States Code. The bill does not attempt to reform the personnel or structure of the National Security Council or the State, Commerce, or Defense Departments. Nor does it seek to change the manner in which arms exports are approved by the U.S. Government or to impose blanket sanctions on terrorist states. The bill does not impair the President's discretionary authority. In fact, in some cases, the bill broadens the President's discretion while holding him to a reasonable standard of accountability to Congress in the exercise of that authority.

Finally, Mr. President, let me summarize the principal provisions of the bill:

The legislation amends the Arms Export Control Act, the Foreign Assistance Act of 1961, the Export Administration Act of 1979 and the Hostage Act of 1868. Its major provisions amend the following sections of these statutes as follows:

Section 40 of the Arms Export Control Act, which prohibits exports of arms to terrorist states, is significantly reinforced. Prohibited transactions are listed in detail, both with respect to U.S. Government activities and private transactions. The President is authorized to waive the prohibitions for specific transactions, but only with prior, detailed reporting to Congress, on a classified basis if necessary.

In addition, revised section 40 authorizes the President to rescind the Secretary of State's determination that a country supports international terrorism if certain conditions are met. The President's rescission can become effective immediately if he reports to Congress that there has been a fundamental change in the leadership and policies of the government in question, or 30 legislative days after the President has submitted a report to Congress certifying that the government in question has not provided any support for international terrorism during the preceding 6-month period and that appropriate assurances have been given that such government will not support acts of international terrorism in the future.

The amended section 40 further provides the President with the conditional right to exercise the waiver authority of section 614(a) of the Foreign Assistance Act of 1961 in connection with a section 40 prohibited activity, but only under exceptional circumstances where time is of the essence and where the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives are consulted fully prior to the use of that authority. Specifically, the President is authorized to exercise the section 614(a) authority, but not less than 24 hours before that authority is exercised.

Amended section 40 also imposes criminal penalties on public and private parties who violate the prohibitions contained in this section.

Section 36 of the Arms Export Control Act which requires certain reports to Congress on commercial and governmental military exports, is amended to require:

One, quarterly reports listing all Presidential consents to transfers of munitions list items exceeding $1 million in value from a recipient country to a third country under the authority of sections 3(a) or 38 of the Arms Export Control Act or section 505 of the Foreign Assistance Act of 1961;

Two, quarterly reports, classified if necessary, of interagency transfer of munitions list items which will not ultimately be disposed of within the United States but excluding from the report those munitions list items which are used solely in connection with intelligence activities and are subject to other reporting requirements under the National Security Act.

Section 620A of the Foreign Assistance Act of 1961, the section of the act prohibiting assistance to countries supporting international terrorism, is amended to conform it with other changes in the law, particularly the revision of section 40 of the Arms Export Control Act. There is a clarification that the President cannot use humanitarian reasons to justify a waiver of the antiterrorism prohibition for the purpose of providing any security assistance under part II of the Foreign Assistance Act of 1961 or by the Export-Import Bank.

Section 6(j) of the Export Administration Act, which regulates the export of goods and technology of military value to terrorist states, is amended to:

One, remove the current $1 million annual threshold amount under which the executive currently does not have to report to Congress the export of goods and technology or military value to terrorist states;

Two, require validated licenses for all such exports to terrorist states and 30-day prior notification to Congress of the proposed issuance of a validated license;

Three, conform the recession authority with the rescission authority available under new section 40 of the Arms Export Control Act and new section 620 of the Foreign Assistance Act of 1961; and

Four, require that the Secretary of State's determination as to whether the export of goods and technology make a significant contribution to the military potential of a terrorism country or enhance the ability of such country to support acts of international terrorism be conjectural rather than one of certainty.

The Hostage Act of 1868 is amended to clarify that the President's authority to take action to release hostages cannot be carried out in a manner which would otherwise be prohibited by law.

During House debate on the companion legislation to this bill last year, Congressman HYDE ably summed up the need for prompt enactment of this measure as follows: As serious terrorist acts proliferate and the global community struggles to respond effectively, it is now more important than ever that the United States have a consistent, clearly stated terrorist policy. This legislation is designed to help fill this need.

Those of us who are sponsoring this bill urge our colleagues to move expeditiously on this legislation to assure that it becomes law early in this session of Congress.

By Mr. DECONCINI (for himself and Mr. DODD):

S.J. Res. 46. Joint resolution to designate the month of April 1989, as "National Child Abuse Prevention Month;" to the Committee on the Judiciary.

NATIONAL CHILD ABUSE PREVENTION MONTH

● Mr. DECONCINI. Mr. President, I am introducing today, together with my colleague from the great State of Connecticut, Senator DODD, a joint resolution to declare the months of April 1989 and 1990 as "National Child Abuse Prevention Month." I am hopeful that a great number of my distinguished colleagues will join us in this important effort.

Mr. President, despite the fact that agencies and organizations serving our children have made notable contributions over the past few years in improving the lives of our youth—by revamping rules and regulations, pinpointing issues, disseminating information and increasing public awareness—child abuse is still on the increase.

Recent data makes it abundantly clear that our Nation's poor children are the high-risk victims for abuse, neglect, and other poverty related problems. The families of these children are caught in a web of strife, stress, and strain in their attempt to merely survive from day to day. Their struggle is compounded by lack of resources, both spiritual and physical, to reduce the burden imposed by their state of proverty.

Mr. President, America's child abuse problem does not stop there. It appears in every State in the Union and cuts across all socioeconomic groups. From the improverished ghettos of our urban centers to the stately manors across the Nation, millions of America's children are not getting a fair chance to grow into productive adults. Many children in the United States are growing up in wholesome, nurturing environments. However, millions more are not blessed with that good fortune. Every child in the world needs and deserves food, shelter, and love in order to survive and prosper.

The evidence of child abuse and neglect is both alarming and overwhelming. The best available statistics estimate that three of every four cases of child abuse go unreported and the number of reported incidences continues to rise. The data collected by the "Child Help U.S.A." organization and others show that over 1.5 million cases of child abuse are reported, so as many as 6 million of our Nation's children are being tragically abused. Today, I regret to report that the incidence rate is not declining. Abuse cases significantly rose since 1980. Physical abuse increased by 58 percent and sexual abuse tripled its 1980 rate by 1986. All experts agree that the numbers will escalate further, since victims will likely victimize their own children and others.

Mr. President, despite the best efforts of the social service providers, like Child Help U.S.A., Parents Anonymous, and other members of the National Child Abuse Coalition, the entire Nation is threatened by the continued growth in child abuse and neglect. The only all day, every day, national crisis counseling hotline staffed totally by medical and clinical professionals received over 126,000 calls in 1986 compared with only 8,600 calls when it was established in 1982. The Child Help U.S.A. phone system was at capacity in 1986. Since then, it has had to expand to accommodate an increasing number of calls.

As I have stated previously, Members of Congress have an opportunity to assist the many individuals, organizations, and agencies that are striving to rid our Nation of the epidemic of child abuse and to assist the victims as well. We can help focus public attention on goals and objectives of these agencies and improve the general welfare of our children.

The declaration of April 1989, and April 1990, as "National Child Abuse Prevention Month," is a significant way in which we in Congress can emphasize the importance of increasing public awareness and education for the benefit of our troubled families and suffering children. There is help available in communities throughout the Nation, but we need to get the message out to the abused as well as the abusers. Therefore, I urge my colleagues to join Senator DODD and myself in this effort to have April 1989 and April 1990 designated as "National Child Abuse Prevention Month."

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. Res. 46

Whereas the incidence and prevalence of child abuse and neglect have reached alarming proportions in the United States;

Whereas an estimated 6,000,000 children become victims of child abuse in this Nation each year;

Whereas an estimated 4,000 to 5,000 of these children die as a result of such abuse each year;

Whereas the Nation faces a continuing need to support innovative programs to prevent child abuse and assist parents and family members in which child abuse occurs;

Whereas Congress has expressed its commitment to seeking and applying solutions to this problem by enacting the Child Abuse Prevention and Treatment Act of 1974;

Whereas many dedicated individuals and private organizations, including Child Help U.S.A., Parents Anonymous, the National Committee for the Prevention of Child Abuse, the American Humane Association, and other members of the National Child Abuse Coalition, are working to counter the ravages of abuse and neglect and to help child abusers break this destructive pattern of behavior;

Whereas the average cost for a public welfare agency to serve a family through a child abuse program is twenty times greater than self-help programs administered by private organizations;

Whereas organizations such as Parents Anonymous, and other members of the National Child Abuse Coalition, are expediting efforts to prevent child abuse in the next generation through special programs for abused children; and

Whereas it is appropriate to focus the attention of the Nation upon the problem of child abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of April 1989, is designated as "National Child Abuse Prevention Month", and the President is authorized and requested to issue a proclamation calling on all Government agencies and the people of the United States to observe such month with appropriate programs, ceremonies, and activities.●

By Mr. PRESSLER:

S.J. Res. 47. Joint resolution to recognize the 75th anniversary of the Smith-Lever Act of May 8, 1914, and its role in establishing our Nation's system of State Cooperative Extension Services; to the Committee on the Judiciary.

ANNIVERSARY OF THE SMITH-LEVER ACT

Mr. PRESSLER. Mr. President, today I am introducing a joint resolution to recognize the 75th anniversary of the Smith-Lever Act of May 8, 1914, and its role in establishing our Nation's system of State Cooperative Extension Services. Congressman TRAXLER is introducing a companion resolution in the House of Representatives today.

During my years as a Congressman and Senator, I often have paid tribute to the great value of the Extension Service. Extension programs benefit farmers, ranchers, consumers, and youth throughout America. The Cooperative Extension Program has been one of our Government's most productive efforts. Its activities have helped to keep American farmers the most productive and efficient in the world. It is fitting that the Smith-Lever Act of 1914, which has fostered the development of State Cooperative Extension Services in conjunction with our Nation's land-grant colleges and universities, be properly recognized by the U.S. Congress on its 75th anniversary.

The South Dakota Cooperative Extension Service has played an invaluable role in bettering the lives of South Dakotans. Extension agents have helped organize rural water systems in South Dakota, a State that is badly in need of good, clean, drinking water. The devastating effects of natural disasters, such as floods, unseasonal frost, drought, hailstorms, and insect attacks are alleviated in part by the Extension Service's ability to furnish farmers with quick and accurate information. Educational forums sponsored by South Dakota extension agencies cover such diverse topics as nutrition, family management, horticulture, and livestock production.

Having grown up on a small family farm, I know from personal experience that agricultural research and other activities of the Cooperative Extension Service are vital to both rural and urban America. One important service provided by extension agencies is guidance of 4–H Clubs. I participated in 4–H for 9 years. My 4–H involvement included the opportunity to travel to Egypt for the 1961 World Agricultural Fair and to meet President John F. Kennedy in the White House in March 1963. The 4–H is still extremely important to a large number of America's young people.

The Extension Service's efforts to improve the quality of life in rural America have been invaluable, and the need for these services continues today. In these times of hardship on the family farm, if we are to continue to increase agricultural productivity and compete in foreign markets, progress in agricultural research is essential. The efforts of these agencies to improve farm management efficiency are as important today as they ever have been in our history.

In conclusion, I urge that the Cooperative Extension Service receive continued support from Congress as an important investment in the future of the United States, and that the 75th anniversary of the enactment of the Smith-Lever Act of 1914 be commemorated on May 8, 1989.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the text of the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 47

Whereas the Act of May 8, 1914, (38 Stat. 372) as amended, commonly known as the Smith-Lever Act of 1914, has fostered through the United States Department of Agriculture the development of a system of State Cooperative Extension Services in conjunction with our Nation's land-grant colleges and universities which disseminates and encourages the application of research-generated knowledge and leadership techniques to individuals, families and communities;

Whereas the Smith-Lever Act of 1914 has contributed greatly in assisting American farm families with the efficient production of a reliable supply of food and fiber for consumers in this country and worldwide;

Whereas the Cooperative Extension System has done much to help rural and urban adults and youth help themselves as they have steadily improved their quality of life and leadership ability; and

Whereas the relationship existing between the Federal, State and county extension services has provided for citizen input to research and educational programs of USDA and the land-grant universities for three quarters of a century: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that the Cooperative Extension System should continue to be supported as an important investment in the Nation's future, and that the seventy-fifth anniversary of the enactment of the Smith-Lever Act of 1914 should be commemorated on May 8, 1989.

SEC. 2. The President is authorized and requested to issue a proclamation commemorating the enactment of the Smith-Lever Act of May 8, 1914, and its role in establishing our Nation's Cooperative Extension System.

By Mr. HOLLINGS (for himself, Mr. SPECTER, Mrs. KASSEBAUM, Mr. ROTH, Mr. DECONCINI, and Mr. DODD):

S.J. Res. 48. Joint Resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional and Presidential elections; to the Committee on the Judiciary.

CONGRESSIONAL AND PRESIDENTIAL ELECTION CONTRIBUTION AND EXPENDITURES

● Mr. HOLLINGS. Mr. President, 468 congressional races were just run, and I regret to note that the candidates—Democrats and Republicans alike—spent most of their time campaigning for money, not votes. In 1988, as in years past, the electoral process was compromised—and too often corrupted—by the vast sums of money collected and spent in Federal campaigns.

Mr. President, I am introducing a constitutional amendment that allows Congress to set reasonable limits on campaign spending. It is simple, straightforward and it gets the job done. Every Senator is familar with the campaign finance debate. Last year we had a record number of cloture votes on S. 2, and 3 cloture votes on Senate Joint Resolution 282—the last of which garnered 53 votes—my constitutional amendment. There was good debate and ample opportunity to frame the issues and get the different positions on the table. It was particularly well timed because it allowed us to view the issues against the backdrop of a full congressional and Presidential election.

Despite our fresh education in the excesses of our present campaign finance system, last year's opponents of campaign finance reform have decided to address every issue except the one that really matters. As one opponent put it recently, "there is no middle ground on spending limits." I agree. Without them, we are only hacking away at the branches of the tree, while the roots and trunk grow ever more entrenched.

Mr. President, we have met the enemy, and he is us: Candidates for Federal office, and our guest for ever-fatter campaign was chests. Accordingly, if the problem is on the demand side, then we must seek a demand-side solution that places strict limits on how much money candidates can spend.

Not surprisingly, many of our colleagues prefer to focus on the supply side—casting blame on the unions, businesses, associations, and individual citizens who give money to political campaigns. It is a lot like our old strategy for fighting the illegal drugs. Instead of admitting that our drug epidemic is largely a demand-driven crisis spurred on by millions of narcotics abusers here in the United States, we preferred to pretend that the problem is with those evil foreign nations that are supplying our demand.

In the Omnibus Drug Act we passed last year, we finally faced reality by acknowledging that there are limits to a supply-side solution to the drug mess. The supply is inexhaustible and unstoppable so long as demand contin-

ues to rise. Accordingly, the drug bill focused additional resources on the demand side by emphasizing education, rehabilitation, and penalties. I say the time has come to be equally honest about the campaign finance scandal. We politicians find it convenient to cast blame on the suppliers of campaign money, but the real problem is our own addiction. And it is precisely this addiction that we must confront head-on.

To that end, my proposed constitutional amendment would permit Congress to impose legal caps on campaign spending. Through this amendment, we can accomplish two objectives: First, we will moderate candidates' obsession with fundraising; and second, we will level the playing field so that money is not the prime factor in who can run for Federal office.

Mr. President, this body faces unfinished business in the field of electoral reform. In 1974, with the Federal Election Campaign Act amendments, Congress provided for public financing of Presidential elections and set political contribution and spending limits for candidates in Federal elections. Regrettably, in the case of Buckley versus Valeo, the Supreme Court struck down the spending limits provisions of those amendments. The Court held that spending limits would curb the freedom of contributors and candidates to express themselves in the political marketplace.

In its ruling, the Court purported to defend freedom of speech. In reality what it said is this: Yes, if you have personal wealth or if you are a well-financed incumbent, you can glut the airwaves, you have freedom of speech. But if you do not have money, then your freedom of speech is limited.

Justice Thurgood Marshall zeroed in on this disparity in his dissent to Buckley versus Valeo. By striking down the limit on what a candidate can spend, Justice Marshall said, "It would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant head start." Indeed, Justice Marshall went further. He argued that by upholding the limitations on contributions but striking down limits on overall spending, the Court put an additional premium on a candidate's personal wealth.

Justice Marshall was dead right. And it is time for the Nation to correct this injustice. To that end, I have proposed a bill which reads as follows:

SECTION 1. Congress shall have power to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for Federal office.

SECTION 2. The States shall have power to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for State and local office.

What this bill does is enhance freedom of speech by assuring that everyone has a more equal chance to be heard. I repeat: The problem is not campaign contributions but campaign spending. I want to attack the disease itself, which is excessive campaign spending. The bill I have proposed would permit Congress to impose fair, responsible limits on Federal campaign expenditures.

Such a reform would have an important impact. It would moderate candidates' obsession with fundraising, and it would create a more level playing field for our Federal campaigns—a competitive environment where incumbency or personal wealth do not give candidates an insurmountable advantage.

Mr. President, the Supreme Court has chosen to ignore the overwhelming impact of TV on a candidate's ability to be heard. In Buckley versus Valeo, it prescribes a bogus "if you have the money you can talk" version of free speech. In its place, I urge passage of this legislation, the campaign finance reform amendment bill.

I ask with unanimous consent that the resolution be printed in the RECORD.

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

S.J. RES. 48

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of final passage of this joint resolution:

"ARTICLE—

"SECTION 1. Congress shall have power to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for Federal Office.

"SECTION 2. The States shall have power to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for State or local office.".●

ADDITIONAL COSPONSORS

S. 5

At the request of Mr. DODD, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 5, a bill to provide for a Federal program for the improvement of child care, and for other purposes.

S. 9

At the request of Mr. DOLE, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 9, a bill to amend title II of the Social Security Act to phase out the earnings test over a 5-year period for individuals who have attained retirement age, and for other purposes.

S. 10

At the request of Mr. DOLE, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 10, a bill to amend title XVIII of the Social Security Act to ensure that Medicare-dependent, small rural hospitals receive for a 3-year period at least their reasonable costs for inpatient hospital services furnished under the Medicare Program.

S. 13

At the request of Mr. CRANSTON, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 13, a bill to amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans and survivors, to increase the allowances paid to disabled veterans pursuing rehabilitation programs and to the dependents and survivors of certain disabled veterans pursuing programs of education, and to improve various programs of benefits and health-care services for veterans; and for other purposes.

S. 23

At the request of Mr. HUMPHREY, the names of the Senator from Kansas [Mr. DOLE] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 23, a bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services.

S. 29

At the request of Mr. FORD, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 29, a bill to provide for a 2-year Federal budget cycle, and for other purposes.

S. 32

At the request of Mr. THURMOND, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 32, a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

S. 67

At the request of Mr. INOUYE, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 67, a bill to establish a temporary program under which parental diacetylmorphine will be made available through qualified pharmacies for the relief of intractable pain due to cancer.

S. 75

At the request of Mr. HELMS, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 75, a bill to amend the Federal Election Campaign Act of 1971 to prohibit the use of compulsory union dues for political purposes.

S. 82

At the request of Mr. THURMOND, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 82, a bill to recognize the organization known as the 82d Airborne Division Association, Inc.

S. 84

At the request of Mr. BIDEN, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 84, a bill to amend title 28, United States Code, to provide Federal debt collection procedures.

S. 115

At the request of Mr. INOUYE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 115, a bill to amend titles XVIII and XIX of the Social Security Act to provide that nurse practitioner or clinical nurse specialist services are covered under part B of Medicare and are a mandatory benefit under Medicaid.

S. 116

At the request of Mr. INOUYE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 116, a bill to amend title XVIII of the Social Security Act to increase the independence of psychologists with respect to services furnished at a comprehensive outpatient rehabilitation facility.

S. 117

At the request of Mr. INOUYE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 117, a bill to amend the Internal Revenue Code of 1986 to provide a credit for the purchase of child restraint systems used in motor vehicles.

S. 118

At the request of Mr. INOUYE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 118, a bill to amend title XVIII of the Social Security Act to provide coverage of clinical social workers' services when provided onsite at a community mental health center or offsite as part of a treatment plan.

S. 119

At the request of Mr. INOUYE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 119, a bill to amend titles XVIII and XIX of the Social Security Act to provide that pediatric nurse practitioner or pediatric clinical nurse specialist services are covered under part B of Medicare and are a mandatory benefit under Medicaid.

S. 126

At the request of Mr. INOUYE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 126, a bill to amend title XVIII of the Social Security Act to provide that nurse practitioner or clinical nurse specialist may, in collaboration with a physician, certify or recertify the need for certain services, to provide for coverage of certain items and services furnished by a nurse practitioner or clinical nurse specialist, and for other purposes.

S. 169

At the request of Mr. HOLLINGS, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 169, a bill to amend the National Science and Technology Policy, Organization, and Priorities Act of 1976 in order to provide for improved coordination of national scientific research efforts and to provide for a national plan to improve scientific understanding of the Earth system and the effect of changes in that system on climate and human well-being.

S. 189

At the request of Mr. MATSUNAGA, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 189, a bill to amend title 38, United States Code, to authorize the Secretary of Veterans' Affairs to provide funeral transportation, remains transportation, and living expense benefits to deceased medal of honor recipients and their families.

S. 190

At the request of Mr. MATSUNAGA, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 190, a bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay without reduction in the amount of the compensation and retired pay.

S. 242

At the request of Mr. HELMS, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 242, a bill to amend Federal Election Campaign Act of 1971 to prohibit the use of compulsory union dues for political purposes.

S. 253

At the request of Mr. BINGAMAN, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 253, a bill to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the U.S. population and the nutritional quality of food consumed in the United States, with the provision for the conduct of scientific research and development in support of such program and plan.

S. 276

At the request of Mr. DURENBERGER, the names of the Senator from Montana [Mr. BAUCUS] and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 276, a bill to establish a Department of Environmental Protection.

S. 279

At the request of Mr. HUMPHREY, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 279, a bill to amend the Internal Revenue Code of 1986 to exclude from gross employee adoption assistance provided by the employer.

S. 305

At the request of Mr. DIXON, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 305, a bill to modernize and reform the regulation of financial services to strengthen the enforcement authority of depository institution services, to strengthen the enforcement authority of depository institution regulating agencies, and for other purposes.

S. 306

At the request of Mr. DOLE, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 306, a bill to amend the Social Security Act to make certain modifications in the Medicare Program with respect to payments made under such program to hospitals located in rural areas, to improve the delivery of health services to individuals residing in such areas, and for other purposes.

S. 318

At the request of Mr. JOHNSTON, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 318, a bill to facilitate the national distribution and utilization of coal.

SENATE JOINT RESOLUTION 7

At the request of Mr. SANFORD, the names of the Senator from North Dakota [Mr. BURDICK] the Senator from Colorado [Mr. WIRTH], the Senator from North Dakota [Mr. CONRAD], the Senator from Michigan [Mr. LEVIN], the Senator from Iowa [Mr. HARKIN], the Senator from Illinois [Mr. SIMON], the Senator from Oklahoma [Mr. BOREN], the Senator from Nevada [Mr. REID], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Joint Resolution 7, a joint resolution disapproving the recommendations of the President relating to rates of pay of certain officers and employees of the Federal Government.

SENATE JOINT RESOLUTION 26

At the request of Mr. ROTH, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of Senate Joint Resolution 26, a joint resolution proposing an amendment to the Constitution of the United States relative to campaign expenditures.

SENATE JOINT RESOLUTION 32

At the request of Mr. PACKWOOD, the names of the Senator from Maryland

[Ms. MIKULSKI], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Louisiana [Mr. BREAUX], the Senator from New York [Mr. D'AMATO], the Senator from Georgia [Mr. FOWLER], the Senator from Florida [Mr. MACK], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Missouri [Mr. DANFORTH], the Senator from Alabama [Mr. SHELBY], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Nevada [Mr. BRYAN], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Joint Resolution 32, a joint resolution to designate February 2, 1989, as "National Women and Girls in Sports Day."

SENATE JOINT RESOLUTION 34

At the request of Mr. BENTSEN, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 34, a joint resolution designating the week of April 14, 1989, through April 22, 1989, as "National Minority Cancer Awareness Week."

SENATE JOINT RESOLUTION 43

At the request of Mr. GRAHAM, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of Senate Joint Resolution 43, a joint resolution designating April 9, 1989, as "National Former Prisoners of War Recognition Day."

SENATE CONCURRENT RESOLUTION 10

At the request of Mr. SIMON, the names of the Senator from North Dakota [Mr. BURDICK] and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Concurrent Resolution 10, a concurrent resolution to express the sense of the Congress with respect to continuing reductions in the Medicare Program.

SENATE RESOLUTION 16

At the request of Mr. LAUTENBERG, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of Senate Resolution 16, a resolution to express the sense of the Senate regarding future funding of the Municipal Sewage Treatment Program under the Clean Water Act.

SENATE RESOLUTION 19

At the request of Mr. DIXON, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from New York [Mr. D'AMATO], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Resolution 19, a resolution to express the sense of the Senate to urge the President to recognize and include the Director of National Drug Control Policy as a fully participative member of the President's Cabinet.

SENATE RESOLUTION 24

At the request of Mr. LAUTENBERG, the names of the Senator from Maryland [Ms. MIKULSKI], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Resolution 24, a resolution to express the sense of the Senate regarding future funding of Amtrak.

SENATE CONCURRENT RESOLUTION 12—RELATING TO SERVICE OF A MEMBER OF THE COMMITTEE ON RULES AND ADMINISTRATION ON THE JOINT COMMITTEE ON THE LIBRARY

Mr. FORD, from the Committee on Rules and Administration, reported the following concurrent resolution; which was placed on the calendar:

S. CON. RES. 12

Resolved by the Senate (the House of Representatives concurring), That effective for the One Hundred First Congress, the Chairman of the Committee on Rules and Administration of the Senate may designate another member of the Committee to serve on the Joint Committee of the Congress on the Library in place of the Chairman.

SENATE RESOLUTION 33—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS, from the Committee on Small Business, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 33

Resolved, That, in carrying out its powers, duties and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business is authorized from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the Committee for the period March 1, 1989, through February 28, 1990, under this resolution shall not exceed $1,012,941, of which amount (1) not to exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1990, through February 28, 1991, expenses of the committee under this resolution shall not exceed $1,025,734, of which amount (1) not to exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1990, and February 28, 1991, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long distance telephone calls, or for the payment of stationery supplies purchased through the Keeper of Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 34—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON FINANCE

Mr. BENTSEN, from the Committee on Finance, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 34

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Finance is authorized from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1989, through February 28, 1990, under this resolution shall not exceed $2,754,692, of which amount (1) not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1990, through February 28, 1991, expenses of the committee under this resolution shall not exceed $2,814,065, of which amount (1) not to exceed $30,000 may be expended for the

procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1990, and February 28, 1991, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long distance telephone calls, or for the payment of stationery supplies purchased through the Keeper of the Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 35—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 35

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1989, through February 28, 1990, under this resolution shall not exceed $1,430,672, of which amount (1) not to exceed $4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $3,500 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1990, through February 28, 1991, expenses of the committee under this resolution shall not exceed $1,459,163, of which amount (1) not to exceed $4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $3,500 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1990, and February 28, 1991, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long distance telephone calls, or the payment of stationery supplies purchased through the Keeper of the Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 36—ORIGINAL RESOLUTION REPORTED PROVIDING FOR SENATE MEMBERS OF CERTAIN JOINT COMMITTEES

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was considered and agreed to:

S. RES. 36

Resolved, That the following-named Members be, and they are hereby, elected members of the following joint committees of Congress:

Joint Committee on Printing: Mr. Ford of Kentucky, Mr. DeConcini of Arizona, Mr. Gore of Tennessee, Mr. Stevens of Alaska, and Mr. Hatfield of Oregon.

Joint Committee of Congress on The Library: Mr. Pell of Rhode Island, Mr. DeConcini of Arizona, Mr. Moynihan of New York, Mr. Hatfield of Oregon, and Mr. Stevens of Alaska.

SENATE RESOLUTION 37—REQUESTING A REPORT REGARDING UNITED STATES ASSISTANCE TO SOVIET ARMENIA

Mr. SIMON (for himself and Mr. PRESSLER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 37

Whereas, on December 7, 1988, the worst earthquake in modern times devastated the Soviet Socialist Republic of Armenia in the Union of Soviet Socialist Republics (hereafter in this resolution referred to as "Soviet Armenia"), leaving tens of thousands dead and seriously injured;

Whereas the earthquake completely destroyed housing, schools, and other buildings in more than one hundred cities, towns, and villages in Soviet Armenia;

Whereas the earthquake has literally wiped out the homes and families of hundreds of thousands of Armenians;

Whereas the United States has historically supported the Armenians' struggle to survive through immeasurable adversities during this century;

Whereas the American people have overwhelmingly reaffirmed this tradition of support by their generous assistance to the earthquake's survivors;

Whereas the Agency for International Development, the Department of State, the Department of Defense, the United States Geological Survey, the Department of Energy, and the National Guard have performed admirably in delivering the first phases of emergency relief to Soviet Armenia;

Whereas the United States Government should continue as a leader among the nations of the world who have offered assistance to Soviet Armenia as it did in response to the earthquakes in Italy in 1980 and Mexico in 1985;

Whereas the Union of Soviet Socialist Republics has allowed unprecedented foreign relief efforts into Soviet Armenia; and

Whereas the United States encourages the delivery of additional resources as a part of the continuing relief efforts: Now, therefore, be it

Resolved, That it is the sense of the Senate that, not later than April 1, 1989, the Secretary of State or his designee should prepare and transmit to the Congress a report describing—

(1) all United States private and public assistance delivered to Soviet Armenia;

(2) the prospects for expeditious delivery of future United States private assistance to, and United States trade with, Soviet Armenia;

(3) the existence of United States Government experts in housing, transportation, management, medicine, geology, economic development, and other fields relevant to reconstruction efforts in Soviet Armenia;

(4) the feasibility of establishing a joint public-private task force to assist in the long-term reconstruction of Soviet Armenia;

(5) the feasibility and wisdom of undertaking a diplomatic initiative encouraging the international community to continue supporting Armenian relief and reconstruction efforts;

(6) any other humanitarian efforts which could facilitate the recovery and rehabilitation of the areas stricken; and

(7) the United States foreign policy implications, if any, of assisting Soviet Armenia.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Secretary of State.

● Mr. SIMON. Mr. President, I am pleased to submit this resolution on Armenia with my esteemed colleague Senator LARRY PRESSLER, of South Dakota. The resolution simply requests a report from the State Department on whether it makes sense to continue some level of assistance to Soviet Armenia in the wake of the terrible earthquake that devastated the region on December 7, 1988.

Senator PRESSLER and I serve on the European Affairs Subcommittee of the Foreign Relations Committee, and

over the recent recess we decided to form an informal Senate Task Force on Armenian Earthquake Relief. Our staffs have organized briefings from the Agency for International Development's Office of Foreign Disaster Assistance and the State Department's Soviet desk. We have monitored the situation and discussed reconstruction with representatives from the American Armenian community, who have been tremendous in organizing and implementing a quick and skillful private aid effort.

The American people have responded with their typical generosity. The most recent figures show about $12.5 million in private assistance has been donated, in addition to many in-kind contributions. The U.S. Government, through AID, provided over $2 million in relief aid and a team of disaster specialists. The international community, including 53 governments, 7 international organizations and 38 nongovernmental organizations, has responded with over $91 million in aid, bringing the worldwide total to just under $106 million.

And here I want to add a special note of thanks to President Bush and his family. The President's son and grandson—John and George P. Bush, respectively—flew to Armenia on Christmas Eve and spent Christmas Day touring the region and helping distribute supplies. Their compassion and concern ought not go unnoticed, and they are much appreciated.

Mr. President, this earthquake has wreaked incredible damage. It is estimated that 25,000 people died and 130,000 were injured, with more than half a million made homeless. Thousands of people, including many children, have been severely maimed. The main cities in the region, Yerevan, Spitak, Kirovakan, and Leninikan were hit hard, and in the outlying areas 58 villages were leveled and 100 more damaged. Numerous schools, hospitals, and stores were lost, as were large numbers of livestock. This last point is very important: agricultural losses exceed $3 billion. That is over and above the reported $13 billion price tag for reconstruction.

The task facing Armenian and Soviet authorities is daunting. Shelter is scarce. Reconstruction needs are great, especially rebuilding essential infrastructure in such a way to guard against future earthquakes. I am not sure what our Government can or should do to help this process along, but Senator PRESSLER and I believe that some kind of reconstruction assistance should at least be considered. Perhaps we can work out a private-public task force or consortium to channel private voluntary aid, or some other humanitarian proposal that shows our willingness to assist.

I urge my colleagues to join with us in asking for this report on the Armenian situation and possible United States assistance to Armenia.●

● Mr. PRESSLER. Mr. President, I am honored to join our distinguished colleague, Senator SIMON, in introducing this resolution to require a report from the Secretary of State regarding relief and reconstruction in Soviet Armenia.

The earthquake that struck Armenia without warning on December 7, 1988, killed more than 25,000 people, injured tens of thousands more, left 500,000 homeless, and destroyed vital infrastructure—such as schools, roads, power and communications lines, bridges, and public service and manufacturing facilities. It is estimated that the cost of building new homes and restoring or replacing other damaged property could reach more than $3 billion.

The reaction to the Armenian catastrophe by Americans and citizens of many other nations has been extremely sympathetic and generous. Not only have Americans contributed millions of dollars worth of money and materials to the relief effort, but their government also has assisted with extensive transportation and other logistical support, as well as significant amounts of tools, blankets, tents, medicines and other supplies. This outpouring of charity by the American people is unique in the relationship between the United States and the Soviet Union in the cold war era.

The resolution introduced by Senator SIMON and me is intended to provide Congress with a comprehensive State Department evaluation of the relief provided since the earthquake and prospects for further assistance. It also calls for a report on available United States Government expertise that would be relevant to reconstruction efforts in Soviet Armenia, the feasibility of establishing a joint public and private task force to assist in long-term reconstruction efforts, and the foreign policy implications of United States public and private assistance to the survivors of the earthquake in Soviet Armenia.

Mr. President, I urge our distinguished colleagues to consider and support this timely resolution. Its enactment would provide Congress the information it needs to assess properly the implications of past, current and possible future U.S. Government and private assistance to that area of the world.●

SENATE RESOLUTION 38—ORIGINAL RESOLUTION REPORTED RELATING TO THE IMPEACHMENT PROCEEDINGS AGAINST JUDGE ALCEE L. HASTINGS

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 38

Resolved, That pursuant to Rule XI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, the Presiding Officer shall appoint a committee of twelve senators to perform the duties and to exercise the powers provided for in the rule.

SEC. 2. The Majority and Minority Leader shall each recommend six members to the Presiding Officer for appointment to the committee. The committee shall designate one of its members to be chairman and one of its members to be vice chairman.

SEC. 3. The committee shall be deemed to be a standing committee of the Senate for the purpose of reporting to the Senate resolutions for the criminal or civil enforcement of the committee's subpoenas or orders, and for the purpose of printing reports, hearings, and other documents for submission to the Senate under Rule XI.

SEC. 4. During proceedings conducted under Rule XI the chairman of the committee is authorized to waive the requirement under the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials that questions by a Senator to a witness, a manager, or counsel shall be reduced to writing and put by the presiding officer.

SEC. 5. In addition to a certified copy of the transcript of the proceedings and testimony had and given before it, the committee is authorized to report to the Senate a statement of facts that are uncontested and a summary, with appropriate references to the record, of evidence that the parties have introduced on contested issues of fact.

SEC. 6. Necessary expenses of the committee shall be paid from the contingent fund of the Senate from the appropriation account "Miscellaneous Items" upon vouchers approved by the chairman of the committee.

SEC. 7. The Secretary shall notify the House of Representatives and counsel for Judge Alcee L. Hastings of this resolution.

SENATE RESOLUTION 39—ORIGINAL RESOLUTION REPORTED PROVIDING FOR THE FILING AND ARGUMENT OF MOTIONS BY JUDGE ALCEE L. HASTINGS

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was considered and agreed to:

S RES. 39

Resolved, That on a date designated by the Majority Leader in consultation with the Minority Leader, the Senate shall resume its consideration of the articles of impeachment against Judge Alcee L. Hastings for the purpose of hearing argument on a motion or motions by Judge Hastings to dismiss the articles.

SEC. 2. Counsel for Judge Hastings shall file with the Secretary of the Senate on or before February 10, 1989, any motion to dismiss the articles of impeachment. The Managers on the part of the House shall file with the Secretary on or before February 24, 1989, their response to any such motion. Counsel for Judge Hastings may file a reply with the Secretary on or before March 3, 1989.

SEC. 3. There shall be printed as one of several Senate documents under the direction of the Secretary of the Senate, in consultation with the Senate Legal Counsel—

(1) the briefs of the parties on any motion to dismiss the articles of impeachment; and

(2) material that would assist the Senate in the consideration of any such motion, including the articles of impeachment, Judge Hastings' answer to them, the replication of the House of Representatives, the provisions of the Constitution on impeachment, and the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials.

SEC. 4. The Secretary shall notify the House of Representatives and counsel for Judge Hastings of their resolution.

SENATE RESOLUTION 40—RELATING THE RECEIPT OF HONORARIA BY MEMBERS, OFFICERS, AND EMPLOYEES OF THE SENATE

Mr. MITCHELL (for himself, Mr. DOLE, Mr. GRASSLEY, Mr. NICKLES, and Mr. METZENBAUM) submitted the following resolution; which was considered and agreed to:

S. RES. 40

Resolved, That (a)(1) on or after the first day that there takes effect the recommendations of the President relating to rates of pay for the Executive, Legislative, and Judicial branches as included (pursuant to section 225(h) of the Federal Salary Act of 1967) in the budget transmitted to the Congress for fiscal year 1990, no Member, officer, or employee of the Senate may accept any honorarium on or after such first day, or accept any honorarium before such first day if it is to be earned on or after such first day.

(2) Any payment which, except for paragraph (1) of this subsection, might be made to a Member, officer, or employee of the Senate, but which is made instead on behalf of such Member, officer, or employee to a charitable organization, shall be deemed not to have been accepted for purposes of this subsection. No payment may be made pursuant to this paragraph which exceeds $2,000 for any speech, appearance, or article.

(b)(1) No contribution by or on behalf of a Member, officer, or employee of the Senate may be made under a pension, annuity, or other retirement plan if—

(A) a deduction for such contribution would be allowable to such member, officer, or employee for Federal income tax purposes, but

(B) such contribution would not be so deductible if amounts to which paragraph (2) of subsection (a) applies were not taken into account.

(2) The provisions of paragraph (1) shall not apply to any contribution made with respect to amounts received before the first day referred to in subsection (a).

(c) For purposes of this resolution—

(1) the term "employee" has the same meaning as defined in paragraph 10(a) of Rule XXXVII of the Standing Rules of the Senate;

(2) the term "honorarium" has the same meaning as defined in section 908(a)(2) of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1); and

(3) the term "charitable organization" has the same meaning as defined in section 908(a)(1) of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1).

(d) The Select Committee on Ethics shall prescribe regulations specifying which expenses are and are not permitted to be included as "actual and necessary travel expenses" (as such term is used in section 908(a) of the Supplemental Appropriations Act, 1983). Such regulations shall exclude any expenses which the committee determines to be unreasonable or excessive, including expenses attributable to an unreasonable length of stay.

(e) No donation to a charitable organization, or other entity, made at the request of or on behalf of a Member, officer, or employee of the Senate may be converted to the personal use of such Member, officer, or employee either during or following the term of service of such member, officer, or employee in the Senate.

(f) After the effective date of this resolution, nothing in section 908 of the Supplemental Appropriations Act 1983 (2 U.S.C. 31-1) shall be construed to permit the acceptance of any honorarium by any Member, officer, or employee of the Senate.

SEC. 2. This resolution shall be in effect so long as the recommendations referred to in the first section are in effect.

SENATE RESOLUTION 41—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON APPROPRIATIONS

Mr. BYRD, from the Committee on Appropriations, reported the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 41

Resoved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Appropriations is authorized from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1989, through February 28, 1990, under this resolution shall not exceed $4,736,267, of which amount (1) not to exceed $160,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $8,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1990, through February 28, 1991, expenses of the committee under this resolution shall not exceed $4,828,540, of which amount (1) not to exceed $160,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $8,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but no later than February 28, 1990, and February 28, 1991, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long distance telephone calls, or for the payment of stationery supplies purchased through the Keeper of Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 42—DIRECTING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 42

Whereas, in *American Foreign Service Association, et al.* v. *Steven Garfinkel, et al.,* No. 87-2127, pending in the Supreme Court of the United States, the consitutionality of Section 630 of the Treasury, Postal Service and General Government Appropriations Act, 1988, Pub. L. No. 100-202, 101 Stat. 1329-391, 1329-432 (1987), extended by Section 619 of the Treasury, Postal Service, and General Government Appropriations Act, 1989, Pub. L. No. 100-440, 102 Stat. 1721, 1756 (1988), have been placed in issue;

Whereas, pursuant to section 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c), 288e(a), and 288l(a)(1982), the Senate may direct its Counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae in the name of the Senate in *American Foreign Service Association, et al.* v. *Steven Garfinkel, et al.,* to seek relief from the judgment of the district court holding unconstitutional Section 630 of the Treasury, Postal Service and General Government Appropriations Act, 1988.

SENATE RESOLUTION 43—AMENDING THE STANDING RULES OF THE SENATE

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 43

Resolved, That paragraph 2 of Rule XXV of the Standing Rules of the Senate is amended for the One Hundred First Congress as follows:

Strike "20" after "Banking, Housing and Urban Affairs" and insert in lieu thereof "21".

SEC. 2. Paragraph 3(a) of Rule XXV of the Standing Rules of the Senate is amended for the One Hundred First Congress as follows:

Strike "24" after "Budget" and insert in lieu thereof "23".

SENATE RESOLUTION 44—MAKING MAJORITY COMMITTEE APPOINTMENTS FOR THE ONE HUNDRED FIRST CONGRESS

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 44

Resolved, That the following shall constitute the majority party's membership on the standing committees for the One Hundred First Congress, or until their successors are chosen:

Committee on Agriculture, Nutrition, and Forestry: Mr. Leahy (Chairman), Mr. Pryor, Mr. Boren, Mr. Heflin, Mr. Harkin, Mr. Conrad, Mr. Fowler, Mr. Daschle, Mr. Baucus, and Mr. Kerrey (NEB).

Committee on Appropriations: Mr. Byrd (Chairman), Mr. Inouye, Mr. Hollings, Mr. Johnston, Mr. Burdick, Mr. Leahy, Mr. Sasser, Mr. DeConcini, Mr. Bumpers, Mr. Lautenberg, Mr. Harkin, Ms. Mikulski, Mr. Reid, Mr. Adams, Mr. Fowler, and Mr. Kerrey (NEB).

Committee on Armed Services: Mr. Nunn (Chairman), Mr. Exon, Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Dixon, Mr. Glenn, Mr. Gore, Mr. Wirth, Mr. Shelby, and Mr. Byrd.

Committee on Banking, Housing, and Urban Affairs: Mr. Riegle (Chairman), Mr. Cranston, Mr. Sarbanes, Mr. Dodd, Mr. Dixon, Mr. Sasser, Mr. Sanford, Mr. Shelby, Mr. Graham, Mr. Wirth, Mr. Kerry (MA), and Mr. Bryan.

Committee on Commerce, Science, and Transportation: Mr. Hollings (Chairman), Mr. Inouye, Mr. Ford, Mr. Exon, Mr. Gore, Mr. Rockefeller, Mr. Bentsen, Mr. Kerry (MA), Mr. Breaux, Mr. Bryan, and Mr. Robb.

Committee on Energy and Natural Resources: Mr. Johnston, (Chairman), Mr. Bumpers, Mr. Ford, Mr. Metzenbaum, Mr. Bradley, Mr. Bingaman, Mr. Wirth, Mr. Conrad, Mr. Heflin, and Mr. Rockefeller.

Committee on Environment and Public Works: Mr. Burdick (Chairman), Mr. Moynihan, Mr. Mitchell, Mr. Baucus, Mr. Lautenberg, Mr. Breaux, Mr. Reid, Mr. Graham, and Mr. Lieberman.

Committee on Finance: Mr. Bentsen (Chairman), Mr. Matsunaga, Mr. Moynihan, Mr. Baucus, Mr. Boren, Mr. Bradley, Mr. Mitchell, Mr. Pryor, Mr. Riegle, Mr. Rockefeller, and Mr. Daschle.

Committee on Foreign Relations: Mr. Pell (Chairman), Mr. Biden, Mr. Sarbanes, Mr. Cranston, Mr. Dodd, Mr. Kerry (MA), Mr. Simon, Mr. Sanford, Mr. Moynihan, and Mr. Robb.

Committee on Governmental Affairs: Mr. Glenn (Chairman), Mr. Nunn, Mr. Levin, Mr. Sasser, Mr. Pryor, Mr. Bingaman, Mr. Kohl, and Mr. Lieberman.

Committee on the Judiciary: Mr. Biden (Chairman), Mr. Kennedy, Mr. Metzenbaum, Mr. DeConcini, Mr. Leahy, Mr. Heflin, Mr. Simon, and Mr. Kohl.

Committee on Labor and Human Resources: Mr. Kennedy (Chairman), Mr. Pell, Mr. Metzenbaum, Mr. Matsunaga, Mr. Dodd, Mr. Simon, Mr. Harkin, Mr. Adams, and Ms. Mikulski.

SENATE RESOLUTION 45—MAKING MINORITY COMMITTEE APPOINTMENTS FOR 101ST CONGRESS

Mr. LOTT (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 45

Resolved, That the following shall constitute the minority party's membership on the standing committees for the 101st Congress, or until their successors are chosen:

Committee on Agriculture, Nutrition, and Forestry: Mr. Lugar (ranking member), Mr. Dole, Mr. Helms, Mr. Cochran, Mr. Boschwitz, Mr. McConnell, Mr. Bond, Mr. Wilson, and Mr. Gorton.

Committee on Appropriations: Mr. Hatfield (ranking member), Mr. Stevens, Mr. McClure, Mr. Garn, Mr. Cochran, Mr. Kasten, Mr. D'Amato, Mr. Rudman, Mr. Specter, Mr. Domenici, Mr. Grassley, Mr. Nickles, and Mr. Gramm.

Committee on Armed Services: Mr. Warner (ranking member), Mr. Thurmond, Mr. Cohen, Mr. Wilson, Mr. McCain, Mr. Wallop, Mr. Gorton, Mr. Lott, and Mr. Coats.

Committee on Banking, Housing, and Urban Affairs: Mr. Garn (ranking member), Mr. Heinz, Mr. D'Amato, Mr. Gramm, Mr. Bond, Mr. Mack, Mr. Roth, Mrs. Kassebaum, and Mr. Pressler.

Committee on Commerce, Science, and Transportation: Mr. Danforth (ranking member), Mr. Packwood, Mr. Pressler, Mr. Stevens, Mr. Kasten, Mr. McCain, Mr. Burns, Mr. Gorton, and Mr. Lott.

Committee on Energy and Natural Resources: Mr. McClure (ranking member), Mr. Hatfield, Mr. Domenici, Mr. Wallop, Mr. Murkowski, Mr. Nickles, Mr. Burns, Mr. Garn, and Mr. McConnell.

Committee on Environment and Public Works: Mr. Chafee (ranking member), Mr. Simpson, Mr. Symms, Mr. Durenberger, Mr. Warner, Mr. Jeffords, and Mr. Humphrey.

Committee on Finance: Mr. Packwood (ranking member), Mr. Dole, Mr. Roth, Mr. Danforth, Mr. Chafee, Mr. Heinz, Mr. Durenberger, Mr. Armstrong, and Mr. Symms.

Committee on Foreign Relations: Mr. Helms (ranking member), Mr. Lugar, Mrs. Kassebaum, Mr. Boschwitz, Mr. Pressler, Mr. Murkowski, Mr. McConnell, Mr. Humphrey, and Mr. Mack.

Committee on Governmental Affairs: Mr. Roth (ranking member), Mr. Stevens, Mr. Cohen, Mr. Rudman, Mr. Heinz, and Mr. Wilson.

Committee on the Judiciary: Mr. Thurmond (ranking member), Mr. Hatch, Mr. Simpson, Mr. Grassley, Mr. Specter, and Mr. Humphrey.

Committee on Labor and Human Resources: Mr. Hatch (ranking member), Mrs. Kassebaum, Mr. Jeffords, Mr. Coats, Mr. Thurmond, Mr. Durenberger, and Mr. Cochran.

SENATE RESOLUTION 46—MAKING MAJORITY PARTY APPOINTMENTS TO SENATE COMMITTEES FOR THE ONE HUNDRED AND FIRST CONGRESS

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 46

Resolved, That the following shall constitute the majority party's membership on the committees for the One Hundred and First Congress, or until their successors are chosen:

Committee on the Budget: Mr. Sasser (Chairman), Mr. Hollings, Mr. Johnston, Mr. Riegle, Mr. Exon, Mr. Lautenberg, Mr. Simon, Mr. Sanford, Mr. Wirth, Mr. Fowler, Mr. Conrad, Mr. Dodd, and Mr. Robb.

Committee on Rules and Administration: Mr. Ford (Chairman), Mr. Pell, Mr. Byrd, Mr. Inouye, Mr. DeConcini, Mr. Gore, Mr. Moynihan, Mr. Dodd, and Mr. Adams.

Committee on Small Business: Mr. Bumpers (Chairman), Mr. Nunn, Mr. Baucus, Mr. Levin, Mr. Dixon, Mr. Boren, Mr. Harkin, Mr. Kerry (MA), Ms. Mikulski, and Mr. Lieberman.

Committee on Veterans' Affairs: Mr. Cranston (Chairman), Mr. Matsunaga, Mr. DeConcini, Mr. Mitchell, Mr. Rockefeller, and Mr. Graham.

Select Committee on Ethics: Mr. Heflin, Mr. Pryor, and Mr. Sanford.

Special Committee on Aging: Mr. Pryor (Chairman), Mr. Glenn, Mr. Bradley, Mr. Burdick, Mr. Johnston, Mr. Breaux, Mr. Shelby, Mr. Reid, Mr. Graham, and Mr. Kohl.

SENATE RESOLUTION 47—MAKING MINORITY PARTY APPOINTMENTS TO SENATE COMMITTEES FOR THE ONE HUNDRED FIRST CONGRESS

Mr. LOTT (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 47

Resolved, That the following shall constitute the minority party's membership on those Senate committees listed below for the 101st Congress, or until their successors are appointed:

Budget: Mr. Domenici, Mr. Armstrong, Mr. Boschwitz, Mr. Symms, Mr. Grassley, Mr. Kasten, Mr. Nickles, Mr. Rudman, Mr. Gramm, and Mr. Bond.

Rules and Administration: Mr. Stevens, Mr. Hatfield, Mr. McClure, Mr. Helms, Mr. Dole, Mr. Garn, and Mr. McConnell.

Small Business: Mr. Boschwitz, Mr. Kasten, Mr. Pressler, Mr. Wallop, Mr. Bond, Mr. Grassley, Mr. Lott, Mr. Burns, and Mr. Stevens.

Veterans' Affairs: Mr. Murkowski, Mr. Simpson, Mr. Thurmond, Mr. Specter, and Mr. Jeffords.

Select Committee on Ethics: Mr. Rudman, Mr. Helms, and Mr. Lott.

Special Committee on Aging: Mr. Heinz, Mr. Cohen, Mr. Pressler, Mr. Grassley, Mr. Wilson, Mr. Domenici, Mr. Simpson, Mr. Warner, and Mrs. Kassebaum.

SENATE RESOLUTION 48—AMENDING RULE XXV THE STANDING RULES OF THE SENATE

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 48

Resolved, That paragraph 4, of Rule XXV is amended by striking all after subparagraph (g) and inserting in lieu thereof the following:

"(h)(1) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Environment and Public Works and the Committee on Finance may, during the One Hundred and First Congress, also serve as a member of the Committee on Agriculture, Nutrition and Forestry so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(2) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Armed Services and the Committee on Energy and Natural Resources may, during the One Hundred and First Congress, also serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(3)(A) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Banking, Housing and Urban Affairs and the Committee on Foreign Relations may, during the One Hundred and First Congress, also serve as a member of Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(B) A Senator who during the One Hundred and First Congress may serve as a member on those committees listed in subparagraph (A), as well as a member of the Committee on Rules and Administration, may, during the One Hundred and First Congress, also serve as a member of the Committee on the Budget so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(4) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry and the Committee on Appropriations may, during the One Hundred and First Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(5) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry and the Committee on the Judiciary may, during the One Hundred and First Congress, also serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(6)(A) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Armed Services and the Committee on the Judiciary may, during the One Hundred and First Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(B) A Senator who during the One Hundred and First Congress serves on the Committee on Armed Services, the Committee on the Judiciary, and the Committee on Labor and Human Resources, and who serves as chairman of a committee listed in paragraph 2, may serve as chairman of two subcommittees of all committees listed in paragraph 2 of which he is a member.

"(7) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Commerce, Science and Transportation and the Committee on Foreign Relations may, during the One Hundred and First Congress, also serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(8)(A) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry and the Committee on Appropriations may, during the One Hundred and First Congress, also serve as a member of the Committee on the Judiciary so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision as a member of more than three committees listed in paragraph 2.

"(B) A Senator who during the One Hundred and First Congress serves on the Committee on Agriculture, Nutrition and Forestry, the Committee on Appropriations and the Committee on the Judiciary, and who serves as chairman of a committee listed in paragraph 2, may serve as chairman of two subcommittees of all committees listed in paragraph 2 of which he is a member.

"(9) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Energy and Natural Resources and the Committee on the Judiciary may, during the One Hundred and First Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(10)(A) A Senator who on the last day of the One Hundredth Congress was serving on the Committee on Environment and Public Works and the Committee on Finance may, during the One Hundred and First Congress, also serve as a member of the Committee on Foreign Relations so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(B) A Senator who on the last day of the One Hundredth Congress was serving on the Committee on Rules and Administration may, during the One Hundred and First Congress, also serve as a member of the Joint Committee on Taxation so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraph 3.

"(11) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance may, during the One Hundred and First Congress, also serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(12) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Commerce, Science, and Transportation and the Committee on Finance may, during the One Hundred and First Congress, also serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(13) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Appropriations and the Committee on Banking, Housing, and Urban Affairs may, during the One Hundred and First Congress, also serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(14) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on the Judiciary and the Committee on Labor and Human Resources may, during the One Hundred and First Congress, also serve as a member of the Committee on Foreign Relations so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(15) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Armed Services and the Committee on Energy and Natural Resources may, during the One Hundred and First Congress, also serve as a member of the Committee on Banking, Housing, and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(16) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Small Business, may, during the One Hundred and First Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraph 3 (a) and (b).

"(17) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Special Committee on Aging, may, during the One Hundred and First Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(18) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Veterans' Affairs, may, during the One Hundred and First Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(19) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred and First Congress, also serve as a member of the Committee on Veterans Affairs and the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than three committees listed in paragraphs 3 (a) and (b).

"(20) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred and First Congress, also serve as a member of the Joint Economic Committee so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(21) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Veterans Affairs, may, during the One Hundred and First Congress, also serve as a member of the Special Committee on Aging so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(22) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on the Budget, may, during the One Hundred and First Congress, also serve as a member of the Special Committee on Aging so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(23) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Small Business, may, during the One Hundred and First Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(24) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Special Committee on Aging, may, during the One Hundred and First Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(25) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on the Budget, may, during the One Hundred and First Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b)."

SENATE RESOLUTION 49—AMENDING RULE XXV OF THE STANDING RULES OF THE SENATE

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 49

Resolved, That paragraph 4 of rule XXV is amended by adding at the end of paragraph (h) the following:

"(h)(39) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on the Judiciary, and the Committee on Armed Services, may, during the One hundred and first Congress, serve as a member of the Committee on Labor and Human Resources, so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(40) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Appropriations, and the Committee on Commerce, Science, and Transportation, may, during the One hundred and first Congress, serve as a member of the Committee on Governmental Affairs, so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(41) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Finance, and the Committee on Governmental Affairs, may, during the One Hundredth Congress, also serve as a member of the Committee on Banking, Housing, and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(42) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Appropriations, and the Committee on Banking, Housing and Urban Affairs may, during the One hundred and first Congress, serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(43) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Banking, Housing and Urban Affairs, and the Committee on Finance may, during the One hundred and first Congress, serve as a member of the Committee on Government Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(44) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Environment and Public Works and the Committee on Finance may, during the One hundred and first Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(45) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry, and the Committee on Appropriations may, during the One hundred and first Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(46) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Commerce, Science and Transporation and the Committee on Foreign Relations may, during the One hundred and first Congress, serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(47) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Foreign Relations and the Committee on Judiciary may, during the One hundred and first Congress, serve as a member of the Committee on Environment and Public Works so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(48) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Agriculture, Nutrition, and Forestry and the Committee on Armed Services may, during the One hundred and first Congress, also serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(49) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry and the Committee on Foreign Relations may, during the One hundred and first Congress, also serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(50) A Senator whose term begins on January 3, 1989, may serve as a member of the

Committee on Armed Services and the Committee on Commerce, Science and Transportation and may, during the One hundred and first Congress, serve as a member of the Committee on Agriculture, Nutrition and Forestry so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

AMENDMENTS SUBMITTED

NATIONAL ENERGY POLICY ACT

WIRTH (AND HEINZ) AMENDMENT NO. 1

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. WIRTH (for himself and Mr. HEINZ) submitted an amendment intended to be proposed by them to the bill (S. 324) to establish a national energy policy to reduce global warming, and for other purposes; as follows:

Insert the following at the appropriate place in the Act:

TITLE . VEHICLE FUEL EFFICIENCY IMPROVEMENTS

SEC. 001. SHORT TITLE.

(a) SHORT TITLE.—This title may be cited as the "Vehicle Energy Efficiency Performance Standards Act of 1989".

(b) REFERENCE.—Whenever in this title (other than in sections 021 and 022) 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 Motor Vehicle Information and Cost Savings Act.

SEC. 002. FINDINGS.

Congress finds that—

(1) vehicles are major consumers of oil and major producers of the greenhouse gases, carbon dioxide, and nitrogen oxides,

(2) fuel economy improvements in vehicles since 1975 have played a dramatic role in reducing vehicle fuel consumption, auto emissions, and the cost of operating vehicles,

(3) it is cost-effective to increase fuel efficiency in new vehicles 2 to 3 times beyond the current Federal vehicle fuel economy standards,

(4) market imperfections inhibit the commercialization of highly efficient vehicles, even with substantially higher gas prices,

(5) market imperfections can be mitigated through the increase of vehicle energy efficiency performance standards, coupled with the incentives for consumers to purchase fuel efficient vehicles, and

(6) such policies will help reduce greenhouse gases, as well as cut United States dependency upon foreign oil imports, improving the Nation's energy security and trade balance.

SEC. 003. AVERAGE FUEL ECONOMY STANDARDS.

Section 502(a) (15 U.S.C. 2002(a)), relating to average fuel economy standards, is amended by striking out

"1985 and thereafter ..... 27.5"

and inserting in lieu thereof the following:

"1985 through 1991	27.5
1993 and thereafter	As provided in accordance with section 513 of this Act".

SEC. 004. EXCEPTION.

Section 502(a)(4) (15 U.S.C. 2002(a)(4)), is amended by striking out "The Secretary" and inserting in lieu thereof "Except in the case of standards established by sections 513 and 514, the Secretary".

SEC. 005, LIGHT TRUCKS.

(a) DEFINITIONS.—Section 501 (15 U.S.C. 2001), relating to definitions, is amended—

(1) in paragraph (2), by inserting "or a light truck" immediately after "off-highway operations",

(2) by redesignating paragraphs (3) through (14) as paragraphs (4) through (15) and by inserting immediately after paragraph (2) the following:

"(3) The term 'light truck' shall have such meaning as the Secretary shall prescribe by rule.".

(b) STANDARDS.—Section 502(b) (15 U.S.C. 2002(b)), relating to standards for other than passenger automobiles, is amended by inserting "or light trucks" immediately after "average fuel economy standards for automobiles which are not passenger automobiles".

SEC. 006. EXEMPTIONS.

Section 502(c)(1) (15 U.S.C. 2002(c)(1)), relating to exemptions for manufacturers of limited number of cars, is amended (1) by inserting "or 10,000 light trucks" immediately after "10,000 passenger automobiles" each place it occurs, (2) by inserting "or section 513 or 514" immediately before the period at the end of the first sentence, (3) by inserting "or section 514 and 513" immediately before "is more stringent", and (4) by inserting "or light trucks" immediately before "manufactured by manufacturers".

SEC. 007. EMERGENCY VEHICLES.

Section 502(g)(1) (15 U.S.C. 2002(g)(1)), relating to exemption of emergency vehicles, is amended by inserting immediately before the period at the end of the first sentence the following: "or section 513 or 514".

SEC. 008. CONSULTATION.

Section 502(i) (15 U.S.C. 2002(i)), relating to consultation with the Secretary of Energy, is amended by striking out "under this section" and inserting in lieu thereof "under this section or sections 513 and 514".

SEC. 009. NOTIFICATION.

Section 502(j) (15 U.S.C. 2002(j)), relating to notification of the Secretary of Energy, is amended by striking out "under this section" and inserting in lieu thereof "under this section or sections 513 and 514".

SEC. 010. CALCULATION OF AVERAGE FUEL ECONOMY.

Section 503(d)(1) (15 U.S.C. 2003(d)(1)) is amended by inserting "and light trucks" immediately after "passenger automobiles".

SEC. 011. NEW STANDARDS.

(a) CHANGES IN THE LAW.—The title V of the Motor Vehicles Information and Cost Savings Act is amended by adding at the end the following:

"PASSENGER AUTOMOBILE

"SEC. 513. Notwithstanding any other provision of this Act and except as provided in section 516, commencing with model year 1993 and each model year thereafter, the average fuel economy for passenger automobiles manufactured by any manufacturer in any such model year shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:

"1993 through 1996	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1989, plus an amount equal to 20 percent (as measured in miles per gallon) of such amount achieved for model year 1989.
"1997 through 1999	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1989, plus an amount equal to 45 percent (as measured in miles per gallon) of such amount achieved for model year 1989.

"Model year:

"2000 and thereafter	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1989, plus an amount equal to 65 percent (as measured in miles per gallon) of such amount achieved for model year 1989.

"LIGHT TRUCKS

"SEC. 514. Notwithstanding any other provision of this Act and except as provided in section 517, commencing with model year 1993 and each model year thereafter, the average fuel economy for light trucks manufactured by any manufacturer in any such model year shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:

"1993 through 1996	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1989, plus an amount equal to 20 percent (as measured in miles per gallon) of such amount achieved for model year 1989.
"1997 through 1999	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1989, plus an amount equal to 45 percent (as measured in miles per gallon) of such amount achieved for model year 1989.

"Model year:	
"2000 and thereafter	For each such manufacturer, the fuel economy standard required shall be an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by that manufacturer in model year 1989, plus an amount equal to 65 percent (as measured in miles per gallon) of such amount achieved for model year 1989.

"MODIFICATIONS

"SEC. 515. (a) Any manufacturer may apply to the Secretary for modification of an average fuel economy standard applicable under section 513 or section 514 to such manufacturer for model year 1993, and any model year thereafter. Such application shall contain such information as the Secretary may require by rule and shall be submitted to the Secretary within 24 months before the beginning of the model year for which such modification is requested. No such average fuel economy standard shall be adjusted if such adjustment would result in an increase or decrease of such standared by an amount in excess of .5 miles per gallon.

"(b) The Secretary shall, on an annual basis, report each such ajustment made to the Congress. In each such report, the Secretary shall justify clearly the reasons for the adjustments and shall address with respect to each such adjustment the following criteria:

"(1) technological feasibility,

"(2) economic practicability,

"(3) the effect of other Federal motor vehicle standards on fuel economy, and

"(4) the need for the Nation to reduce carbon-dioxide emissions, to reduce foreign oil imports, and to reduce annual trade deficits, and the effect on domestic employment—long-term and short-term.

"(c) The subsection (l) of seciton 502 shall not be applicable with respect to the fuel economy standards established pursuant to section 513 or 514.

"INCENTIVES FOR PASSENGER AUTOMOBILES

"SEC. 516. (a) Notwithstanding section 513, in the case of any manufacturer who obtained an average fleet fuel economy for passenger automobiles of at least 27.5 miles per gallon for model year 1986, the average fuel economy for passenger automobiles manufactured by such manufacturer for model years 1993 and 1994 shall be 27.5, for model years 1995, 1996, 1997, and 1998, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1989, plus an amount equal to 20 percent (as measured in miles per gallon) of such amount achieved for model year 1989, for model years 1999, 2000, and 2001, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1989, plus an amount equal to 45 percent (as measured in miles per gallon) of such amount achieved for model year 1989, and for model year 2001, and each model year thereafter, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1989, plus an amount equal to 65 percent (as measured in miles per gallon) of such amount achieved for model year 1989.

"INCENTIVES FOR LIGHT TRUCKS

"SEC. 517. (a) Notwithstanding section 514, in the case of any manufacturer who obtained an average fleet fuel economy for light trucks of at least 21 miles per gallon for model year 1986, the average fuel economy for light trucks manufactured by such manufacturer for model years 1993 and 1994 shall be 21, for model years 1995, 1996, 1997, and 1998, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1989, plus an amount equal to 20 percent (as measured in miles per gallon) of such amount achieved for model year 1986, for model years 1999, 2000, and 2001, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1989, plus an amount equal to 45 percent (as measured in miles per gallon) of such amount achieved for model year 1989, and for model year 2002, and each model year thereafter, an amount determined by the Secretary to be equal to the fleet average fuel economy achieved by such manufacturer in model year 1989, plus an amount equal to 65 percent (as measured in miles per gallon) of such amount achieved for model year 1989.".

(b) CONFORMING AMENDMENT.—Section 505(a)(1) (15 U.S.C. 2005(a)(1)) is amended by inserting immediately after "section 502" a comma and the following: "513 and 514".

SEC. 012. IMPOSITION OF TAX.

(a) TAX ASSESSMENT.—The Motor Vehicle Information and Cost Savings Act is amended by inserting immediately after section 508 the following new section:

"VIOLATIONS

"SEC. 508A. (a) In the case of any manufacturer who fails to comply with any average fuel economy standard applicable to such manufacturer under section 513 or 514, the Secretary is authorized to assess a tax against such manufacturer. Such tax shall be assessed in an amount equal to the amount obtained by multiplying $5 by the number of tenths of a mile per gallon by which the average fuel economy of the passenger automobiles or light trucks manufactured by such manufacturer during any model year after 1990 is exceeded by the applicable average fuel economy standard established under section 513 or 514, as the case may be, multiplied by the number of passenger automobiles or light trucks manufactured by such manufacturer during such model year.

"(b) The amount of such tax shall be assessed by the Secretary by written notice. The Secretary shall have the discretion to compromise, modify, or remit, with or without conditions, any tax assessed under subsection (a) against any person, except that any tax assessed under subsection (a) may be so compromised, modified, or remitted only to the extent—

"(1) necessary to prevent the insolvency or bankruptcy of such manufacturer,

"(2) such manufacturer shows that such violation resulted from an act of God, a strike, or a fire, or

"(3) the Federal Trade Commission has certified that modification of such tax is necessary to prevent a substantial lessening of competition, as determined under subsection (c).

The Attorney General shall collect any tax for which a manufacturer is liable under this subsection in a civil action under subsection (d)(2) (unless the manufacturer pays such penalty to the Secretary).

"(c)(1) Not later than 30 days after a determination by the Secretary to assess a tax under subsection (a) against a manufacturer, the manufacturer may apply to the Federal Trade Commission for a certification under this subsection. If the manufacturer shows and the Federal Trade Commission determines that modification of the tax for which such manufacturer is otherwise liable is necessary to prevent a substantial lessening of competition in that segment of the automobile industry subject to the standard with respect to which such tax was assessed, the Commission shall so certify. The certification shall specify the maximum amount that such tax may be reduced. To the maximum extent practicable, the Commission shall render a decision with respect to an application under this paragraph not later than 90 days after the application is filed with the Commission. A proceeding under this paragraph shall not have the effect of delaying the manufacturer's liability under subsection (a) for a tax for more than 90 days after such application is filed, but any payment made before a decision of the Commission under this paragraph becomes final shall be paid to the court in which the tax is collected, and shall (except as otherwise provided in paragraph (2)), be held by such court, until 90 days after such decision becomes final (at which time it shall be paid into the general fund of the Treasury).

"(2) Whenever a tax has been assessed and collected from a manufacturer under subsection (a) and is being held by a court in accordance with paragraph (1) and the Secretary subsequently determines to modify such tax pursuant to subsection (b), the Secretary shall direct the court to remit the appropriate amount of such tax to such manufacturer.

"(3) A claim of the United States for a tax assessed against a manufacturer under subsection (a) shall, in the case of the bankruptcy or insolvency of such manufacturer, be subordinate to any claim of a creditor of such manufacturer which arises from an extension of credit before the date on which the judgment in any collection action under this section becomes final (without regard to paragraph (1)).

"(d)(1) Any interested person may obtain review of—

"(A) a determination of the Secretary pursuant to which a tax has been assessed under subsection (a), or

"(B) a determination of the Federal Trade Commission under subsection (c)(1),

in the United States Court of Appeals for the District of Columbia or for any circuit wherein such person resides or has a principal place of business. Such review may be obtained by filing a notice of appeal in such court within 30 days after the date of such determination, and by simultaneously sending a copy of such notice by certified mail to the Secretary or the Federal Trade Commission, as the case may be, and by promptly filing in such court a certified copy of the record upon which such determination was made. Any such determination shall be reviewed in accordance with chapter 7 of title 5, United States Code.

"(2) If any person fails to pay an assessment of a tax after it has become final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Attorney General shall recover the amount for which the manufacturer is liable in any appropriate district court of the United States. In such action, the vailidity and appropriateness of

the final order imposing the tax shall not be subject to review.

"(e)(1)(A) The Secretary shall, by rule in accordance with this subsection and subsection (f), substitute a higher amount for the amount per tenth of a mile per gallon which would be used to calculate the civil penalty under subsection (a) in the absence of such rule, if the Secretary finds that—

"(i) the additional amount of the tax which may be imposed under such rule will result in, or substantially further, substantial energy conservation for automobiles in future model years for which such higher penalty may be imposed, and

"(ii) Subject to subparagraph (B), such additional amount of tax will not result in substantial deleterious impacts on the economy of the United States or of any State or region of any State.

"(B) Any findings under subparagraph (A)(ii) may be made only if the Secretary finds that it is likely that—

"(i) such additional amount of tax will not cause a significant increase in unemployment in any State or region therof,

"(ii) such additional amount will not adversely affect competition, and

"(iii) such additional amount will not cause a significant increase in automobile imports.

"(2) Any rule under paragraph (1) may not provide that the amount per tenth of a mile per gallon used to calculate the tax under subsection (a) be less than $5 or more than $10.

"(3) Any rule prescribed under paragraph (1) shall be effective for the later of—

"(A) automobile model years beginning after model year 1991, or

"(B) automobile model years beginning at least 18 months after such rule becomes final.

"(f)(1)(A) After the Secretary develops a proposed rule pursuant to subsection (e), the Secretary shall publish such proposed rule in the Federal Register, together with a statement of the basis for such rule, and provide copies thereof to the manufacturers. The Secretary shall then provide for a period of public comment on such rule, at least 45 days for written comments thereon. A copy of any such proposed rule shall be transmitted by the Secretary to the Federal Trade Commission and the Secretary shall request such Commission to comment thereon with the period provided to the public concerning such proposed rule.

"(B) After such written comment period, any interested person (including the Federal Trade Commission) shall be afforded an opportunity to present oral data, views, and arguments at a public hearing concerning such proposal. At such hearing such interested person (including the Federal Trade Commission) shall have an opportunity to question—

"(i) other interested persons who make oral presentations,

"(ii) employees and contractors of the United States who have made written or oral presentations or who have participated in the development of the proposed rule or in the consideration thereof, and

"(iii) experts and consultants who have provided information to any person who makes an oral presentation and which is contained in or referred to in such presentation,

with respect to disputed issues of material fact, except that the Secretary may restrict questioning if the Secretary determines that such questioning is duplicative or is not likely to result in a timely and effective resolution of such issues. Any oral or documentary evidence may be received, but the Secretary as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.

"(C) A rule subject to this subsection may not be issued except on consideration of the whole record supported by, and in accordance with, the reliable, probative, and substantial evidence.

"(D) A transcript shall be kept of any such public hearing made in accordance with this section and such transcripts and written comments shall be available to the public at the cost of reproduction.

"(2) If any final rule is prescribed by the Secretary after such public comment period under subsection (e), it shall be published in the Federal Register, together with each of the findings required by subsection (e).

"(3)(A) Any person aggrieved by any final rule under subsection (e) may at any time before the 60th day after the date such rule is published under paragraph (2) file a petition with the United States Court of Appeals for the circuit wherein such person resides, or has a principal place of business, for judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the written submissions to, and transcript of, the written and oral proceedings on which the rule was based, as provided in section 2112 of title 28, United States Code.

"(B) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. No rule may be affirmed unless supported by substantial evidence.

"(C) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(4) In the case of any information which is provided to the Secretary or the court during the consideration and review of any such rule and which is determined to be confidential by the Secretary pursuant to section 11(d) of the Act of June 22, 1974 (15 U.S.C. 796(d)), any disclosure of such information by an officer or employee of the United States or of any department or agency thereof, except in an in camera proceeding by the Secretary or the court, shall be deemed a violation of section 1905 of title 18, United States Code.".

(b) INAPPLICABILITY OF SECTION 508.—Section 508 of the Motor Vehicles Information and Cost Savings Act (15 U.S.C. 2008) shall not apply to any model year for a passenger automobile or light truck after model year 1990.

SEC. 013. FEDERAL GOVERNMENT.

Section 510 (15 U.S.C. 2010) is amended by adding at the end thereof the following:

"(c) Notwithstanding subsections (a) and (b), the fleet average fuel economy for all passenger automobiles and light trucks acquired by all executive agencies after model year 1992 shall not be less than—

"Passenger automobile model years:	Miles per gallon:
1993 through 1996	33
1997 through 1999	39
2000 and thereafter	45.

"Light trucks model years:	Miles per gallon:
1993 through 1996	25
1997 through 1999	30
2000 and thereafter	35.".

SEC. 014. FUEL ECONOMY TESTING.

(a) EPA ADMINISTRATOR REQUIRED TO CONSULT WITH SECRETARY OF ENERGY.—The first sentence of paragraph (1) of section 503(d) (15 U.S.C. 2003(d)(1)), relating to measurement and calculation of fuel economy and average fuel economy, is amended by inserting before the period the following: "after consultation with the Secretary of Energy".

(b) PROCEDURES MAY BE IN CONJUNCTION WITH EMISSIONS TESTS UNDER CLEAN AIR ACT.—The third sentence of such paragraph is amended by striking out "shall" and inserting in lieu thereof "may".

(c) TESTING OF PRODUCTION VEHICLES AND TESTING OVER TIME.—Section 503(d) is further amended by adding at the end the following:

"(4)(A) For each model type and year, the EPA Administrator shall measure the fuel economy of a sampling of production passenger automobiles during the first month of manufacture for sale. The testing procedures for such measurement shall be the same as used under paragraph (1).

"(B)(i) If the fuel economy results under subparagraph (A) for any model type and year are different than the results under paragraph (1) for such type and year, the average fuel economy for purposes of section 502 (a) and (c) shall be adjusted accordingly.

"(ii) If the fuel economy results under subparagraph (A) for any model type and year are more than 0.5 mile per gallon higher or lower than the fuel economy results under paragraph (1) for such type and year, labels described in section 506 which are affixed more than 90 days after the date that results are available under subparagraph (A) shall reflect such results.

"(C) For purposes of this paragraph, the term 'production passenger automobile' means a passenger automobile manufactured for sale.

"(D)(i) Measurements and calculations under paragraph (1) shall be repeated over a period of years for purposes of monitoring automobile performance in use to determine the extent, if any, of decline in fuel economy.

"(ii) Such measurements and calculations shall be included in a report submitted by the Secretary biennially to the President and each House of Congress.".

(d) PERIODIC REVIEW AND IMPROVEMENTS IN PROCEDURES FOR TESTING FUEL ECONOMY.—Section 503 is further amended by adding at the end the following:

"(g)(1) To the maximum extent practicable, procedures under subsection (d) shall stimulate average drivers and driving conditions in the United States.

"(2) The EPA Administrator shall, from time to time, review the procedures under subsection (d).

"(3) If the EPA Administrator finds, in conjunction with the review under paragraph (2), that the requirements of paragraph (1) are not met, he shall revise procedures under subsection (d) to comply with such paragraph.

"(4) The EPA Administrator may not make substantial revisions under paragraph (3) more frequently than once every 3 years.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to measure-

ments of fuel economy for model years (as defined in title V of the Motor Vehicle Information and Cost Savings Act) beginning more than 18 months after the date of the enactment of this Act.

SEC. 015. EXPLANATORY BOOKLET DISTRIBUTED BY EPA ADMINISTRATOR.

(a) IN GENERAL.—Paragraph (1) of subsection (b) of section 506 (15 U.S.C. 2006(b)), relating to explanatory booklet distributed by EPA Administrator, is amended—

(1) by inserting after the first sentence the following new sentence: "The EPA Administrator shall update such booklet at least twice a year.", and

(2) by adding at the end the following new sentence: "The Secretary of Energy shall distribute no less than 100 booklets each year to each dealer and shall distribute as many in addition to such 100 as are reasonably requested by dealers from time to time.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to the 12-month period beginning on the first day of the first month after the date of the enactment of this Act and corresponding 12-month periods thereafter.

SEC. 016. FEDERAL PURCHASES OF VEHICLES.

Section 510 (15 U.S.C. 2010), as amended by section 013, is amended by adding at the end the following:

"(d) In the annual purchase of light vehicles by any executive agency, any manufacturer that offers a fleet of vehicles with a fuel economy at least 10 percent more fuel efficient than a fleet of similarly sized vehicles that have fuel economies representative of the average fuel economies within any size class shall have the right to make a discounted bid. In such a case, the bid shall be considered as if its cost had been reduced 2 percent.".

SEC. 017. RECOMMENDATIONS FOR ADDITIONAL LEGISLATION.

Section 512 (15 U.S.C. 2012), relating to reports to the Congress, is amended by adding at the end the following:

"(d) The Secretary shall, within 2 years after the date of enactment of the Vehicle Energy Efficiency Performance Standards Act of 1988, submit to the Congress recommendations for such additional legislation as may be necessary to carry out the purposes of this Act.".

SEC. 018. STUDY.

The National Academy of Sciences, in consultation with vehicle manufacturers, representatives of environmental and consumer groups, appropriate State and local officials, and representatives of labor, shall undertake a review of the current state of research and development in light trucks and passenger vehicle fuel economy and an assessment of the remaining potential for improving the fuel efficiency and reducing the energy consumption of light vehicles and trucks. The assessment shall include all aspects of vehicle design, including engines, drive train, component parts, auto body, tires, and any other aspect contributing to the reduction of energy consumption. The National Academy shall report the results of the review and assessment to Congress and in the report recommend research and development priorities that could result in bringing steady improvements into commercialization through the early years of the next century. The Secretary of Energy shall make changes in the Department of Energy's transportation research and development program based on the assessment made by the National Academy.

SEC. 019. CRITERIA FOR PRESCRIBING AMENDED STANDARDS.

(a) CRITERIA.—

(1) The Secretary may not prescribe any amended standard which increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered vehicle.

(2) Any new or amended vehicle energy efficiency performance standard prescribed by the Secretary of Transportation under this section for any type (or class) of covered vehicle shall be designed to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and cost-effective to the consumer through savings in gas amortized over the life of the vehicle at a 3 percent real discount rate.

(b) EVALUATION.—The Secretary of Transportation shall evaluate the economic justification of the standard, considering—

(1) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard,

(2) the savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard.

(3) the total projected amount of energy savings likely to result directly from the imposition of the standard,

(4) any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard,

(5) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard, or in a change in foreign trade,

(6) the need for reducing carbon dioxide emissions to mitigate the global greenhouse warming, as well as reducing other environmentally damaging energy-related pollutants,

(7) the need for national energy conservation, and

(8) other factors the Secretary considers relevant.

For purposes of paragraph (5), the Attorney General shall make a determination of the impact, if any, of any lessening of competition likely to result from such standard and shall transmit such determination, not later than 60 days after the publication of a proposed rule prescribing or amending a vehicle energy efficiency performance standard, in writing to the Secretary, together with an analysis of the nature and extent of such impact. Any such determination and analysis shall be published by the Secretary in the Federal Register.

SEC. 020. PROCEDURES FOR PRESCRIBING NEW OR AMENDED STANDARDS.

Not later than the beginning of fiscal year 1994, the Secretary of Transportation shall initiate proceedings to develop and adopt post-2000 vehicle energy efficiency performance standards. The new vehicle energy efficiency performance standards shall be prescribed in accordance with the following procedure:

(1) The Secretary—

(A) shall publish an advance notice of proposed rulemaking which specifies the type (or class) of covered vehicles to which the rule may apply,

(B) shall invite interested persons to submit, within 60 days after the date of publication of such advance notice, written presentations of data, views, and arguments in response to such notice, and

(C) may identify proposed or amended standards that may be prescribed.

(2) A proposed rule which prescribes an amended or new vehicle energy efficiency performance standard or prescribes no amendment or no new standard for a type (or class) of covered products shall be published in the Federal Register. In prescribing any such proposed rule with respect to a standard, the Secretary shall determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for each type (or class) of covered vehicles. If such standard is not designed to achieve such efficiency or use, the Secretary shall state in the proposed rule the reasons therefor.

(3) After the publication of such proposed rulemaking, the Secretary shall afford interested persons an opportunity, during a period of not less than 60 days, to present oral and written comments (including an opportunity to question those who make such presentations) on matters relating to such proposed rules, including—

(A) whether the standard to be prescribed is economically justified (taking into account those factors which the Secretary shall evaluate under section 019),

(B) whether the standard will achieve the maximum improvement in energy efficiency which is technologically feasible,

(C) if the standard will not achieve such improvement, whether the reasons for not achieving such improvement are adequate, and

(D) whether such rule should prescribe a level of energy use or efficiency which is higher or lower than that which would otherwise apply in the case of any group of products within the type (or class) that will be subject to such standard.

(4) A final rule prescrbing an amended or new vehicle energy efficiency performance standard or prescribing no amended or new standard for a type (or class) of covered vehicles shall be published as soon as is practicable, but not less than 90 days, after publication of the proposed rule in the Federal Register.

SEC. 021 INCREASES IN FUEL ECONOMY STANDARDS AND IN RATES APPLICABLE TO GAS GUZZLER TAX.

(a) IN GENERAL—

(1) Subsection (a) of section 4064 of the Internal Revenue Code of 1986 (relating to gaz guzzler tax) is amended

(A) by striking paragraphs (1) through (6),

(B) by redesignating paragraph (7) as paragraph (1),

(C) by striking the material preceding the table in paragraph (1) (as so redesignated) and inserting:

"(1) In the case of an automobile of any model year after 1989 and before 1992:", and

(D) by adding after paragraph (1) (as so redesignated) the following new paragraphs:

"(2) In the case of a 1992 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 23.5	0
At least 22.5 but less than 23.5	$500
At least 21.5 but less than 22.5	650
At least 20.5 but less than 21.5	850
At least 19.5 but less than 20.5	1,100
At least 18.5 but less than 19.5	1,400
At least 17.5 but less than 18.5	1,750
At least 16.5 but less than 17.5	2,150

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 15.5 but less than 16.5	2,600
At least 14.5 but less than 15.5	3,100
At least 13.5 but less than 14.5	3,600
At least 12.5 but less than 13.5	4,100
Less than 12.5	4,600.

"(3) In the case of a 1993 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 24.5	0
At least 23.5 but less than 24.5	$500
At least 22.5 but less than 23.5	650
At least 21.5 but less than 22.5	850
At least 20.5 but less than 21.5	1,100
At least 19.5 but less than 20.5	1,400
At least 18.5 but less than 19.5	1,750
At least 17.5 but less than 18.5	2,150
At least 16.5 but less than 17.5	2,600
At least 15.5 but less than 16.5	3,100
At least 14.5 but less than 15.5	3,600
At least 13.5 but less than 14.5	4,100
At least 12.5 but less than 13.5	4,600
Less than 12.5	5,100.

"(4) In the case of a 1994 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 25.5	0
At least 24.5 but less than 25.5	$500
At least 23.5 but less than 24.5	650
At least 22.5 but less than 23.5	850
At least 21.5 but less than 22.5	1,100
At least 20.5 but less than 21.5	1,400
At least 19.5 but less than 20.5	1,750
At least 18.5 but less than 19.5	2,150
At least 17.5 but less than 18.5	2,600
At least 16.5 but less than 17.5	3,100
At least 15.5 but less than 16.5	3,600
At least 14.5 but less than 15.5	4,100
At least 13.5 but less than 14.5	4,600
Less than 13.5	5,100.

"(5) In the case of a 1995 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 26.5	0
At least 25.5 but less than 26.5	$500
At least 24.5 but less than 25.5	650
At least 23.5 but less than 24.5	850
At least 22.5 but less than 23.5	1,100
At least 21.5 but less than 22.5	1,400
At least 20.5 but less than 21.5	1,750
At least 19.5 but less than 20.5	2,150
At least 18.5 but less than 19.5	2,600
At least 17.5 but less than 18.5	3,100
At least 16.5 but less than 17.5	3,600
At least 15.5 but less than 16.5	4,100
At least 14.5 but less than 15.5	4,600
At least 13.5 but less than 14.5	5,100
Less than 13.5	5,700

"(6) In the case of a 1996 or later model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 27.5	0
At least 26.5 but less than 27.5	$500
At least 25.5 but less than 26.5	650
At least 24.5 but less than 25.5	850
At least 23.5 but less than 24.5	1,100
At least 22.5 but less than 23.5	1,400
At least 21.5 but less than 22.5	1,750
At least 20.5 but less than 21.5	2,150
At least 19.5 but less than 20.5	2,600
At least 18.5 but less than 19.5	3,100
At least 17.5 but less than 18.5	3,600
At least 16.5 but less than 17.5	4,100
At least 15.5 but less than 16.5	4,600
At least 14.5 but less than 15.5	5,100
At least 13.5 but less than 14.5	5,700
Less than 13.5	6,200.

"(7) In the case of a 1997 or later model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 28.5	0
At least 27.5 but less than 28.5	$500
At least 26.5 but less than 27.5	650
At least 25.5 but less than 26,5	850
At least 24.5 but less than 25.5	1,100
At least 23.5 but less than 24.5	1,400
At least 22.5 but less than 23.5	1,750
At least 21.5 but less than 22.5	2,150
At least 20.5 but less than 21.5	2,600
At least 19.5 but less than 20.5	3,100
At least 18.5 but less than 19.5	3,600
At least 17.5 but less than 18.5	4,100
At least 16.5 but less than 17.5	4,600
At least 15.5 but less than 16.5	5,100
At least 14.5 but less than 15.5	5,700
At least 13.5 but less than 14.5	6,200
Less than 13.5	6,700.

"(8) In the case of a 1997 or later model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 29.5	0
At least 28.5 but less than 29.5	$500
At least 27.5 but less than 28.5	650
At least 26.5 but less than 27.5	850
At least 25.5 but less than 26.5	1,100
At least 24.5 but less than 25.5	1,400
At least 23.5 but less than 24.5	1,750
At least 22.5 but less than 23.5	2,150
At least 21.5 but less than 22.5	2,600
At least 20.5 but less than 21.5	3,100
At least 19.5 but less than 20.5	3,600
At least 18.5 but less than 19.5	4,100
At least 17.5 but less than 18.5	4,600
At least 16.5 but less than 17.5	5,100
At least 15.5 but less than 16.5	5,700
At least 14.5 but less than 15.5	6,200
At least 13.5 but less than 14.5	6,700
Less than 13.5	7,200

"(10) In the case of a 1999 or later model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 30.5	0
At least 29.5 but less than 30.5	$500
At least 28.5 but less than 29.5	650
At least 27.5 but less than 28.5	850
At least 26.5 but less than 27.5	1,100
At least 25.5 but less than 26.5	1,400
At least 24.5 but less than 25.5	1,750
At least 23.5 but less than 24.5	2,150
At least 22.5 but less than 23.5	2,600
At least 21.5 but less than 22.5	3,100
At least 20.5 but less than 21.5	3,600
At least 19.5 but less than 20.5	4,100
At least 18.5 but less than 19.5	4,600
At least 17.5 but less than 18.5	5,100
At least 16.5 but less than 17.5	5,700
At least 15.5 but less than 16.5	6,200
At least 14.5 but less than 15.5	6,700
At least 13.5 but less than 14.5	7,200
Less than 13.5	7,700.

"(9) In the case of a 2000 or later model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 31.5	0
At least 30.5 but less than 31.5	$500
At least 29.5 but less than 30.5	650
At least 28.5 but less than 29.5	850
At least 27.5 but less than 28.5	1,100
At least 26.5 but less than 27.5	1,400
At least 25.5 but less than 26.5	1,750
At least 24.5 but less than 25.5	2,150
At least 23.5 but less than 24.5	2,600
At least 22.5 but less than 23.5	3,100
At least 21.5 but less than 22.5	3,600
At least 20.5 but less than 21.5	4,100
At least 19.5 but less than 20.5	4,600
At least 18.5 but less than 19.5	5,100
At least 17.5 but less than 18.5	5,700
At least 16.5 but less than 17.5	6,200
At least 15.5 but less than 16.5	6,700
At least 14.5 but less than 15.5	7,200
At least 13.5 but less than 14.5	7,700
Less than 13.5	8,200.".

(2) Paragraph (3) of section 4064(b) of the Internal Revenue Code of 1986 (defining model type) is amended to read as follows:

"(3) MODEL TYPE.—The term 'model type' means each vehicle configuration as defined in the rules which were prescribed by the EPA Administrator for the purposes of section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 12001) and which were in effect on January 1, 1989."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to 1990 and later model year automobiles (as defined in section 4064(b) of the Internal Revenue Code of 1986).

SEC. 022. TAX INCENTIVES FOR THE PURCHASE OF FUEL EFFICIENT VEHICLES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding at the end thereof the following new section:

"SEC. 30. FUEL EFFICIENT PASSENGER VEHICLES.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount determined under subsection (b) for each qualified passenger vehicle purchased by the taxpayer during the taxable year.

"(b) AMOUNT OF CREDIT PER VEHICLE.—The amount determined under this subsection for any qualified passenger vehicle is the amount determined under the following tables:

"(1) MODEL YEARS 1993 AND 1994.—In the case of a vehicle of model year 1993 or 1994:

"If the percentage by which the fuel economy of the vehicle exceeds the fuel economy of the model type in which such vehicle falls is:		The amount of credit for the vehicle is:
At least	Less than	
	15	0
15	20	$250
20	25	400
25		750.

"(2) MODEL YEARS 1995 THROUGH 2000.—In the case of a vehicle of model year 1995, 1996, 1997, 1998, 1999, or 2000:

"If the percentage by which the fuel economy of the vehicle exceeds the fuel economy of the model type in which such vehicle falls is: At least	Less than	The amount of credit for the vehicle is:
	20	0
20	25	$400
25	30	750
30	50	1,000
50	75	1,500
75		2,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED PASSENGER VEHICLE.—The term 'qualified passenger vehicle' means any passenger automobile (as defined in section 501 of the Motor Vehicle Information and Cost Savings Act) the original use of which begins with the taxpayer.

"(2) FUEL ECONOMY, MODEL TYPE, MODEL YEAR.—The terms 'fuel economy', 'model type', and 'model year' have the respective meanings given such terms by section 4064.

"(d) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29, and

"(2) the tentative minimum tax for the taxable year."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by adding at the end thereof the following new item:

"Sec. 30. Fuel efficient passenger vehicles."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1991.

DISAPPROVING PROPOSED RECOMMENDATIONS ON FEDERAL PAY

PRESSLER (AND OTHERS) AMENDMENT NO. 2

Mr. PRESSLER (for himself, Mr. GRASSLEY, Mr. DECONCINI, Mr. HELMS, Mr. HUMPHREY, Mr. EXON, Mr. BURDICK, Mr. KASTEN, Mr. COHEN, Mrs. KASSEBAUM, and Mr. BOND) proposed an amendment to the joint resolution (S.J. Res. 7) disapproving the recommendations of the President relating to rates of pay of certain officers and employees of the Federal Government: as follows:

Strike out all after the enacting clause and insert in lieu thereof:

SECTION 1. DISAPPROVAL OF PRESIDENTIAL RECOMMENDATIONS FOR CONGRESSIONAL PAY INCREASE

The recommendations of the President relating to rates of pay for offices and positions within the purview of section 225(f) of the Federal Salary Act of 1967, as included (pursuant to section 225(h) of such Act) in the budget transmitted to the Congress for fiscal year 1990, are disapproved.

SEC. 2. EFFECTIVE DATE PROVISIONS AND RECORDED VOTES ON CONGRESSIONAL PAY INCREASES.

(a) EFFECTIVE DATE PROVISIONS.—(1) Subject to paragraph (2), if the date of the enactment of this resolution is on or after February 8, 1989, the rates of pay for all offices and positions increased by the recommendations described in the first section shall be the rate of pay in effect for each such office and position before such recommendations took effect.

(2)(A) The provisions of paragraph (1) shall not be applied to reduce the rate of pay of any office or position which was increased during the period of February 8, 1989, through the date of the enactment of this resolution by reason other than the recommendations described in the first section.

(B) The provisions of the first section and this section shall not apply to reduce the rate of pay of any judge or justice appointed pursuant to article III of the Constitution of the United States.

(b) AMENDMENT TO FEDERAL SALARY ACT OF 1967.—Section 225(i) of the Federal Salary Act of 1967 (2 U.S.C. 359) is amended to read as follows:

"(i) EFFECTIVE DATE OF PRESIDENTIAL RECOMMENDATIONS; CONGRESSIONAL VOTE ON INCREASES IN CONGRESSIONAL RATES OF PAY.—(1)(A) Except for the recommendations relating to Members of Congress (which shall be subject to the provisions of paragraph (2)), the recommendations of the President which are transmitted to the Congress pursuant to subsection (h) of this section shall be effective as provided in subparagraph (B) of this paragraph, unless any such recommendation is disapproved by a joint resolution agreed to by the Congress not later than the last day of the 30-day period which begins on the date on which such recommendations are transmitted to the Congress.

"(B) The effective date of the rate or rates of pay which take effect for an office or position under subparagraph (A) of this paragraph shall be the first day of the first pay period which begins for such office or position after the end of the 30-day period described in subparagraph (A).

"(2)(A) The recommendations of the President relating to the rates of pay of Members of Congress which are transmitted to the Congress under subsection (h) of this section shall become effective only after the enactment of a joint resolution as provided under subparagraph (B).

"(B) The joint resolution described under subparagraph (A) shall—

"(i) relate only to the issue of such recommendation to increase the rates of pay of Members of Congress; and

"(ii) be passed by recorded vote to reflect the vote of each Member of Congress thereon.

"(C) For purposes of this paragraph the term 'Members of Congress' includes all positions described under section 225(f)(A), except for the Vice President of the United States.".

(c) CONGRESSIONAL VOTE TO INCREASE CONGRESSIONAL RATES OF PAY WITH INCREASES IN THE GENERAL SCHEDULE.—Section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended to read as follows:

"(2)(A) Any increase in the rates of pay of Members of Congress which corresponds to an increase in the rates of pay in the General Schedule under section 5305 of title 5, United States Code, in any fiscal year shall become effective only after enactment of a joint resolution as provided under subparagraph (B).

"(B) The joint resolution described under subparagraph (A) shall—

"(i) relate only to the issue of the increase in the rates of pay of Members of Congress; and

"(ii) be passed by recorded vote to reflect the vote of each Member of Congress thereon.

"(C) If a joint resolution is enacted as provided under subparagraphs (A) and (B), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which such joint resolution is enacted, each annual rate of pay of Members of Congress shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the percentage of such annual rate which corresponds to the overall average percentage (as set in the report transmitted to the Congress under section 5305) of the adjustment in the rates of pay under the General Schedule".

(d) CONGRESSIONAL VOTE ON ANY INCREASE IN THE RATES OF PAY OF CONGRESS.—(1) Notwithstanding any other provision of law, any increase in the rates of pay of Members of Congress shall become effective only after an enactment of a joint resolution as provided in paragraph (2).

(2) The joint resolution described under paragraph (1) shall—

(A) relate only to the issue of the increase in the rates of pay of Members of Congress; and

(B) be passed by recorded vote to reflect the vote of each Member of Congress thereon.

NOTICES OF HEARINGS

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRANSTON. Mr. President, I announce, for the information of Senators, that the Committee on Veterans' Affairs, which I am privileged to chair, is tentatively scheduled to hold a hearing on February 6, 1989, in SD-628 on the nomination of Edward J. Derwinski of Illinois to be Administrator of Veterans' Affairs/Secretary of Veterans' Affairs.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. PRYOR. Mr. President, I would like to announce that the Subcommittee on Federal Services, Post Office, and Civil Service, of the Committee on Governmental Affairs, will hold a hearing on Friday, February 3, 1989. The subcommittee will hear witnesses from the Environmental Protection Agency, the Office of Technology Assessment, and the General Accounting Office.

The hearing is scheduled to begin at 10 a.m. in room SD-342 Senate Dirksen Office Building. For further information, please call Ed Gleiman, subcommittee staff director, on 224-2254.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, February 2, 1989, at 2 p.m. in open session to receive testimony on modernization of nuclear weapons complex.

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

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, February 2, 1989, at 10 a.m. in open session to receive testimony on safety issues at the Savannah River reactors.

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

SPECIAL COMMITTEE INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Special Committee on Investigations of the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on February 2, 1989, at 10 a.m. to hold hearings pursuant to Senate Resolution 381, section 21, agreed February 26, 1988.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, February 2, 1989, at 10 a.m. to continue oversight hearings on the problems of the Federal Savings and Loan Insurance Corporation.

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

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS, AND ALCOHOLISM

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Children, Family, Drugs, and Alcoholism, of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Thursday, February 2, 1989, at 10 a.m. to conduct a hearing on "Parental and Medical Leave Act."

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

ADDITIONAL STATEMENTS

DRUG SURVEY RESULTS

● Mr. DECONCINI. Mr. President, today I am submitting into the RECORD the summary of a drug survey which was developed and administered by the Arizona Criminal Justice Commission to 18,241 Arizona high school seniors in January 1988. The results of the survey indicate that the students find drugs readily available in Arizona. As described in the article written by Jonathan Bass of the Arizona Daily Star, drug use remains high. There is a higher percentage of use of cocaine and psychedelics in Arizona than the national average. Have we been naive to embrace continued reports that drug use is declining among our youth? This survey reinforces my view that we must increase our efforts to eliminate the menace of drugs in the United States. This survey incites me to state again for the RECORD that I and my fellow Members of Congress must exercise the will to ensure that the Anti-Drug Abuse Act of 1988, which addresses both the supply-and-demand issues in the war on drugs, is fully funded.

I ask that the survey results along with the article from the Arizona Daily Star be printed at this point in the RECORD.

The material follows:

DRUG SURVEY RESULTS

AVAILABILITY

All illicit drugs are widely available to high school and college students and to the public.

Availability of cocaine to high school seniors exceeds national figures (65% v. 51%) and that of hallucinogens is double national availability (57% v. 29%). Access to alcohol and marijuana is high, but below national levels.

USE

Use of all drugs by high school students is high. Levels of use for cocaine and hallucinogens are significantly greater than national levels and exceed the highest levels ever reported nationally.

Use levels for cocaine and hallucinogens are substantially below availability levels. Marijuana and alcohol use are somewhat lower.

Use is beginning at early ages for many substances, e.g., 20 percent of inhalant use begins before 10 years old. Most cocaine and hallucinogen use begin later (junior and senior years).

PROBLEMS

Large proportions of students admit to being in school impaired by alcohol and drugs (36% of seniors) or leaving school to use the same (24% of seniors). They identify significant problems from this use (9% of seniors).

Drug use is concentrated in young adult groups. Unless they change and/or new youngsters refrain, the problem is bound to grow.

The public views problem as more serious than crime generally and the majority expect no improvement in the next 20-25 years.

RESPONSES NEEDED

Three quarters are opposed to any legalization.

Two thirds are willing to increase taxes $50 or more to deal with problem. Some (16%) are willing to pay $300 or more.

A coordinated set of responses are favored with prevention and enforcement favored almost equally and treatment supported less.

PROPOSALS

Improve coordination between schools, enforcement and community to target drug use by students.

Continue to maintain levels of support for existing enforcement, prevention, and treatment efforts and increase if possible.

Analyze results further to develop insights and provide for continuation of survey effort in future years to allow progress to be assessed.

[From the Arizona Daily Star, Dec. 24, 1988]

SEVEN PERCENT OF ARIZONA HIGH SCHOOL SENIORS USE COCAINE REGULARLY, SURVEY FINDS

(By Jonathan Bass)

PHOENIX.—Nearly twice as many Arizona high school seniors regularly use cocaine than their peers nationwide, but fewer of the Arizonans use marijuana and alcohol than the national average, according to a new report.

The year long survey of 18,238 state high school students by the Arizona Criminal Justice Commission also revealed that the use of inhalants, such as glue and paint, and psychedelics, such as LSD, by Arizona high school seniors is higher than the national average.

Seven percent of the Arizona seniors said they regularly use cocaine, while 16 percent said they regularly smoke marijuana. The national averages for cocaine and marijuana use among seniors are 4.3 percent and 21 percent, respectively.

"That may just mean there's a marketing competition between marijuana and cocaine, and cocaine is coming out ahead," Peter Haynes, executive director of the commission, said yesterday. "That's a cynical view."

Three percent of the state's seniors reported regular use of psychedelics, and 4 percent said they routinely use inhalants, the report said.

The national averages are 2.5 percent for psychedelics and 2.8 percent for inhalants.

About 35 percent of the state's 40,000 high school seniors said they had gone to school while under the influence of alcohol or drugs at least once, the report said. About 24 percent said they had skipped school to use drugs.

Many of the students admitted they began using drugs in elementary school.

By the age of 10, more than 10 percent of the high school students surveyed said they had tried mairjuana and 7 percent reported using psychedelics. Those usages, respectively, rose to 41 percent and 27 percent by the time the students reached age 13.

U.S. Sen. Dennis DeConcini, coauthor of the recently passed Omnibus Anti-Substance Abuse Act, said yesterday that the study's results were "shocking."

"But when you look at what has hapened to our society . . . anybody who doesn't readily understand how serious this problem is, is living in another world," the Arizona Democrat added.

Dale Frederick, assistant superintendent of high schools for the Tucson Unified School District, said he was not surprised by the study's findings, but said other factors figure in drug and alcohol abuse by students.

"I think that the information is probably pretty reflective of what high school students are doing," Frederick said. "It will vary from community to community based on what those communities are doing—what type of drug prevention and drug prevention programs the communities have available to their students."

He said several TUSD schools have "teams" working on drug prevention. The teams are made up of teachers, administrators and counselors. In some cases, the teams include parents and students.

The teams focus on intervention and making students aware of the dangers of drug abuse, he said. They also help students

who recently completed substance-abuse programs, he added.

The survey, which will be submitted to Gov. Rose Mofford and state lawmakers next week, represented 10.2 percent of the state's 177,572 high school students. The margin of error was plus or minus 1 percentage points.

"We've got a snapshot," Haynes said. "We plan on monitoring what happens over time every year."

Haynes, whose commission is responsible for fighting drug abuse, said he hopes that the state will concentrate its efforts more heavily against drug users.

"The problem is, if you knew exactly what to do, it would take a while," he said. "We don't know what the magic solution is."

Only in alcohol use were Arizona seniors—55 percent of whom said they drink regularly—well under the national average of 66.4 percent.

The survey did not include invalid responses and any that appeared to be obviously exaggerated, such as those that indicated the student uses five or more substances daily.

Of all illegal drugs, "marijuana continues to rank as the most available" in Arizona, the report said.

"It was reported by three-fourths of the seniors that they could buy marijuana if they had the money," the report noted.

"What is surprising is that almost two-thirds of the freshmen reported the same ability."

In a typical ninth-grade class of 30 students, the report said, "eight of these students have tried marijuana, and three are presently using (it)."

"Twenty of the kids have tried alcohol, and 11 of them, or more than a third of the class, are using it regularly. These are only the ninth-graders," the report said.

Drug use is more frequent in the higher grades, the report added.

"This has some far-reaching implications, especially in light of reports that cocaine is so addictive," it said.

The report also included surveys of 357 community college students and 1,009 other adults selected at random.

The most regularly used drugs among the college students were alcohol (71 percent), marijuana (14 percent) and cocaine (11 percent).

Among other adults, the drugs of choice were marijuana (4 percent), tranquilizers (3 percent) and anti-depressants (2 percent).

Adults between the ages of 18 and 29 were the most frequent users of cocaine and marijuana, while those between the ages of 45 and 59 more often used anti-depressant drugs. Adults over 60 were the heaviest users of tranquilizers, the report noted.

Alcohol use was not part of the adult survey since its consumption is legal for people over 21.

The report also noted that 66 percent of the adults surveyed were willing to pay higher taxes of at least $50 a year to combat drug abuse. Sixteen percent said they would pay $300 more a year, while 24 percent said taxes should not be raised.

The survey showed that 42 percent of adults want their tax dollars spent on education and drug-prevention programs, while 40 percent want more money allocated to law enforcement efforts to punish drug users.●

S. 276, TO ESTABLISH A DEPARTMENT OF ENVIRONMENTAL PROTECTION

● Mr. COHEN. Mr. President, I am pleased to join several of my Senate colleagues in cosponsoring legislation to elevate the Environmental Protection Agency to a Cabinet-level position in the executive branch of our Government.

I hope that President Bush will take a good look at this legislation, for it reflects in great measure the renewed emphasis on environmental protection that he has often mentioned and that many Americans are hungry for. The inclusion of the Federal agency responsible for environmental protection during high-level Cabinet discussions sends an important signal to the American people that the pervasive environmental problems we face will be fought under the authority of the President of the United States and not just by some lower level administrator.

This legislation is more than symbolic, however. There are a number of issues involving environmental protection that will be discussed by the President's Cabinet, and I believe our policies will be more sound if the agency responsible for that protection is present when important decisions are made.

Very difficult problems await our new President's attention, including the depletion of the upper ozone level of the atmosphere, global warming impacts, the cleanup of hazardous wastes at Federal facilities, and the elimination of serious air pollution in our major cities. The current Environmental Protection Agency has important responsibilities in developing the means to address these probelms, but they are also issues in which other Cabinet-level departments play crucial roles. As the Secretary of State discusses international negotiations on the reduction of chlorofluorocarbon production, shouldn't the Department of Environmental Protection be present at the table to participate in the discussion? As the Secretary of Energy raises the issue of hazardous waste cleanup at our Federal defense facilities, shouldn't the Secretary of Environmental Protection play an integral part in developing a plan to facilitate that cleanup? I firmly believe that the answer to those questions is a resounding "Yes."

This legislation does not add an additional layer of bureaucracy to the Federal Government, nor does it require the expenditure of additional Federal funds. It does not alter in any way the responsibilities and structure of the EPA, but it does allow the agency to play a role in the development of sound environmental policies at the highest levels.

The environment is crying out for help, as is evidenced by the significant problems we face—solid waste disposal, hazardous waste cleanup, air and water pollution, the degradation of our oceans, the loss of ground water resources and wetlands, the depletion of the ozone layer, and the greenhouse effect. The many challenges are complex and require attention at the highest levels, or the world we leave our children and grandchildren will be a sorry one.

As we talk about the need to focus increased attention on the significant environmental problems that confront us, let us remember to think about ways of putting those words into action. This legislation, S. 276, is one way of doing so, and I urge my colleagues to give it their full attention in the near future.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER Mr. President, I hereby submit to the Senate the latest budget scorekeeping report for fiscal year 1989, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is over the budget resolution by $0.9 billion in budget authority, and over the budget resolution by $0.4 billion in outlays. Current level is under the revenue floor by $0.3 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(a) of the Budget Act is $135.7 billion, $0.3 billion below the maximum deficit amount for 1988 of $136 billion.

The report follows:

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 101ST CONG., 1ST SESS., AS OF JAN. 27, 1989

[In billions of dollars]

	Current level [1]	Budget resolution (H. Con. Res. 268) [2]	Current level +/− resolution
FISCAL YEAR 1989			
Budget authority	1,233.0	1,232.1	0.9
Outlays	1,100.1	1,099.8	.4
Revenues	964.4	964.7	−.3
Debt subject to limit	2,683.5	[3] 2,824.7	−141.2
Direct loan obligations	24.4	28.3	−3.9
Guaranteed loan commitments	111.0	111.0	.....
Deficit	135.7	[4] 136.0	[5] −.3

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and are consistent with the technical and economic assumptions of H. Con. Res. 268. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] In accordance with sec. 5(a)(b) the levels of budget authority, outlays, and revenues have been revised for catastrophic health care (Public Law 100–360).

[3] The permanent statutory debt limit is $2,800 billion.

[4] Maximum deficit amount in accordance with sec. 3(7)(D) of the Congressional Budget Act, as amended.

[5] Current level maximum deficit amount.

PARLIAMENTARIAN STATUS REPORT, 101ST CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1989 AS OF CLOSE OF BUSINESS JAN. 27, 1989

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			964,434
Permanent appropriations and trust funds	874,205	724,990	
Other appropriations	594,475	609,327	
Offsetting receipts	−218,335	−218,335	
Total enacted in previous sessions	1,250,345	1,115,982	964,434
II. Enacted this session			
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Dairy Indemnity Program	(1)	(1)	
Special milk	4		
Food Stamp Program	253		
Federal Crop Insurance Corporation fund	144		
Compact of Free Association	1	1	
Federal unemployment benefits and allowances	31	31	
Worker training	32	32	
Special benefits	37	37	
Payments to the Farm Credit System	35	35	
Paymen to the civil service retirement and disability trust fund	(85)	(85)	
Payment to Hazardous Substance Superfund	(99)	(99)	
Supplemental security income	201	201	
Special benefits for disabled coal miners	3		
Medicaid:			
Public Law 100–360	45	45	
Public Law 100–485	10	10	
Family Support Payments to States:			
Previous law	355	355	
Public Law 100–485	63	63	
Veterans' compensation COLA (Public Law 100–687)	345	311	
Total entitlement authority	1,559	1,121	
VI. Adjustment for economic and technical assumptions	−18,925	−16,990	
Total current level as of Jan. 27, 1989	1,232,979	1,100,113	964,434
1989 budget resolution H. Con. Res. 268	1,232,050	1,099,750	964,700
Amount remaining:			
Over budget resolution	929	363	
Under budget resolution			266

[1] Less than $500,000.

Note: Numbers may not add due to rounding.●

THANK YOU AND BEST WISHES TO BOB HICKMOTT

● Mr. WIRTH. Mr. President, losing a valued staff member often summons mixed emotions. One is unwilling to part with the vital services of a key employee and, at the same time, pleased that a challenging opportunity has arisen. After 14 years in Congress, periodically watching gifted and energetic individuals move on, I should be accustomed to the routine.

I am experiencing precisely those mixed emotions about Bob Hickmott, who served as my deputy administrative assistant for the past 2 years and the national finance director of my Senate campaign in 1985 and 1986. Today is Bob's last day with us; he'll be studying for the District of Columbia bar exam over the next month before beginning a new career as an attorney with the law firm of Skadden Arps Slate Meagher & Flom.

Bob has worn many hats during his tenure in the Wirth operation, all with great style and grace. He has repeatedly demonstrated over the years that he is the quintessential jack of all trades—and a master of a few more. As deputy AA, Bob back-stopped for my chief of staff, taking the administrative reins with authority and confidence whenever he was needed. Bob also consistently provided exceptional political counsel, having developed a comprehensive knowledge of the State of Colorado and the U.S. Congress. He competently staffed me on the Banking, Housing and Urban Development Committee for the past 2 years, quickly becoming fluent in the many complex issues before that committee. And, in his previous role, as national finance director for my Senate campaign, ran a highly successful fundraising effort that was crucial to the outcome.

My staff and I will all miss Bob for the important part he played in keeping staff morale high; he kept us from taking ourselves too seriously, alternately using his sharp wit to disarm a dubious proposal or soothe a bruised ego. He has been highly attuned to staff needs, particularly those of staff performing the often monotonous and difficult work that is the grist of any congressional office. When the demands and pressures seemed most overwhelming, we grew to count on Bob's humor to lighten the moment and put our mission here into proper perspective.

Bob is extemely loyal, dependable and resourceful—traits I have come greatly to rely upon.

There is a somewhat callous saying among employers: "No one is indispensable." A cynic might agree, but some employees are very difficult to part with, and very nearly impossible to replace. Bob Hickmott is such an individual. He has been more than an employee, he has been a good friend. I wish the very best in his future career—despite his questionable intention to become a lawyer. I thank him for his 4 years of excellent service; I am deeply indebted.●

NATIONAL ENERGY POLICY ACT

● Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of legislation to establish a comprehensive program to deal with a wide variety of threats to the global environment including destruction of the stratospheric ozone layer, global climate change, and ground level ozone.

After a summer of intense heat and drought in many parts of the country, countless news reports of beach closings due to sludge, garbage, and medical waste washing ashore along the eastern coast, and a Presidential campaign in which the environment was a major issue, 1988 will be remembered as the year that the public concern was forcibly drawn to the environment.

Many scientists have pointed out some of the indications of our changing global environment. In addition to the drought of 1988, other indicators include the hole in the ozone layer above Antarctica, and recent trends to hotter summers and warmer winters. While global climate change is a naturally occurring phenomena, the process seems to have sped up as a result of manmade creations. A major component adding to this occurrence is carbon dioxide. The bill sets a policy goal of reducing CO_2 emissions by 20 percent by the year 2000.

Nature's way of absorbing CO_2 is through trees and vegetation which convert it into oxygen. But due to industrialization and population increases, our forests are being destroyed at an alarming rate. According to the international tropical timber organization, rain forests are being destroyed at the rate of 100 acres per minute. The National Energy Policy Act addresses this issue and includes provisions which direct the Secretary of State to work with the Agency for International Development and other Federal agencies to inventory forests in all tropical countries and set conservation goals for each country.

CO_2, resulting from automobile emissions are major contributors to ground level ozone or smog. Last summer we experienced record levels of smog in our cities. Nationally, 1988 peak concentration levels for ozone have exceeded 1987 levels by 77 percent. In New York City, for example, there were 27 days of unhealthful air between the months of May and August. In 1987, there were 19.2 unhealthful days.

Placing greater emphasis upon research and development of renewable nonfossil-fuel energy sources is also a major component of this legislation as is examining new and safer designs for nuclear powerplants and for ways to minimize the volume of nuclear waste that is produced.

All nations are a part of the global environment and thus all must share in protecting it. Reductions in greenhouse gases in the United States aren't going to have a major impact unless other nations make similar efforts. This legislation authorizes the Secretary of State to hold an international conference to adopt binding global climate protection measures to reduce the 1988 level of CO_2 emissions by at least 20 percent by the year 2000.

Working together and taking preventative actions now will avoid the need to take corrective actions when it may be too late. I urge my colleagues

to examine closely this comprehensive piece of legislation and to work toward its passage and implementation.●

FORMER SENATOR LOWELL WEICKER HONORED

● Mr. HATFIELD. Mr. President, recently, former Senator Lowell Weicker was honored with two prestigious awards recognizing his contributions to public service. Senator Weicker received the Lasker Award for Public Service from the Albert and Mary Lasker Foundation and the Wayne Morse Integrity in Politics Award from the Wayne Morse Historical Park Foundation.

The tradition of independence, integrity, and political determination made famous by Senator Wayne Morse, of Oregon, has been a source of great pride in my State and a source of inspiration for our Nation. Senator Weicker has upheld that tradition with vision and strength. As his colleague of more than 18 years, I have had the opportunity to work with Senator Weicker on a variety of issues and to watch him skillfully guide controversial legislation into public law.

Lowell Weicker's unwillingness to succumb to political pressure, from either side of the spectrum, has often left him standing with the few. From his questioning the irresponsible use of military force to his work to protect programs for the elderly and handicapped, Lowell Weicker has been a strong and eloquent advocate for the progressive wing of the Republican Party. He has prevented cuts to educational, health, and medical research programs and, perhaps most importantly, Lowell Weicker has given a voice to those who are all too often not heard—to the sick, the poor, and the uneducated. If the wealth of a nation is to be measured by its ability to tend to the sick, feed the poor, and educate its children, Lowell Weicker has made this a richer nation indeed.

As the once junior Senator to Wayne Morse and a fellow believer in the progressive principles upon which the Republican Party was first established, I send my warm congratulations to Senator Weicker on receiving the Wayne Morse and the Lasker Awards.

Mr. President, I ask that an article from the Washington Post appear in the RECORD immediately following my remarks.

The article follows:

[From the Washington Post, Nov. 22, 1988]

SENATOR WEICKER HONORED FOR PUBLIC HEALTH ROLE

(By Sally Squires)

It was the day before the end of the fiscal year, and Connecticut Sen. Lowell Weicker did what most senators would never do:

He introduced an entire new bill for Congress to pass in 24 hours.

It was, his colleagues noted, classic Weicker. Over the past 18 years, the Republican senator has earned his reputation on Capitol Hill and in the health community for being the maverick champion of important but not always popular causes.

This time, Weicker wanted to help AIDS patients. The legislation he submitted would extend government funding for AZT—the only drug currently approved to treat the disease. Without the bill, AIDS patients who couldn't afford to buy AZT would have to go without it beginning Oct. 1.

Weicker, meanwhile, met quietly with Health and Human Services Secretary Otis R. Bowen and with the chairman of Burroughs-Wellcome, which makes AZT, to gain their cooperation.

The next day, on Sept. 30, Weicker forced a voice vote in the Senate. The bill passed. Congressman Henry Waxman (D-Calif.) then shepherded the bill through the House. On Oct. 1, no AIDS patient missed a dose of AZT because of an inability to pay.

"No one thought that the bill would pass," Waxman says. "Weicker single-handedly got it through."

Earlier this month, Weicker was narrowly defeated in his bid for re-election—beaten by 10,793 votes. But last week, there was one sweet consolation: the Albert and Mary Lasker Foundation presented him with a rare Public Service Award for being a champion of biomedical programs. The decision to honor Weicker had been made in June, but the public presentation came last week in New York and helped to soften the blow of political defeat.

The Lasker Award for Public Service "is the way I'd like to have my career recognized," Weicker said last week. "It made me feel like a million bucks when I heard about it three months ago. It makes me feel like two million dollars as of last week," a reference to his reelection defeat.

During an interview in his Russell building office, the 57-year-old senator, known on the Hill as "the bear," was relaxed and upbeat. "I'm still here, I'm healthy and I'm still full of beans," he said. "I think this is all for the best. My sadness really only goes to my family and my friends."

But a few days later at the Lasker Award luncheon, when the audience gave him a standing ovation, Weicker was visibly moved.

His list of accomplishments for biomedicine is long and varied. Weicker has championed the mentally ill. He was the first member of Congress to recommend funding for a vaccine which now protects children 18 months and older from hemophilus influenza. He wrote legislation to require some employers to provide a basic minimum health insurance to their employees. He created the first Alzheimer's Research Centers and the Council on Alzheimer's Disease. And he has been an outspoken supporter of AIDS research and of assistance for AIDS patients. He has been an advocate of cancer research.

"When it comes to supporting and funding the research programs conducted by the NIH, Senator Weicker embodies the true meaning of words such as guardian, champion, friend and advocate," Dr. Richard Krause, former dean of medicine at Atlanta's Emory University, wrote in nominating Weicker for the Lasker Award.

"He has a tremendous understanding and appreciation of scientific research and its meaning to the nation," added Dr. Michael E. DeBakey, chancellor and chairman of the surgery department at Baylor College.

Born in Paris, where his father directed the European operations of E.R. Squibb & Sons, Inc.—the drug company that was founded by his maternal and paternal grandfathers—Weicker grew up amid privilege and power. He is the second oldest of four children and was educated at the Lawrenceville School in New Jersey, Yale University and the University of Virginia Law School. He served in the Army before entering politics in 1962. His first political job: representing Greenwich, Conn., in the State General Assembly for three terms.

In 1970, he was elected to the Senate and gained the national spotlight during Watergate as a young senator willing to cross party lines. Time magazine included him in a cover story as one of the bright young leaders of the country.

Married to his third wife, Claudia, Weicker is the father of seven sons—five from his previous marriages and two stepsons from his current marriage. Some people think Weicker's outspoken support of the disabled and the mentally retarded stems from his 10-year-old son, Sonny, who was born with Downs' syndrome—but Weicker bristles at that notion. "I really get bothered when people say that I would be motivated by a personal issue," he said, noting that his interest in the mentally retarded and the handicapped began years before Sonny was born.

In the Senate, Weicker took a seat on the Labor and Human Resources Authorizing Committee at the request of labor supporters in Connecticut. Once there, he was the gaps in biomedical research, health care and help for the disabled and the handicapped. Washington, he believes, is a town where the flash and glitz of defense programs get the attention, "whereas the business of life in its various forms is just totally ignored," he said. And so he became the standard bearer for health groups because he said, they "had no one to champion their cause."

His best accomplishment, he said, is his support of NIH, particularly during the early years of the Reagan administration, when funding was being slashed. His second most important accomplishment, he said, has been in AIDS research. Weicker was chairman of the Senate Labor, Health and Human Services and Education Appropriations Subcommittee from 1983 to '86. AIDS funding grew from $61 million in 1984 to $925 million in 1988—annually doubling the administration's funding requests.

And now, what does the future hold for him? "I really don't know what I'm going to do yet," he said.

There is talk of an academic appointment, a lobbying role or work at a Washington think tank. Weicker's name is also circulating as a nominee for HHS secretary.

Weicker, however, dismissed that idea, saying that his pro-choice position on abortion and support of fetal research would make him a lightning rod for controversy.

But he didn't dismiss other jobs in the new administration either. One possibility: head of the National Oceanic and Atmospheric Administration (NOAA), which he helped to grow from a sleepy, little agency into the largest in the Department of Commerce. Weicker, who has participated in four dives to the ocean floor with NOAA scientists, is concerned about the mysterious environmental ocean changes that have rapidly occurred in the past several years—the disappearance of a species of sea urchins, for example, and the strange burn holes found in crabs and lobsters. If something came along in that area," he said, "I don't know what my answer would be."●

ALBERT C. VAYHINGER

● Mr. LUGAR. Mr. President, it gives me great pleasure to recognize the outstanding effort of Mr. Albert C. Vayhinger. Mr. Vayhinger participated in rescue efforts following the severe earthquake that struck the Armenian countryside in the Soviet Union December 10, 1988. His spirit of voluntarily assisting the Armenian people serves as an example and an inspiration.

A lifelong Hoosier and resident of Crawfordsville, IN responded to the announcement of this tragedy by collecting and delivering $10,000 in amateur radio and computer equipment to Moscow to assist in transmitting information between earthquake ravaged Soviet Armenia and the United States. This volunteer effort was by no means the first by Albert Vayhinger. Only the magnitude of his endeavor separates this from his previous humanitarian acts of assistance to other countries. In September 1988, he furnished emergency communications for the Salvation Army for a week in Jamaica. And in October 1986, he volunteered for a month in El Salvador where he again made use of his talents as a radio operator to convey emergency messages and coordinate the activities of vital medical personnel.

Albert C. Vayhinger is most deserved of our thanks and recognition for his outstanding volunteerism. His spirit and selfless humanitarian efforts should be a challenge to all of us. Upon hearing of his actions, I was provided a copy of Mr. Vayhinger's own account of his visit to Moscow and I thought it a most fitting tribute that it be shared with my colleagues in the Senate:

A CHRISTMAS PRESENT TO A COMMUNIST COUNTRY

On December 14, 1988, the International Amateur Radio Network, an all-volunteer amateur radio organization, asked for volunteers to go to Moscow to assist the Soviet Amateur Radio Operators in setting up much needed radio circuits between earthquake-ravaged Armenia and the rest of the world.

Nearly $10,000 worth of sophisticated radio communication equipment was donated by various manufacturers and charitable organizations for this purpose.

Charles Sheffer, amateur radio KJ4TY, of Apalachicola, FL and I hurriedly flew to Cleveland, OH to meet with the handful of very dedicated amateur radio operators, headed by Dave Speltz, KB1PJ, to coordinate and finalize our plans for this humanitarian effort.

The head of the International Amateur Radio Network, Glenn Baxter, K1MAN, of Belgrade Lakes, ME had finally obtained permission from the Soviet Union for this person-to-person humanitarian assistance to the Soviet Union. This was a tremendous breakthrough of cooperation between two great powers.

On December 17, after a few frustrating delays, we finally left JFK Airport in New York. Aeroflot, the Russian Airline, had agreed to fly us and all of our radio equipment, at no expense, to Moscow. The Aeroflot Airline personnel were extremely helpful and put all of the radio equipment aboard the plane as our personal baggage.

After 8 hours of flying, we finally arrived in Moscow and were met at the airport by Soviet officials and representatives of the Soviet Union Amateur Radio community. The officials hurriedly helped us through customs and waived all the redtape to enter the country. We were greeted very cordially and after the proper introductions all around, we were taken to our hotel. During our stay there, we had a car and driver at our disposal; also an interpreter was assigned to us.

We were eagerly awaiting an appointment with the local amateur radio organization for the purpose of finalizing our plans to assist them in setting up the emergency communications links between Armenia, Moscow, and the rest of the world.

On the third day there we were called into a meeting and were told that if we did not leave the Soviet Union the following day, that it might be October before we would be able to return to the United States.

It was explained to us that the Aeroflot Airline had passenger reservations booked in advance for nearly 1 year. They also explained the fact that there were getting to be so many foreign assistance personnel in the Armenian area that it was beginning to interfere with the total relief program. They also explained that their own amateur radio operators could set up the communication links. Having met and talked with some of the local amateur operators, we heartily agreed that they were extremely capable and could in fact set up these needed radio links.

Needless the say, we agreed to leave for the States the following day.

Early the next morning the Soviet officials picked us up at our hotel and drove us to the airport. All of the radio equipment which we had brought was left in their country for these emergency networks.

They seemed extremely grateful for the radio equipment and they gave us a parting gift and thanked us time and time again for our efforts.

Many amateur radio operators, worldwide, had been rooting for us and assisting with communications in preparing for this trip. This was the first time that anything of this dimension had been attempted with the Soviet Union. As our efforts were purely humanitarian, we feel that a great stride forward has been made for closer and peaceful cooperation between two great countries.

Our Christmas present to the Soviet Union will prove, in a small way, that man on this planet can work together for a better and peaceful world.●

PASSING OF A FRIEND

● Mr. BOND. Mr. President, it was with great sorrow that I recently learned of the passing of an old and very dear friend. N. Glenn Russell had for a number of years been my barber as he serviced the Brookside area in Kansas City, MO, and Glenn was always eager to discuss politics. Through the years, I came to learn that there was no better place to return and find out what issues were on the minds of Missourians than Glenn's barbershop. Not only was Glenn always in the know, but he was usually correct in his assessment of the situation. And I am not the only one who will mourn Glenn's passing. Glenn was a leader in the Brookside Merchants Association and through his and the other members efforts the area maintained a wholesome, family oriented atmosphere that served as a model for other neighborhood retail organizations within the metropolitan area. We will all miss him very much.●

RULES OF PROCEDURE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

● Mr. RIEGLE. Mr. President, the rules of procedure of the Committee on Banking, Housing, and Urban Affairs are hereby published in the CONGRESSIONAL RECORD pursuant to rule XXVI of the standing rules of the Senate.

The rules of procedure follow:

RULES OF PROCEDURE FOR THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS (ADOPTED IN EXECUTIVE SESSION, JANUARY 25, 1989)

RULE 1.—REGULAR MEETING DATE FOR COMMITTEE

The regular meeting day for the Committee to transact its business shall be the last Tuesday in each month; except that if the Committee has met at any time during the month prior to the last Tuesday of the month, the regular meeting of the Committee may be canceled at the discretion of the Chairman.

RULE 2.—COMMITTEE

(a) INVESTIGATIONS.—No investigation shall be initiated by the Committee unless the Senate or the full Committee has specifically authorized such investigation.

(b) HEARINGS.—No hearing of the Committee shall be scheduled outside the District of Columbia except by agreement between the Chairman of the Committee and the ranking minority members of the Committee or by a majority vote of the Committee.

(c) CONFIDENTIAL TESTIMONY.—No confidential testimony taken or confidential material presented at an executive session of the Committee or any report of the proceedings of such executive session shall be made public either in whole or in part by way of summary, unless specifically authorized by the Chairman of the Committee and the ranking minority member of the Committee or by a majority vote of the Committee.

(d) INTERROGATION OF WITNESSES.—Committee interrogation of a witness shall be conducted only by members of the Committee or such professional staff as is authorized by the Chairman or ranking minority member of the Committee.

(e) PRIOR NOTICE OF MARKUP SESSIONS.—No session of the Committee or a Subcommittee for marking up any measure shall be held unless (1) each member of the Committee or the Subcommittee, as the case may be, has been notified in writing of the date, time, and place of such session and has been furnished a copy of the measure to be considered at least 3 business days prior to the commencement of such session, or (2) the Chairman of the Committee or Subcommittee determines that exigent circumstances

exist requiring that the session be held sooner.

(f) PRIOR NOTICE OF FIRST DEGREE AMENDMENTS.—It shall not be in order for the Committee or a Subcommittee to consider any amendment in the first degree proposed to any measure under consideration by the Committee or Subcommittee unless (1) fifty written copies of such amendment have been delivered to the office of the Committee at least 2 business days prior to the meeting, or, (2) with respect to multiple first degree amendments, each of which would strike a single Section of the measure under consideration, fifty copies of a single written notice listing such specific Sections have been delivered to the Committee at least 2 business days prior to the meeting. This subsection may be waived by a majority of the members of the Committee or Subcommittee voting. This subsection shall apply only when at least 3 business days written notice of a session to mark up a measure is required to be given under subsection (e) of this rule.

(g) CORDON RULE.—Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the Committee or Subcommittee, from initial consideration in hearings through final consideration, the Clerk shall place before each member of the Committee or Subcommittee a print of the statute or the part or section thereof to be amended or repealed showing by stricken-through type, the parts or parts to be omitted, and in italics, the matter proposed to be added. In addition, whenever a member of the Committee or Subcommittee offers an amendment to a bill or joint resolution under consideration, those amendments shall be presented to the Committee or Subcommittee in a like form, showing by typographical devices the effect of the proposed amendment on existing law. The requirements of this subsection may be waived when, in the opinion of the Committee or Subcommittee chairman, it is necessary to expedite the business of the Committee or Subcommittee.

RULE 3.—SUBCOMMITTTEES

(a) AUTHORIZATION FOR.—A Subcommittee of the Committee may be authorized only by the action of a majority of the Committee.

(b) MEMBERSHIP.—No member may be a member of more than three Subcommittees and no member may chair more than one Subcommittee. No member will receive assignment to a second Subcommittee until, in order of seniority, all members of the Committee have chosen assignments to one Subcommittee, and no member shall receive assignment to a third Subcommittee until, in order of seniority, all members have chosen assignments to two Subcommittees.

(c) INVESTIGATIONS.—No investigation shall be initiated by a Subcommittee unless the Senate or the full Committee has specifically authorized such investigation.

(d) HEARINGS.—No hearing of a Subcommittee shall be scheduled outside the District of Columbia without prior consultation with the Chairman and then only by agreement between the Chairman of the Subcommittee and the ranking minority member of the Subcommittee or by a majority vote of the Committee.

(e) CONFIDENTIAL TESTIMONY.—No confidential testimony taken or confidential material presented at an executive session of the Subcommittee or any report of the proceedings of such executive session shall be made public, either in whole or in part or by way of summary, unless specifically authorized by the Chairman of the Subcommittee and the ranking minority member of the Subcommittee, or by a majority vote of the Subcommittee.

(f) INTERROGATION OF WITNESSES.—Subcommittee interrogation of a witness shall be conducted only by members of the Subcommittee or such professional staff as is authorized by the Chairman or the ranking minority member of Subcommittee.

(g) SPECIAL MEETINGS.—If at least three members of a Subcommittee desire that a special meeting of the Subcommittee be called by the Chairman of the Subcommittee, those members may file in the offices of the Committee their written request to the Chairman of the Subcommittee for that special meeting. Immediately upon the filing of the request, the Clerk of the Committee shall notify the Chairman of the Subcommittee of the filing of the request. If, within 3 calendar days after the filing of the written request, the Chairman of the Subcommittee does not call the requested special meeting, to be held within 7 calendar days after the filing of the request, a majority of the members of the Subcommittee may file in the offices of the Committee their wrtten notice that a special meeting of the Subcommittee will be held, specifying the date and hour of that special meeting. The Subcommittee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk of the Committee shall notify all members of the Subcommittee that such special meeting will be held and inform them of its date and hour. If the Chairman of the Subcommittee is not present at any regular [addition] or special meeting of the Subcommittee, the ranking member of the majority party on the Subcommittee who is present shall preside at that meeting.

(h) VOTING.—No measure or matter shall be recommended from a Subcommittee to the Committee unless the majority of the Subcommittee are actually present. The vote of the Subcommittee to recommend a measure or matter to that Committee shall require the concurrence of a majority of the members of the Subcommittee voting. On Subcommittee matters other than a vote to recommend a measure or matter to the Committee no record vote shall be taken unless a majority of the Subcommittee are actually present. Any absent member of a Subcommittee may affirmatively request that his vote to recommend a measure or matter to the Committee or his vote on any such other matters on which a record vote is taken, be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter and to inform the Subcommittee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman of the Subcommittee any time before the record vote on the measure or matter concerned is taken, the member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee.

RULE 4.—WITNESSES

(a) FILING OF STATEMENTS.—Any witness appearing before the Committee or Subcommittee (including any witness representing a Government agency) must file with the Committee or Subcommittee (24 hours preceding his appearance) 120 copies of his statement to the Committee or Subcommittee, and the statement must include a brief summary of the testimony. In the event that the witness fails to file a written statement and brief summary in accordance with this rule, the Chairman of the Committee or Subcommittee has the discretion to deny the witness the privilege of testifying before the Committee or Subcommittee until the witness has properly complied with the rule.

(b) LENGTH OF STATEMENT.—Written statements properly filed with the Committee or Subcommittee may be as lengthy as the witness desires and may contain such documents or other addenda as the witness feels is necessary to present properly his views to the Committee or Subcommittee. The brief summary included in the statement must be no more than 3 pages long. It shall be left to the discretion of the Chairman of the Committee or Subcommittee as to what portion of the documents presented to the Committee or Subcommittee shall be published in the printed transcript of the hearings.

(c) TEN-MINUTE DURATION.—Oral statements of witnesses shall be based upon their filed statements but shall be limited to 10 minutes duration. This period may be limited or extended at the discretion of the Chairman presiding at the hearings.

(d) SUBPOENA OF WITNESSES.—Witnesses may be subpoenaed by the Chairman of the Committee or Subcommittee with the agreement of the ranking minority member of the Committee or Subcommittee or by a majority vote of the Committee or Subcommittee.

(e) COUNSEL PERMITTED.—Any witness subpoenaed by the Committee or Subcommittee to a public or executive hearing may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

(f) EXPENSES OF WITNESSES.—No witness shall be reimbursed for his appearance at a public or executive hearing before the Committee or Subcommittee unless such reimbursement is agreed to by the Chairman and ranking minority Member of the Committee.

(g) LIMITS OF QUESTIONS.—Questioning of a witness by members shall be limited to 5 minutes duration when 5 or more members are present and 10 minutes when less than 5 members are present, except that if a member is unable is finish his questioning in this period, he may be permitted further questions of the witness after all members have been given an opportunity to question the witness.

Additional opportunity to question a witness shall be limited to a duration of 5 minutes until all members have been given the opportunity of questioning the witness for a second time. This 5-minute period per member will be continued until all members have exhausted their questions of the witness.

RULE 5.—VOTING

(a) VOTE TO REPORT A MEASURE OR MATTER.—No measure or matter shall be reported from the Committee unless a majority of the Committee are actually present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of the members of the Committee who are present.

Any absent member may affirmatively request that his vote to report a matter be cast by proxy. The proxy shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman any time before the record vote on the measure or matter concerned is taken, any member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee, along with the record of

the rollcall vote of the members present and voting, as an official record of the vote on the measure or matter.

(b) VOTE ON MATTERS OTHER THAN TO REPORT A MEASURE OR MATTER.—On Committee matters other than a vote to report a measure or matter, no record vote shall be taken unless a majority of the Committee are actually present. On any such other matter, a member of the Committee may request that his vote be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman any time before the vote on such other matter is taken, the member may withdraw a proxy previously given. All proxies relating to such other matters shall be kept in the files of the Committee.

RULE 6.—QUORUM

No executive session of the Committee or a Subcommittee shall be called to order unless a majority of the Committee or Subcommittee, as the case may be, are actually present. Unless the Committee otherwise provides or is required by the Rules of the Senate, one member shall constitute a quorum for the receipt of evidence, the swearing in of witnesses, and the taking of testimony.

RULE 7.—STAFF PRESENT ON DAIS

Only members and the Clerk of the Committee shall be permitted on the dais during public or executive hearings, except that a member may have one staff person accompany him during such public or executive hearing on the dais. If a member desires a second staff person to accompany him on the dais he must make a request to the Chairman for that purpose.

RULE 8.—COINAGE LEGISLATION

At least 40 Senators must cosponsor any gold medal or commemorative coin bill or resolution before consideration by the Committee.

EXTRACTS FROM THE STANDING RULES OF THE SENATE RULE XXV, STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

* * * * *

(d)(1) Committee on Banking, Housing, and Urban Affairs, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Banks, banking, and financial institutions.
2. Control of prices of commodities, rents, and services.
3. Deposit insurance.
4. Economic stabilization and defense production.
5. Export and foreign trade promotion.
6. Export controls.
7. Federal monetary policy, including Federal Reserve System.
8. Financial aid to commerce and industry.
9. Issuance and redemption of notes.
10. Money and credit, including currency and coinage.
11. Nursing home construction.
12. Public and private housing (including veterans' housing).
13. Renegotiation of Government contracts.
14. Urban development and urban mass transit.

(2) Such committee shall also study and review, on a comprehensive basis, matters relating to international economic policy as it affects United States monetary affairs, credit, and financial institutions; economic growth, urban affairs, and credit, and report thereon from time to time.

COMMITTEE PROCEDURES FOR PRESIDENTIAL NOMINEES

Procedures formally adopted by the U.S. Senate Committee on Banking, Housing, and Urban Affairs, February 4, 1981, establish a uniform questionnaire for all Presidential nominees whose confirmation hearings come before this Committee.

In addition, the procedures establish that:

(1) A confirmation hearing shall normally be held at least five days after receipt of the completed questionnaire by the Committee unless waived by a majority vote of the Committee.

(2) The Committee shall vote on the confirmation not less than 24 hours after the committee has received transcripts of the hearing unless waived by unanimous consent.

(3) All nominees routinely shall testify under oath at their confirmation hearings.

This questionnaire shall be made a part of the public record except for financial information, which shall be kept confidential.

Nominees are requested to answer all questions, and to add additional pages where necessary.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Tom Bauer, a member of the staff of Senator SIMPSON, to participate in a program in Malaysia, sponsored by the Institute for Strategic and International Studies and the United States-Asia Institute, from January 5 to 16, 1989.

The committee has determined that participation by Mr. Bauer in the program in Malaysia, at the expense of the United States-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Kellye Eversole, a member of the staff of Senator BOREN, to participate in a program in Malaysia, sponsored by the Institute for Strategic and International Studies and the United States-Asia Institute, from January 5 to 16, 1989.

The committee has determined that participation by Ms. Eversole in the program in Malaysia, at the expense of the United States-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Anne Caldwell, a member of the staff of Senator SHELBY, to participate in a program in Taiwan, sponsored by the Chinese Culture University, from January 4 to 12, 1989.

The committee has determined that participation by Ms. Caldwell in the program in Taiwan, at the expense of the Chinese Culture University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for John Balbach, a member of the staff of Senator HUMPHREY, to participate in a program in Namibia, sponsored by the Namibia Foundation, from January 11 to 17, 1989.

The committee has determined that participation by Mr. Balbach in the program in Namibia, at the expense of the Namibia Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Dr. Leonard Weiss, a member of the staff of Senator GLENN, participate in a program in India, sponsored by the Indian Institute for Defense Studies and Analysis, from December 27, 1988, through January 16, 1989.

The committee has determined that participation by Dr. Weiss in the program in India, at the expense of the Indian Institute for Defense Studies and Analysis and the U.S. State Department, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for James N. Arbury, a member of the staff of Senator RIEGLE, who participated in a program in West Germany, sponsored by the Konrad Adenauer Stiftung, from November 26 to December 3, 1988.

The committee has determined that participation by Mr. Arbury in the program in West Germany, at the expense of the Konrad Adenauer Stiftung, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Jay C. Ghazal, a member of the staff of Senator PELL, to participate in a program in Jordan, Israel, Kuwait, and Saudi Arabia sponsored by the World Affairs Council of Jordan and the Union of Saudi Chamber of Commerce and Industry, from January 6 to 17, 1989.

The committee has determined that participation by Mr. Ghazal in the program in the Middle East, at the expense of the World Affairs Council of Jordan and the Union of Saudi Chambers of Commerce and Industry, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for David Apgar, a member of the staff of Senator BRADLEY, to participate in a program in Western Europe, sponsored by the European Parliament and Commission of the European Community, from January 8 to February 1, 1989.

The committee has determined that participation by Mr. Apgar in the program in Western Europe, at the expense of the European Parliament and Commission of the European Community, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Kolan Davis, a member of the staff of Senator GRASSLEY, to participate in a program in Namibia, sponsored by the Namibia Foundation, from January 7 to 16, 1989.

The committee has determined that participation by Mr. Davis in the program in Namibia, at the expense of the Namibia Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Evelyn Boyd, a member of the staff of Senator SASSER, to participate in a program in Namibia, sponsored by the Namibia Foundation, from January 9 to 18, 1989.

The committee has determined that participation by Ms. Boyd in the program in Namibia, at the expense of the Namibia Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Dave Flory, a member of the staff of Senator KASTEN, to participate in a program in Taiwan, sponsored by the Chinese Culture University, from January 3 to 16, 1989.

The committee has determined that participation by Mr. Flory in the program in Taiwan, at the expense of the Chinese Culture University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Brent Franzel, a member of the staff of Senator BOND, to participate in a program in Namibia, sponsored by the Namibia Foundation, from January 7 to 18, 1989.

The committee has determined that participation by Mr. Franzel in the program in Namibia, at the expense of the Namibia Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Kirk Robertson, a member of the staff of Senator PRYOR, to participate in a program in Germany, sponsored by the Konrad Adenauer Foundation, from November 26 to December 3, 1988.

The committee has determined that participation by Mr. Robertson in the program in Germany, at the expense of the Konrad Adenauer Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Jackie Clegg, a member of the staff of Senator GARN, to participate in a program in South Africa, sponsored by the South Africa Foundation, from December 4 to 16, 1988.

The committee has determined that participation by Ms. Clegg in the program in South Africa, at the expense of the South Africa Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mark Seetin, a member of the staff of Senator BOSCHWITZ, to participate in a program in China, sponsored by the Counselor of the Embassy of the People's Republic of China, from December 3 to 17, 1988.

The committee has determined that participation by Mr. Seetin in the program in China, at the expense of the United States-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for participation by Senator SYMMS in a program in China, sponsored by the State of Idaho and the Northwest Republic of China Trade Consortium of Seattle, which was held from November 12 to 17, 1988.

The committee has determined that participation by Senator SYMMS in the program in China, at the expense of the Northwest Republic of China Trade Consortium of Seattle and the Chinese National Association of Industry and Commerce of Taipei, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for James M. Bodner, a member of the staff of Senator COHEN, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs and the United States-Asia Institute, from December 5 to 13, 1988.

The committee has determined that participation by Mr. Bodner in the program in China, at the expense of the Chinese People's Institute of Foreign Affairs and the United States-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Steven M. Polansky, a member of the staff of Senator PELL, to participate in a program in China, sponsored by the United States-Asia Institute, from December 3 to 15, 1988.

The committee has determined that participation by Mr. Polansky in the program in China, at the expense of the United States-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Dr. Christopher Manion, a member of the staff of Senator HELMS, to participate in a program in Austria, sponsored by the Austrian Federal Economic Chamber, from December 1 to 19, 1988.

The committee has determined that participation by Dr. Manion in the program in Austria, at the expense of the Austrian Federal Economic Chamber, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Brad Figel, a member of the staff of Senator PACKWOOD, to participate in a program in Japan, sponsored by the Japan Center for International Exchange, from January 8 to 15, 1989.

The committee has determined that participation by Mr. Figel in the program in Japan, at the expense of the Japan Center for International Exchange, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. J. Christopher Brady, a member of the staff of Senator WARNER, who participated in a program in West Germany, sponsored by the Konrad Adenauer Stiftung, from November 26 to December 3, 1988.

The committee has determined that participation by Mr. Brady in the program in West Germany, at the expense of the Konrad Adenauer Stiftung, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Dr. Henry J. Kenny, a member of the staff of Senator PELL, to participate in a program in Taiwan, sponsored by Soochow University, from December 10 to 16, 1988.

The committee has determined that participation by Dr. Kenny in the program in Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.●

NEW YORK STUDENTS ARE HIGH ACHIEVERS IN WESTINGHOUSE SCIENCE AWARDS

● Mr. MOYNIHAN. Mr. President, I am pleased to announce the outstanding achievement of 19 New York high school students who have succeeded in reaching the finals of the Westinghouse Science Awards. These students represent almost one-half of the finalists who were chosen nationwide. We are proud of the students and schools who have enthusiastically participated in the competition and who dominate these prestigious awards.

This year New York City students have claimed the majority of New York State's awards, further displaying the excellence of city high schools in mathematics and science. Recently new science programs have been introduced into several of these high schools and have since produced a dramatic increase in the number of finalists in the Westinghouse awards.

From a pool of almost 1,500 applicants and over 600 schools nationwide, the finalists were chosen on the basis of an original research paper, grade point average, class standing, scholastic aptitude test scores, and a personal statement. The research project topics of New Yorkers ranged from loneliness and the elderly to the physiology of trumpet playing. The Westinghouse awards encourage our youth to probe new areas of science and continue to serve as a significant opportunity for intellectual growth.

New York State shares in the excitement of our finalists' success. In the past, several who have distinguished themselves as national finalists have gone on to win other prestigious fellowships and awards including the Noble Prize.

I wish to extend my congratulations to those New York finalists in the Westinghouse Science Awards and give recognition to these students for their singular achievements. Their accomplishments demonstrate the energy and creativity necessary to maintain America's leadership in scientific research and development for the future.

I would like to share with my colleagues the names of our State's finalists.

The list of finalists follows:

Wai Ling Ma, Brooklyn Technical High School.

Andrew James Gerber, Midwood High School.

Erica Gail Klarreich, Midwood High School.

Thomas Robert Westcott, Midwood High School.

Michael Lee Maitland, Commack High School.

Kevin Nelson Heller, Half Hollow Hills High School West.

Stacy Elisabeth Benjamin, Francis Lewis High School.

Al Thaddeus Avestruz, Bronx High School of Science.

Tamir Alexandrovich Druz, Bronx High School of Science.

David Armin Mahl, Bronx High School of Science.

Zoe Madeleine Marchal, Bronx High School of Science.

Raoul Posmentier, Bronx High School of Science.

Vladimir Teichberg, Bronx High School of Science.

Simon Robert Zuckerbraum, Bronx High School of Science.

Ana Josefina Pavich, Philip Randolph High School.

Rose Du, Stuyvesant High School.

Lucy Shigemitsu, Stuyvesant High School.

Richard Hawkins Christie, Penfield High School.

Christopher Pierpont, Shoreham-Wading River High School.●

DEADLINE FOR THE PUBLISHING OF RULES GOVERNING COMMITTEE PROCEDURE

● Mr. FORD. Mr. President, I wish to remind each committee chairman that pursuant to paragraph 2 of rule XXVI of the Standing Rules of the Senate, the rules governing the procedure of the committee must be published in the CONGRESSIONAL RECORD no later than March 1, 1989.●

RULES OF THE COMMITTEE ON RULES AND ADMINISTRATION

● Mr. FORD. Mr. President, I ask that pursuant to paragraph 2 of rule XXVI of the Standing Rules of the Senate, the Rules of Procedure of the Committee on Rules and Administration adopted on January 26, 1989, be printed in the RECORD at this point.

The Rules of Procedure follow:

RULES OF PROCEDURE OF THE SENATE COMMITTEE ON RULES AND ADMINISTRATION

(Adopted January 26, 1989)

TITLE I—MEETING OF THE COMMITTEE

1. The regular meeting dates of the committee shall be the second and fourth Wednesdays of each month, at 9:30 a.m., in room SR-301, Russell Senate Office Building. Additional meetings may be called by the chairman as he may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the committee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the committee on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed followed immediately by a recorded vote in open session by a majority of the members of the committee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) May divulge matters required to be kept confidential under other provisions of law or Government regulations. (Paragraph 5(b) of rule XXVI of the Standing Rules.)

3. Written notices of committee meetings will normally be sent by the committee's staff director to all members of the committee at least 3 days in advance. In addition, the committee staff will telephone reminders of committee meetings to all members of the committee or to the appropriate staff assistants in their offices.

4. A copy of the committee's intended agenda enumerating separate items of legislative business and committee business will normally be sent to all members of the committee by the staff director at least 1 day in advance of all meetings. This does not preclude any member of the committee from raising appropriate non-agenda topics.

5. Any witness who is to appear before the committee in any hearing shall file with the clerk of the committee at least 3 business days before the date of his or her appearance, a written statement of his or her proposed testimony and an executive summary thereof, in such form as the chairman may direct, unless the chairman and the ranking minority member waive such requirement for good cause.

TITLE II—QUORUMS

1. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 9 members of the committee shall constitute a quorum for the reporting of legislative measures.

2. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 6 members shall constitute a quorum for the transaction of business, including action on amendments to measures prior to voting to report the measure to the Senate.

3. Pursuant to paragraph 7(a)(2) of rule XXVI of the Standing Rules, 4 members of the committee shall constitute a quorum for the purpose of taking testimony under oath and 2 members of the committee shall constitute a quorum for the purpose of taking testimony not under oath; provided, however, that in either instance, once a quorum is established, any one member can continue to take such testimony.

4. Under no circumstances may proxies be considered for the establishment of a quorum.

TITLE III—VOTING

1. Voting in the committee on any issue will normally be by voice vote.

2. If a third of the members present so demand, a record vote will be taken on any question by rollcall.

3. The results of rollcall votes taken in any meeting upon any measure, or any amendment thereto, shall be stated in the committee report on that measure unless previously announced by the committee, and such report or announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment by each member of the committee. (Paragraph 7(b) and (c) of rule XXVI of the Standing Rules.)

4. Proxy voting shall be allowed on all measures and matters before the committee. However, the vote of the committee to report a measure or matter shall require the concurrence of a majority of the members of the committee who are physically present at the time of the vote. Proxies will be allowed in such cases solely for the purpose of recording a member's position on the question and then only in those instances when the absentee committee member has been informed of the question and has affirmatively requested that he be recorded. (Paragraph 7(a)(3) of rule XXVI of the Standing Rules.)

TITLE IV—DELEGATION OF AUTHORITY TO COMMITTEE CHAIRMAN

1. The chairman is authorized to sign himself or by delegation all necessary vouchers and routine papers for which the committee's approval is required and to decide in the committee's behalf all routine business.

2. The chairman is authorized to engage commercial reporters for the preparation of transcripts of committee meetings and hearings.

3. The chairman is authorized to issue, in behalf of the committee, regulations normally promulgated by the committee at the beginning of each session.●

POLISH ROMAN CATHOLIC UNION OF AMERICA CELEBRATES 115TH ANNIVERSARY

● Mr. SIMON. Mr. President, on December 3, 1988, the Polish Roman Catholic Union of America celebrated its 115th anniversary. This observance took place in the Great Hall of the Polish Museum of America, which is housed in the PRCUA Building in Chicago, IL.

The organization began with its first president and founder, Rev. Theodore Gieryk.

By its many philanthropic actions, the Polish Roman Catholic Union of America has adhered to the purposes set forth at its inception. It has established and supported the Polish Museum of America and Auxiliary, the Polish Welfare Association which aids Polish Americans and the Polish immigration and many Polish American causes and programs; actively supports Polish Roman Catholic churches, schools, seminaries, and institutions of higher learning for Polish Americans; maintains its own fraternal activities for members, and especially the youth, thus perpetuating the culture and traditions of their Polish heritage. PRCUA subsidizes teaching in the Polish language Saturday schools, establishes Polish national folk dance and song ensembles and dance schools, and encourages sports activities with annual tournaments.

The organization primarily provides life insurance programs and other financial programs for its members with a strong financial base authorized and licensed in 25 of these United States.

The administration, led by President Edward G. Dykla, is as follows:

Wallace Ozog, vice-president;

Regina Ocwieja, resident vice-president;

Victor D. Hyatt, secretary general;

Josephine Szarowicz, treasurer;

Kasimer J. Zabek, Massachusetts;

Pauline L. Kurpiewski, Connecticut;

Joseph A. Starosciak, New York;

Stephanie P. Carmody, New York;

Casimer A. Lech, Pennsylvania;

Mary Beth Kaplaniak, Pennsylvania;

John F. Jakubowski, Maryland;

Irene Czernikowski, New Jersey;

Richard Misiuda, Ohio;

Joann Marie Kazmierczak, West Virginia;

Edward J. Forys, Illinois;

Helen Ignatowski, Wisconsin;

Robert J. Bugielski, Illinois;

Shirley L. Dudzinski, Illinois;

Edward Winiecki, Illinois;

Virginia C. Sergeant, Illinois;

Theodore M. Pawlowski, Illinois;

Dolores H. Spejewski, Indiana;

Francis A. Domborwski, Michigan; and

Shirley Ann Galanty, Michigan.

Mr. President, we salute this fine organization on its 115th anniversary and wish it many more anniversaries as it serves so well.●

BILL COSBY'S GIFT TO SPELMAN COLLEGE IN ATLANTA

● Mr. SIMON. Mr. President, I rise to call to the attention of my colleagues a most noteworthy development in higher education. Actor, entertainer, and businessman Bill Cosby, whose actions speak volumes about his commitment to black colleges and universities, made the largest, single contribution to any college in American history. Bill and Camille Cosby gave $20 million to Spelman College, where one of the real life Cosby children is enrolled.

This is not his only contribution. He has been generous with his wealth to Howard University and other black colleges and universities, in addition to serving as a trustee of Morehouse College. He sets a fine example for all of us—while those of us here in Congress work to continue the Federal commitment to low- and middle-income students and to institutions of higher education—we can and must do much more to ensure the survival of public and private higher education in America by contributing more personally and assuring favorable tax treatment of those gifts.

Mr. President, I ask that a November 11, 1988, editorial from the Washington Post be included in the RECORD at this point. "Spelman College on the Rise" calls attention to the success of one private, historically black college. Spelman is not alone and the growth in black college enrollment in the fall of 1988 tells all of us an important story about the important continuing role being played by our Nation's black colleges and universities. Whether it's the Thurgood Marshall Black Education Fund, supported by the National Basketball Association, or the United Negro College Fund's annual telethon, we should support higher education in general and black colleges in particular. "A Mind is a Terrible Thing to Waste."

The editorial follows:

[From the Washington Post, Nov. 17, 1988]

SPELMAN COLLEGE ON THE RISE

The nation's historically black colleges and universities have had hard times in recent years. Schools that used to shun blacks have begun competing with the historically black institutions for students, faculty and resources. Black schools—some, not all—have suffered through declining enrollments, spiraling debts and the threatened loss of accreditation.

But the historically black schools are still a major source of higher education for black students in this country and still produce an imposing percentage of those blacks who go on for advanced degrees. In recent years they have also come to be havens for black students who have felt isolated and alienated on predominantly white campuses.

The black schools have thus done more than just endure; some have thrived. Among them, Spelman College in Atlanta stands out in many ways. The 107-year-old school for black women has not only weathered the hard times, it has flourished. It received 2,900 applications last year for a 388-member freshman class. It is drawing top applicants and strengthening its curriculum. In U.S. News & World Report's most recent annual ranking, Spelman was eighth among all smaller liberal arts colleges in the South.

Now, this impressive record has been magnificently recognized, and the means to continue it have been provided, by actor/entertainer Bill Cosby. Mr. Cosby and his wife, Camille, are giving Spelman an extremely generous gift of $20 million. It is the largest individual donation ever made to a black college.

The money will be used to build a new academic center, as well as to finance the school's first endowments in the humanities and social sciences. It is also an invitation to others to contribute. This was "a very informed gift," said Christopher Edley Sr., executive director of the United Negro College Fund, who hopes other gifts will follow. Another academic noted after the announcement that gifts of this size "really put a school on the map."

But the school has to deserve them first. Spelman and Mr. and Mrs. Cosby deserve the highest praise.●

THE EUROPEAN COMMUNITY BAN OF AMERICAN BEEF

● Mr. McCLURE. Mr. President, on Wednesday, January 25, Senator DOMENICI, Senator WALLOP, Senator BAUCUS, myself, and several other Senators introduced a Senate resolution deploring the European Community's ban of U.S. beef because of the use of hormones in beef production. This ban, which went into effect January 1, 1989, is a political decision, not a health issue and puts in place an unfair trade practice which will cost U.S. beef producers a market worth $100 million.

There is no basis in scientific fact for this ban. The action taken by the European Community, is based upon emotion and ill-formed opinions. This emotional response has removed the decision-making process from the world scientific realm. The scientific integrity of world regulatory policy is threatened when ill-formed and emotional opinions prevail in the decision-making process.

The use of hormones in beef production is safe. The U.S. regulatory system is vigorous and the use of all substances which promote additional growth in animals is monitored in one of the most stringent processes in the world. The Food and Drug Administration allows hormones to be used as growth promotants only after stringent tests for safety were made. The hormones are approved safe for livestock and for humans who consume the meat.

Hormones approved for use in the U.S. beef industry are both natural—produced naturally in every human and animal—and synthetic—created chemically. Both types have been approved for use and are considered safe. In addition to the known safety of these hormones, the human body produces many times more of these hormones naturally than would ever be ingested by consuming meat treated with hormones. For example, about 16 ounces of meat treated with estradiol, a naturally occurring growth hormone, contains 15,000 times less of that hormone than the average man produces daily and several million times less than a pregnant woman produces.

The United States has long believed that the Codes Committee on Residues of Veterinary Drugs in Food should make the international decision concerning the safety of growth hormone use. This committee, part of a larger Codex Alimentarious Commission, reviews the scientific work of all major scientists of our day to decide questions of health and safety. The Codex Committee on Residues of Veterinary Drugs in Food has agreed that there is no need for limits on the naturally occurring hormones of estradiol, progesterone, or testosterone. Enforceable limits have been set for synthetic hormones. The U.S. system allows for the use of these hormones within these limits.

It is clear that the European Community is using the hormone issue to block free trade between the Community and the United States. They are willing to risk a trade war with the United States over an issue which has no basis in fact. The European Community implemented the ban and the United States retaliated against it. Now the EC has announced further trade measures against the United States by imposing an additional $97 million in tariffs on American walnuts and dried fruits. Trade retaliation for Europe's ban on American beef is an unfortunate but necessary response to a blatantly protectionist EC policy.

This resolution calls on the President of the United States and the Secretary of Defense to require that U.S. commissaries in the EC buy and sell only American meat. This would increase sales of U.S. beef by $40 to $50 million, partially offsetting the loss due to the EC ban. Hopefully, this resolution would bring the EC to the bargaining table and we can work this thing out. If they do not respond, then we will have to look for another way to regain the share of the market we lost in this trading relationship.

Until the EC comes to its senses on this issue I feel that this is just and fair. Free trade is my preference and I think we should give the Europeans every opportunity to play fair before we follow their lead again on increasing trade barriers. If the EC comes back to the negotiating table ready to adjust their decision on the hormone ban, this measure will be unnecessary; if they do not it is one way to protect our domestic beef industry. I urge the Bush administration to try to convince the Europeans to negotiate on the beef ban, but if the Europeans refuse, then the United States should match European tariffs.

I am confident that if the EC were to agree to abide by a decision of an impartial scientific panel of experts under the General Agreement on Tariffs and Trade, that this ban will end, signaling an end to the current escalating trade war and sending a message to all countries that we are willing to continue to open markets, trade fairly and openly, and demand fairness from our trading partners.

To this end I lend my support and urge that all Senators give their support to this resolution.●

JOHN L. SMITH

● Mr. SYMMS. Mr. President, as an alumnus of the University of Idaho, and a former Vandal football player, I am pleased to acknowledge John L. Smith who has just been appointed as head coach of the University of Idaho football team. John is the 29th head football coach in Vandal history.

John has had a distinguished career coaching college football. Beginning at Weber State in 1971 as the graduate assistant coach, he has also coached at Montana, Nevada-Reno, Wyoming, and Washington State. Also, during 1982–85 he was the assistant head coach, and linebackers, kickers, and defensive coordinator for the Vandals.

As a fellow Idaho native, I am grateful that John has returned to Idaho to enrich our educational system. I would like to welcome John back to Idaho, and wish him and the University of Idaho football team the best of luck in the coming seasons.

I request that a copy of the articles from the Idahonian and the Lewiston Tribune be printed in the RECORD.

The articles follow:

SMITH OFFICIALLY BECOMES IDAHO FOOTBALL COACH

(By Mike Tatko)

Moscow.—Declaring "It's great to be a Vandal," John L. Smith on Tuesday was officially introduced as the 29th head football coach at the University of Idaho.

A fairly large crowd gathered at the University Inn and watched Smith shed a Washington State University crimson and gray tie in favor of an Idaho Vandal black and gold jacket and hat combination.

"I figured this one got me through the interview so I'd try it twice," Smith, 40, said of the tie. And then of the jacket and hat: "Boy, this is a lot better than when I was here before."

Smith was Idaho's assistant head coach and defensive coordinator under Dennis Erickson from 1982–85. He followed Erickson to Wyoming and back to Washington State where Erickson is currently head coach.

The 40-year-old Smith, who was accompanied to the news conference by his wife, Diana, flew to Boise Tuesday for another news conference and was scheduled to fly to Idaho Falls today. Smith, who is an Idaho Falls native, was introduced Tuesday by Idaho Athletic Director Gary Hunter.

The first-year AD said he wrote down the qualities he was looking for in a replacement for Keith Gilbertson, who left just before Christmas to become the offensive line coach at the University of Washington.

Among the qualities Hunter listed was quality coaching experience in a successful program, the ability to motivate players and assistant coaches, recent recruitment in the Pacific Northwest, a familiarity with the Big Sky Conference, the ability to relate to the Idaho students, faculty, staff and boosters, and a commitment to the passing game.

"I put that one down twice," Hunter said of the passing game.

"I felt one individual met each and every one of those qualities," Hunter said prior to introducing Smith.

"I'm happy to be here and I will do everything I can to continue the success we've had at the University of Idaho," said Smith, who jokingly suggested he's planning on changing the offense.

"I just got off the phone this morning with (All-American quarterback) John Friesz and I told him to work on the option game a little bit." Friesz, a junior this past season, led the nation in passing yards per

game in Division I-AA. Seriously, Smith said "We're going to continue to throw the football."

Smith said his main concern is putting together a staff of assistants. He said he's interviewed most of the coaches that served under Gilbertson and he expects to announce his assistants in the near future and then concentrate on recruiting.

Smith said he's looking for defensive backs and possibly a defense lineman to shore up the already well-stocked Vandal team.

Ironically, Smith's first game as head coach will be against Washington State in September.

"Part of his contract calls for a win over Washington State," Hunter joked.

Said Smith: "That's a game we're going to look forward to. We might just see if we can put some rules in there: No lives punts, no blitzes, all zone coverages.

"Were excited about it," he said. "It will give our kids a chance to go out there and show what they can do against a so-called big-time team."

Smith has a challenge before him, taking over for Gilbertson, who posted a 28-9 record in three seasons at Idaho while winning back-to-back Big Sky Conference titles.

"We've got two conference championships under our belt and we're looking for another one and maybe go on and get a national title, too," Smith said.

JOHN L. SMITH'S COACHING YARDSTICK

1971—Graduate assistant coach, Weber State.

1972-74—Assistant coach, Montana.

1975-76—Linebackers/defensive coordinator, Montana.

1977-81—Assistant head coach/linebackers/defensive coordinator, Nevada-Reno.

1982-85—Assistant head coach/linebackers/kickers/defensive coordinator, Idaho.

1986—Assistant head coach/linebackers/kickers/defensive coordinator, Wyoming.

1987-88—Assistant head coach/linebackers/defensive coordinator, Washington State.

SMITH TRADES CRIMSON AND GRAY FOR BLACK AND GOLD

(By Jim Meehan)

New University of Idaho football coach John L. Smith didn't waste any time today changing his uniform from crimson and gray to black and gold.

When Smith was formally introduced as the new UI coach at a morning press conference at the University Inn, he came in wearing a suit with a Cougar colored tie.

He left wearing a Vandal jacket and hat.

Midway through his crowning, long-time Vandal booster Bob Marker asked Smith, "when are you going to change that tie?" Maker's remark was in reference to the school colors of Washington State University, where Smith had been the defensive coordinator and assistant football coach.

"I wore it during the interview (with UI Athletic Director Gary Hunter), so I figured I'd try it twice. I looked this morning and I only had one black tie, nothing gold. I did find a Vandal pin," said Smith, pointing to his lapel.

The tie didn't stay on long. Hunter presented Smith with a black and gold Vandal jacket and hat, which Smith slipped on.

A former Idaho assistant coach, Smith replaces Keith Gilbertson, who left to accept an assistant's job at the University of Washington. The Idaho Falls native said he's glad to be back in the Gem State.

"It's great to come back to the state of Idaho and I'm kind of emotional about it," said Smith. "I feel like this is home and I'm happy to be here."

Hunter, who introduced Smith at the press conference, said 'Smith met all requirements of becoming the new UI coach.

"We had a number of highly qualified individuals contact me," Hunter said, "but only one met every one of our requirements." Included in those requirements, Hunter said, were coaching experience from a winning team, commitment to a passing offense, ability to motivate staff and players, and an ability to recruit in the Northwest.

Smith said he is interviewing current Idaho assistant coaches and will be making decisions on his staff soon.

"My main concern is getting a staff together and then hitting the road to recruit," Smith said.

But today he is savoring his UI appointment.

"It's great to be a Vandal—again," Smith said.●

ASIAN AND PACIFIC AMERICAN ISSUES SEMINAR

● Mr. DASCHLE. Mr. President, on November 30, 1988, I hosted a seminar with my friend, Senator PAUL SIMON, on issues of importance to Asian- and Pacific-Americans. I believe all of us in Congress should make a concerted effort to better understand the concerns of Asian- and Pacific-Americans, and I rise today to report to my colleagues on the success of the seminar and to present for their consideration many of the viewpoints that were shared that day.

Although many issues are important to Asian- and Pacific-Americans, our seminar focused on two topics of particular interest and timeliness. The first was legal immigration reform.

Legislation proposed in the 100th Congress, as well as new legislation expected to be proposed in the 101st Congress, may significantly alter the prescription for determining who should be permitted to immigrate into the United States each year. Some of these proposals would have a profound impact on those seeking to immigrate into our country from Asian and Pacific rim countries. A major concern for Asian- and Pacific-Americans is whether it will become more difficult for members of their families to join them in this country. Senator SIMON, who moderated the panel on legal immigration reform, may have more to say in a moment about this issue.

The second issue discussed at the seminar concerned alleged anti-Asian bias in university admissions. At the center of the charges is a dramatic increase in the number of academically talented Asian-American applicants to our Nation's top schools. Offers of admission to such students have increased, but not by nearly so large a margin as the number of qualified applicants.

Community leaders offered testimony suggesting that Asian- and Pacific-Americans are receiving inequitable treatment in university admissions policies. Representatives from a public and a private institution discussed the factors they must consider when assembling a freshmen class. Finally, the Assistant Attorney General presented the administration's view that racial discrimination, on any account, is indefensible.

I feel strongly that the seminar was a success. It brought together individuals and organizations with conflicting viewpoints on these important issues. These viewpoints were aired in a constructive fashion, so that as many people as possible could share in the discussion. I believe that everyone, no matter what his or her views, learned something that day.

There is no official record of the seminar that Senator SIMON and I conducted. However, we encouraged participants to submit written statements expressing their views on these issues. Mr. President, I ask that the written statements of individuals and organizations participating in the seminar, be printed in the RECORD immediately following the statement of Senator SIMON.

I encourage my colleagues to read these statements carefully, and I hope that in the future others will join me and Senator SIMON in attempting to address the concerns of this very important group of Americans.●

ACTION CALLED FOR ON ASIAN AMERICAN UNIVERSITY ADMISSIONS

● Mr. SIMON. Mr. President, I wish to join my colleague Senator THOMAS DASCHLE in sharing with this body the fine testimony from the seminar we convened in November on university admissions policies affecting Asian- and Pacific-Americans and on legal immigration reform.

The State of Illinois has the fourth largest number of Asian-American residents and I have long been involved with issues of concern to Asian- and Pacific-Americans. As a member of the Senate Immigration Subcommittee, I sponsored legislation to expand the Hong Kong immigration quota from 600 to 5,000 annually and worked to protect family reunification for brothers and sisters of United States citizens under the fifth immigration preference most often used by Filipino, Indian, and Chinese Americans. In part because of the growing problem of anti-Asian violence in New Jersey, Michigan, California, and other parts of the country, I sponsored the Hate Crime Statistics Act to require the Attorney General to maintain up-to-date information on hate crimes. In addition, I have strongly supported adult English programs for new refugees and others who have

been on long waiting lists for literacy classes.

The university admissions issue is a growing problem in the Asian- and Pacific-American community which most certainly requires Federal attention. As chairman of the Constitution Subcommittee, I became aware that Asian-American students and their parents had met for over a year with Department of Justice officials with no apparent followup by Federal officials. Last May, I asked then Assistant Attorney General William Bradford Reynolds, head of the Civil Rights Division of the Justice Department, what the status was of the student and parent complaints about the University of California at Berkeley, Stanford University, and Yale University. He informed me that the Department of Justice had turned over the complaints to the Department of Education.

In September, following his confirmation hearing, I asked Secretary of Education Lauro Cavazos what the status was of the complaints. He informed me that the Justice Department had not referred any complaints to the Education Department's Office of Civil Rights but that the Asian-American admissions issue would be the subject of forthcoming compliance reviews. Subsequently, the Department of Education reported it was reviewing both the University of California at Los Angeles and Harvard University. I am pleased that the Secretary has taken this action and eagerly await the Department's findings to be issued in the next few months.

In November, Senator DASCHLE and I convened an all-day seminar on the university admissions issue and on legal immigration reform, also a critical issue in the Asian and Pacific American community. On the admissions issue, we asked to hear not only from Asian American community leaders but from the Department of Justice and the universities. Each side, the Federal law enforcers, the universities and the community leaders, made important contributions and I urge my colleagues to review what they had to say. This compelling issue deserves more attention and some answers. I intend to continue to focus on it in the 101st Congress and I invited my colleagues who are equally interested to join Senator DASCHLE and me in this endeavor.

The legal immigration issue has been much more debated than university admissions and of very significant consequence. The legislation the Senate passed last year was not enacted into law and I understand that it will be reintroduced. While I agree with many of the objectives of and much of what was contained in that legislation, I will be offering the Senate a slightly different package which better addresses the real concerns of family reunification.

The Asian and Pacific American issues seminar brought together a number of immigration experts and I commend their testimony to your attention. Our seminar would not have been possible without the strong support and advice we received from the Organization of Chinese Americans and the Chinese American Society. I wish to take this opportunity to once again thank those two organizations for their fine efforts.

The previously referred to material follows:

LEGAL IMMIGRATION REFORM: ISSUES OF CONCERN TO ASIAN AMERICANS

(By Bill Ong Hing)

I. INTRODUCTION

It is curious that a call for legal immigration reform comes at a time when most immigration to the United States is Asian. A constant flow of 400,000 to 500,000 immigrants and refugees to the United States annually makes our nation the "permanently unfinished country." In a given year, 250,000 could be from Asian countries and another 120,000 from Latin America. Immigration has enabled Asian American communities to begin to come back from the sordid 80-year history of Asian exclusion laws that pervaded U.S. immigration policy prior to the 1965 reforms. The 1970 census revealed that the Asian and Pacific Islander population of the United States was 1.5 million, only 0.68 percent of the total population. Since then, the number of Asian Americans in the United States population has only increased by about 18 percent. In September 1985, the population was estimated to be 5.1 million, or 2.1 percent of the United States population (239 million). From 1980 to 1985, the United States population increased 5.7 percent. But the gain for Asians during the same five-year period was nearly 50 percent—a rate that makes Asian Americans the fastest growing, racial or ethnic minority group in the United States. And immigration is the key ingredient to that growth.

Thus, any talk of legal immigration reform is suspicious to Asian Americans. Is such talk a throwback to the nativism that sparked the call for Asian exclusion or immigration restriction in the past?

II. SOME REACTIONS TO ASIAN IMMIGRATION

The United States has an unfortunate history of intolerance manifested against Asian immigrants. It is this negative reaction, or nativism, which led to the various exclusion and restrictive immigration laws aimed at the various Asian immigrant groups discussed earlier. For example, Chinese were thought to be unassimilable, their diet was different, their language was incomprehensible, their features unusual, they had filthy habits, and these and other undersirable qualities made them a menace. Japanese were viewed as an overly-aggressive economic and racial threat. There was fear of "mongrelization" of California due to Filipino social ideas. As a result, the government responded with exclusion laws, alien land acts, anti-miscegenation statutes, and Japanese internment. And the nativism of the mainstream resulted in notorious examples of discrimination, vandalism and violence levied against Asian immigrants.

In time, discriminatory laws were struck down and immigration laws were amended. Chinese and Filipino workers gained access to more mainstream jobs during World War II; after all, it was bad propaganda to continue exclusion of the nationals of an ally and many Filipinos were fighting alongside Americans. These developments represented a shift in attitude toward Asian immigrants; and eventually the government's imprimatur of intolerance toward acts of racism embodied by civil rights legislation also assisted Asian immigrants who were seeking a place in society. In short, Asian Americans have begun to become a permanent, accepted part of the Amerian patchwork. But sadly, neither legislative actions, an image of hard work and success, nor entry into most areas of employment has succeeded in totally eliminating some mainstream feelings of animosity, discrimination, and racism (essentially continued nativism) toward Asian Americans.

Public opinion polls reveal that the general population does not hold Asian Americans in very high esteem. For example, in one national survey which ascertained attitutes toward 15 different ethnic groups (including Japanese, Chinese, Koreans, and Vietnamese), no European ethnic, group received lower than a 53 percent positive rating, and no Asian group received higher than a 47 percent positive rating. [Japanese were considered to be the minority group that had contributed the most (47 percent), followed by blacks, Chinese, Mexicans, Koreans, Vietnamese, Puerto Ricans, Haitians, and Cubans. Interestingly, positive attitudes toward the Japanese and Chinese outweighed the negative attitudes, whereas in the case of Koreans and Vietnamese, more Americans had negative feelings than positive ones.]

[A 1980 poll of attitudes of Americans in nine cities toward refugees showed that many surveyed were not favorably disposed toward them. Only 21 percent of those surveyed believed that Indochinese refugees should be encouraged to move into their community. Nearly half of those surveyed believed that Indochinese should have settled in other Asian countries, and one-fourth believed that "America has too many Asians in its population."] During the 1980 presidential election, the Los Angeles Times conducted a poll asking which group of people was least likely to produce a viable candidate. You guessed it. Respondents felt that Asian Americans were the least likely, because of their sinister, suspicious and foreign image.

The negative image has apparently been renewed or maintained by the influx of Asian immigrants. Asian, as well as Latino, immigrants have been the subject of a resurgence in nativistic calls for immigration restrictions. Glimpses of this have already been seen in the reappraisal of refugee admissions, and the proposals to require future Southeast Asian entrants to use the immigration preference system. Similarly, attempts to enact zoning ordinances to discourage Asian-owned businesses in San Francisco and Monterey Park are evidence of a nativist backlash against Asian immigrants.

The national movement to have English declared the official language of the United States is also viewed as an attack on Asian and Latino immigration. In fact, there are some rather strong bonds between the English-only movement and immigration restrictionist groups. The chair and co-founder of U.S. English (the primary lobbying group for English-only initiatives) is also the founder and chair of the Federation for

American Immigration Reform, a leading advocacy group for restricting immigration.

Anti-Asian sentiment has been evidenced by vandalism and racial graffitti in recent years. The slogan "Chinks and Jews suck" was found in the Richmond District of San Francisco; in the Korean American community, "Nips go home" was spray-painted on Korean operated stores; and after numerous acts of vandalism directed at the church building, a Korean Buddhist congregation had to move their temple in Maryland. Swastikas have been spraypainted on the homes of Asian Indians. In Richmond, California, repeated property defacing and other acts of vandalism culminating in a cross-burning were directed at Laotian refugees. In Oakland, vandals harrassed a Laotian family by turning off their electricity every night. A Kampuchean's home was burned down by an arsonist. In Garden Grove, California, a church that resettles and provides services to Southeast Asian refugees was vandalized with graffiti reading "Gooks Go Home" and "No Nips."

Trade frictions with Japan and economic competition with industries in Asian countries have fostered racial attacks in the United States as well. In the Japanese American community, these recent reports are typical: on separate occasions, the Department of Agriculture Secretary and an Idaho state senator referred to Japanese as "slant eyes"; at a Flint, Michigan auto show, a display had a bucktoothed caricature of an automobile dropping bombs (shaped like imported automobiles) on Detroit; at the opening of an automobile plant in Fremont, California, a company official complemented Congressman Norman Mineta, a five-term member of Congress and former mayor of San Jose, on his ability to speak English; Japanese tombstones were vandalized in Fresno; a southern California Japanese Buddhist church was arsoned; a national magazine reprinted a comic strip entitled "How to spot a Jap"; and a Chicago car dealer ran an advertisement depicting the smoking ruins of sunken United States battleships and Japanese bombers, with text reading "In remembrance of Pearl Harbor, we are having a gigantic sale on American cars, built in America, by Americans."

The prejudice that breeds anti-Asian sentiment, manifests itself in job promotion as well. For example, although a high proportion of Asian Indian, Chinese, Filipino, Japanese and Korean males hold professional, administrative, and managerial jobs, the figures are misleading. Many of these individuals believe that promotional opportunities in management are limited for them because of job discrimination; Asians are often turned away for managerial and executive positions by the same companies who pursue them for technical jobs. While Asian Americans constituted 8 percent of all professionals and technicians in the private sector in 1984, they were only 1.3 percent of the managers and officials. Seventy to eighty percent of Asian American lawyers surveyed in Northern California have experienced discrimination in promotions at private law firms and corporate law departments.

The most evil manifestation of anti-Asian immigrant sentiment is the upsurge in the incidence of racial violence directed against them in recent years.

Racial violence may begin with racial epithets hurled at Asian immigrant school children in elementary schools who are called "Chink," "Chop Suey," or "Yang," and end in incidents such as the fatal baseball batbeating of a Chinese American at the hands of unemployed Detroit autoworkers who thought the victim was Japanese and blamed him for layoffs in the industry.

Southeast Asian refugees are a principle target of renewed racial violence and attack. In West Oakland, 20 Kampuchean families were terrorized by juveniles who shot at the victims' cars from passing autos. After a Vietnamese high school student was stabbed to death by a white schoolmate in Davis, California, a memorial marker was erected in the refugee's memory; shortly thereafter the memorial was spraypainted with the message, "Death to Gooks." There have also been numerous reports of violence, harassment, and intimidation against Vietnamese fishermen by native fishermen.

Even Asian Indians, who are seldom mentioned as victims in the annals of historical accounts of anti-Asian violence have become recent targets. In Jersey City, Indian women have been intimated into abandoning the bindi (cosmetic forehead dot) and wearing Western-style dress, because the sari and the bindi make them targets for harassment. After one Asian Indian man was beat to death and another clubbed into a coma, a handwritten letter to the local newspaper said, "We will go to any extreme to get Indians to move out of Jersey City." It was signed "The Dotbusters." In Philadelphia, two Indian food vendors were attacked by nine men with baseball bats and iron rods because of alleged encroachment on their "turf."

Two white males were arrested and sent to jail for burning a cross on the front lawn of a Filipino American family. In Daly City, California, where almost 30 percent of the population is Filipino American, lawsuits have been filed by Filipinos against the Daly City police alleging police brutality and harrassment.

Racial violence toward Chinese Americans has also been reported in the past few years. A Monterey Park newspaper was set ablaze for initiating a Chinese language section; a Chinese American was murdered by being pushed in front of an oncoming subway train and at trial the defendant argued that he had a fear of Asians; a Wayne State University law student won a pumpkin carving contest with a depiction of the Vincent Chin slaying—the work had "oriental features" and was bashed with a baseball bat while 30-40 co-students applauded.

The incidents of violence, harrassment, and discrimination can be attributed to many factors. The increase in numbers in the Asian American communities is an obvious one. Trade frictions and even the media image of strong academic performance and financial success of Asian Americans triggers resentment and tension from the misguided. And the use of the term "model minority" automatically pits Asians against other minorities, inviting comparisons and gross generalizations. Some Asians feel that they are resented for being depicted as "too successful." For example, there is a resentment by blacks directed at the success of Koreans, and by working class whites of Japanese success.

Even if one were to label violence against Asian Americans as exceptional, or to deem the perpetrators as unrepresentative of the mainstream, unfavorable public opinion and other forms of discrimination against Asian Americans appear to be significant and are likely to affect the process of assimilation by Asian immigrants.

Congressional reaction during this period has been couched in language that is reminiscent of old nativisms that promote an Anglo-conformity, rather than cultural pluralism, model of assimilation. For example, Senator Simpson has stated:

"[A]ssimilation to fundamental American public values and institutions may be of far more importance to the future of the United States. If immigration is continued at a high level and yet a substantial portion of the newcomers and their descendants do not assimilate, they may create in America some of the same social, political and economic problems which existed in the country which they have chosen to depart. Furthermore, as previously mentioned, a community with a large number of immigrants who do not assimilate will to some degree seem unfamiliar to longtime residents. Finally, if linguistic and cultural separatism rise above a certain level, the unity and political stability of the nation will in time be seriously eroded."

Spokespersons (e.g., Otis Graham) for the Federation of Americans for Immigration Reform, and the recently elected mayor of Monterey Park, California, have called for immigration restrictions or a moratorium in order to give "ourselves a breathing space" to perform the "task of assimilation."

But these types of incidents occur and statements are made, it becomes rather evident that Asian immigrants are the focus of much of the attack on legal immigration reform.

III. THE EFFECT OF KINSHIP-BASED IMMIGRATION ON THE ECONOMY

a. Background

Since the 1965 amendments went into effect in 1968, the "family reunification principle [has been] the touchstone of our immigration laws." Today, 80 percent of the worldwide preference system quota of 270,000 is reserved for kinship provisions, and the category of immediate relatives of United States citizens is numerically unlimited. The effects of this goal have been demonstrated most vividly in the subsequent flow of Asian immigration, even though nations such as those in Africa and Asia, with low rates of immigration prior to 1965, were "handicapped." Although the kinship priority meant that Asians were beginning on an unequal footing, at least Asians were on par numerically, in terms of the country quotas. Gradually, by using the family categories to the extent they were available and the labor certification (and to a degree the nonpreference investor) route, Asians built a family base from which to use the kinship categories. Some have viewed this as an indication that the Asian migration decision process is part of a "family strategy to enhance the welfare of current and future generations." Today, well over 90 percent of all Asian immigration to the United States is through the kinship categories. But this is also true of all immigration to the United States.

One question that this raises for many policymakers is whether or not this is good for the nation's economy. Economists and social observers with interest in the topic have long been concerned with the issue of the effect of undocumented workers on the labor force. However, many of the same commentators have considered the effects of legal immigrants on the economy, and some have focused on the kinship immigrant. To that group, the low end of the bifurcated Asian American labor market described in Part B-econ is of some significance. Thus, the concern of economic protectionists and trade specialist in recent years over the harm caused by the inflow of

products from Asian countries has a corresponding nascent school concerned with the flow of Asian people to the United States.

b. Job Displacement and Effect on Wages

Given the bifurcation in occupational distribution of the Asian American communities, it is important to specifically consider what negative impact Asian immigration may have on the American-born work force, and particularly the ethnic minority populations in the United States. Politically, it is important to note that as a general proposition, the Black Congressional Caucus has taken a pro-immigration stance in the past few years. For example, before the Select Commission on Immigration and Refugee Policy [Expand]. This position became stronger after further sensitization to the broader immigration issues resulting Reagan Administration policies which turned away boatloads of Haitians on the high seas and expedited the hearings of others who made it ashore.

Yet the notion that an increased presence of low-skilled immigrants results in higher unemployment or lower wages for the American-born workforce has been a popular one, particularly in attacking the presence of undocumented workers in the United States. And in general terms, the same concern has been raised with regard to the lawful entry of large numbers of immigrants with low-level employment skills. However, the "'you will lose your jobs' argument has not been buttressed by strong empirical evidence," and most who still espouse such a position resort to non-empirical hypotheses aimed at evoking emotional reactions against immigrant workers under a pretext of nationalistic sentiment.

For example, in Philip Martin's 1985 paper for the conservative Center for Immigration Studies, an organization which shares board members and facilities with the restrictionist Federation of Americans for Immigration Reform (F.A.I.R.), he draws several conclusions without empirical bases. His major hypothesis is that after years of dissatisfaction with an American-born labor force, in the 1970s, the hotel and restaurant industry turned to low-skilled, eager, dependable, and minimum-wage immigrant workers (mostly undocumented) who developed such a non-English-speaking atmosphere, work culture, and family/friend employment recruitment network, that low-skilled American workers are actually excluded from those jobs. However, Martin's paper undercuts his own hypothesis with his recognition that the surge in employment of women and teenagers throughout the same period provided large numbers of cheap and unskilled labor, and that credible observers have blamed the availability of welfare, not immigrant workers, for destroying the job bridge to low-skill jobs. And in Martin's concluding call for sound "economic development" and better social "quality of life" (both of which he pretends to leave to the imagination of the reader), he concedes that the "American economy will have more jobs and businesses if illegal alien workers are allowed to enter freely and work in the United States."

Empirically-based discussions, however, paint the picture differently. For example, Julian Simon and Stephen Moore found that the effects of immigration upon unemployment were "either very small or non-existent." Echoing these findings, Muller and Espenshade of the Urban Institute, after looking at the effect of Mexican immigration (legal and illegal) on black unemployment in Los Angeles, concluded:

"Blacks generally, and black teenagers especially, do not appear to have been harmed by immigration . . . . Black unemployment rates are not increased and, if anything, are lowered by the rise in the proportion of Mexican immigrants in a local labor market. Most of the variation in black unemployment rates among metropolitan areas can be attributed to differences in black educational attainment, in the rate of population growth, in the degree of durable goods manufacturing and construction, and in general labor market conditions."

In fact, in 1982 when unemployment in California reached its highest rate in 40 years, nonwhite labor force participation rates in Los Angeles continued to exceed national rates.

Urban Institute workers also considered the issue of how immigrants affect wages. In a nationwide survey, they did find that increasing the proportion of Hispanics (without distinguishing between legals and illegals) in an area decreases average black family income, but felt that the effect was "not very important quantitatively." Nationally, raising the proportion of Hispanics in an area by 5 to 7.5 percent produced a fall in average black family income from $15,818 to $15,733, or $85. On the other hand, focusing solely on the southwest, they found that increasing the proportion of Mexican immigrants in a local labor market actually raised average black family income by a small amount.

Following the flow of immigration from Asia and Latin America, Professor George Borjas also concluded that the impact of immigrants on all native-born workers (including ethnic minorities) was very small; there was at most a one-half of 1 percentage point adverse effect on the native-born wage rates. Interestingly, the one group that is strongly affected by the increase in the supply of immigrants was the stock of foreign born persons already in the United States. Borjas estimated, for example, that 10 percent increase in the supply of immigrants would lower the wage of foreign-born persons already here by 5 to 10 percent—what he terms a "sizable effect."

In his analysis of the impact of immigrants on the standard of living, Simon concludes that they do not have a negative effect on the incomes of natives and argues that "greater population density leads to better economic results."

What this means is that the low end of the bifurcated job market in the Asian American communities has little negative effect, if any, on native-born workers. No one has looked exclusively at the impact of Asian workers, in the manner that Muller looked at low-skilled Mexicans (documented and undocumented). As Borjas suggests, however, a low-skilled immigrant influx might cause a bigger impact on the foreign-born population. Such an inference might be drawn from a 1982 INS enforcement sweep dubbed "Operation Jobs." While most Americans were not attracted to the jobs (e.g., poultry and mushroom farmwork) that were freed up by the operation, Southeast Asian refugees did take and keep the jobs for awhile. Of course another way of interpreting these events is that low-skilled immigrant workers are needed to take jobs that native citizens shun.

In the absence of better empirical work focusing solely on the efffect of low-skilled immigrant workers, the conclusions of Muller and Espenshade on low-skilled documented and undocumented Mexican workers in Los Angeles are the most persuasive in reaching a judgment:

"Taking all these factors into account—the additional jobs for Mexican immigrants and allied workers, the slower increases in prices and in the overall cost of living, the fact that living standards kept pace with the growth of the United States, the fiscal stimulus to the Los Angeles economy, and the higher taxes paid by Los Angeles residents—we conclude that the economic benefits accruing to the average Los Angeles household from the presence of Mexican immigrants probably outweigh the economic costs of fiscal deficits."

c. Kinship v. Skills-Based Immigration

Without a strong empirical foundation for attacking the entry of immigrants with low job skills on the basis of job displacement or wage deflation, some critics of the current system simply argue that there is a better way of doing things. [My response, if it ain't broken, why try to fix it?] Apparently there is disagreement with or little satisfaction with the notion that immigration aids economic growth as a result of the entry of "ambitious, hard-working immigrants and their children" who provide a disproportionate number of skilled workers with a propensity for saving and investment.

For example, while the current system, with primary emphasis on family reunification, is generally viewed as humanitarian and in the national interest, Professor Barry Chiswick pejoratively refers to it as a system of nepotism:

"Nowhere else in public policy do we say not 'who are you and what are your characteristics?' but ask rather, as we do in immigration, 'who are you related to?' Current policy says: 'if you have the right relatives, we will give you a visa; if you don't have the right relatives, well, it is just too bad.'"

Apparently, Chiswick is serious. Although immigration raises the average income of the native population and, in completion with their incomes in the country of origin, also the average income of the foreign-born population, he argues that immigration should be placed in an economic (favoring skilled immigrants), rather than kinship, context in order to maximize the income of the native population. He has noticed the Asian immigration trend identified in Table B—, towards a predominance in family reunification visa usage and critically concludes:

"[T]he earliest Asian immigrants came mainly under the occupational preferences and under the investor category. They were a very highly skilled group. But what we are seeing over time is that these individuals are now in the United States serving as sponsors of their less highly educated, less well-skilled relatives in the country of origin."

Chiswick's advocacy of a skills-based immigration policy is premised on his findings that skilled immigrants "tend to raise the level of income of the native population, reduce income inequality, and are not likely to be substantial recipients of income transfers [e.g., welfare or foodstamps]." Yet in spite of the fact that unskilled immigrants tend to increase income inequality and become recipients of income transfers, he recognizes that there may still be a favorable, albeit smaller, effect on the overall income of the native population. His general statements do not comport with the specific findings of others that there is a strikingly low proportion of Asian households (excluding Southeast Asian refugees) receiving income from public assistance or social security. Chiswick also ignores the fact that although current immigrants, particularly

Asians, are entering under kinship provisions, the public charge ground of exclusion applies to such immigrants, thereby foreclosing most forms of income transfers; in fact, legitimate job offers are generally offered to satisfy the public charge ground of exclusion. Chiswick's abstracted analysis suffers, therefore, from a consideration of meaningful experiential factors.

Furthermore, other economists look at the picture differently. Based on empirical data, Julian Simon concluded that the entry of even unskilled immigrants leads to faster economic growth by increasing the size of the market and, hence, boosting productivity, investment, and technological practice. Simon also reminds us that many technological advances come from people "who are neither well-educated nor well-paid." Moreover, many kinship-based immigrants open new businesses that employ natives as well as other immigrants; this is important since "small businesses are now the most important source of new jobs." In short, immigrants in general contribute greatly to this country's vitality and growth."

Even Martin points out that some of the "flexibility" that American entrepreneurs have in experimenting with risky labor intensive business ventures is due to "the availability of low-wage immigrant workers." Still others might say that any improvement or negative impact that immigrants might have on the quality and the size of the labor force is only marginal since immigration contributes a relatively small proportion of the total labor force.

Recently-enacted immigration legislation has not addressed the issue of family reunification versus a skills-based policy of immigration in any substantial manner. However, several proposals have been set forth.

The Select Commission on Immigration and Refugee Policy made several relevant recommendations. At first glance, an extension of the family reunification policies was actually proposed by expanding the immediate relative category to include grandparents of adult United States citizens and parents of lawful permanent resident aliens. But a parallel skills-based system was also recommended for "independent" immigrants. The Independent Immigration provision would include the special immigrant category under current law, a category for investors, a category for immigrants with "exceptional qualifications," and others who might help the economy and who do not otherwise qualify.

Also the first Simpson-Mazzoli bill, introduced in 1982, [See 59 Interpreter Releases 498] contained recommendations affecting these policy choices. Most notable was the proposal to eliminate fifth preference, the category for siblings of adult United States citizens. This proposal was sharply attacked by Asian American groups who viewed the proposal as an attempt to eliminate one category that was heavily used primarily by Asian immigrants, especially at a time when the first wave of Southeast Asian refugees was becoming eligible to become naturalized citizens. [Expand?]

Recent legislation introduced by Senator Edward Kennedy and Representative Brian Donnelly to amend the current immigration categories follows some of the structure recommended by the Select Committee. The primary feature of the bill is to separate the existing family reunification preferences (first, second, fourth, and fifth) from the two employment and skill-related preferences (third and sixth). Overall, the number of visas available for the family preferences would remain the same: 216,000 per year. However, the bills would allocate a higher percentage of these visa numbers to spouses and minor children of legal permanent resident aliens (65 percent compared to 26 percent today). This is an attempt to deal with the current backlogs in second preference, which in some countries is seven to nine years. The legislation would also eliminate that portion of the current preference for unmarried children over 21.

The bills would reduce the percentage of fifth preference visas from 24 percent to 10 percent, and would limit use of this category to unmarried brothers and sisters of adult United States citizens.

The creation of a new "independent" category of immigrant visas would include the current 54,000 third and sixth preference visa numbers along with 50,000 new visa numbers for "nonpreference" aliens. But the bills would redefine and limit third preference to aliens who are (1) "members of the professions holding doctoral degrees (or the equivalent degree)" or (2) of exceptional ability. Aliens with bachelor's or master's degrees who qualify as professionals under current third preference would be forced to apply for admission either through the sixth preference or the new preference categories.

The additional 50,000 visa numbers for nonpreference aliens would be apportioned according to a new point system, similar to the systems currently used in Canada and Australia. [Cite and Explain] Of the maximum 147 points in the system, the largest number (30) would be reserved for aliens applying from one of the countries "adversely affected" by the 1965 reforms. (Curiously, while the proposal to help those who were adversely affected by the 1965 amendments might be worthy, there were never similar measures taken to remedy the adverse effects on Asians who suffered through the generations of blatant exclusion laws.) Aliens from other countries could apply for nonpreference classification, but would not gain the 30 points that aliens from adversely affected countries automatically would.

An alien could gain up to 20 points each for having skills that are in short supply in the United States or for having prearranged employment here. Other criteria include age (up to 10 points), education (25 points), experience in a desired skill (10 points), having a United States citizen sibling (10 points), and knowing how to speak and read English (10 points). An alien would have to have at least 70 points to apply for one of the nonpreference visa numbers.

One advantage of the new nonpreference category is that it would not be subject to a labor certification requirement, unlike the third and sixth preference.

d. Conclusion

Talk of potential economic liability that aliens may have on our society is not a phenomenon of the past. It is with us now and is affecting current legislative considerations.

The problem with assessing much of the rhetoric that is tossed about over the effect of aliens on the United States economy is the failure to differentiate between documented and undocumented aliens. For example, Urban Institute researchers are quick to point out that the economic information available to them on Hispanics does not distinguish between the two groups.

However, some commentators such as Otis Graham seem to be attacking all immigrants who enter the lower end of the bifurcated labor market based on what he perceives has been the result of undocumented migration:

"It would be a two-tiered society, the one young, overwhelmingly Hispanic and black and low income, the other largely older whites and Asians, affluent, with a woefully small intermixing of these categories. [Author's note: he has largely missed the point on Asians.] It is a segmented society, a nation within a nation, the rich who work in high-technology enterprise or who are retired in Palm Springs moving uneasily among a mass population with low-educational attainments and income levels; those who own businesses communicate to the work force through foremen who translate from English into foreign languages. . . . [T]hat scenario in California may sound good to the people who live, retired, the white affluent or Asian affluent in Palm Springs. The chief victims in that scenario, the bearers of the social cost of a continuation of the immigration status quo are pretty clear. They are clear in the academic literature and they are clear to people with common sense. They will not be in the short run the affluent who are secure in the minor enjoyments of the fruits of continued illegal immigration. That is to say, it reduces the cost of motel rooms and of tomatoes and of restaurants meals. 'The poor have the most to lose from uncontrolled immigration.' "

Graham's concerns seems to be unfounded based on the studies of Borjas, the Urban Institute, Simon, and even Chiswick. Neither job displacement nor negative wage impact will befall the native population—rich or poor. The worse case scenario, that of Chiswick's, is that the current kinship-based immigration is not helping our economy as much as a skills-based system would. Thus, as far as the flow of Asian peoples to the United States and their economic impact, even from the lower end of the job scale, is concerned, there seems to be little basis for alarm among the native population. If anyone will be hurt economically, it will be the immediate predecessor immigrants themselves.

On the other hand, some would prefer to not make economic factors the sole or primary determinants in immigration policy decisions. Commenting on the current imperfect system, the Select Committee acknowledged:

"[A]n immigrant admissions policy that facilitates the entry of qualified applicants is in the U.S. national interest. Whether measured by the number of Nobel Prize winners who have come to the United States as immigrants (30 percent of all U.S. Nobel laureates), the introduction of new concepts in music, art and literature or the industries built by immigrant labor, immigration has been of enormous benefit to this country."

Since proponents of radical changes such as Chiswick acknowledge that the current system does not damage the economy of the United States, it seems inappropriate for policymakers to limit their attention to economic goals an values in reaching their decisions. So the Select Commission's consideration of family reunification as a humane policy in the "national interest" which promotes the "health and welfare of the United States" seems valid.

Another example might be the factors that influence refugee admissions policy. Much of the low end of the job market and high income transfer is a result of refugee policy. But the values (political and humanitarian) which mandate admission of refugees are important to policymakers. In

theory, there could be a point at which these values fail to outweigh negative economic concerns. In fact, one might infer such a balancing consideration from recent trends in reducing Southeast Asian refugee admissions. Nonetheless, it would be difficult to imagine the United States turning away legitimate refugees fleeing from a crisis which falls within the sitting administration's parameters of persecution.

The trend in the literature of the restrictionist movement has been away from the "they take jobs away" sentiment (since it had weak empirical basis) to the Chiswick-type "let's do something to make the economy a whole lot better rather than just a little bit better," the Graham call for "breathing space," and the Martin-Graham "is this the kind of society we want?" arguments. Martin's position is driven home in his closing remarks:

"If the immigration status quo persists, the United States will develop a more unequal society with troublesome separations. For example, some projections indicate that the California work force will be mostly immigrants or their descendants by 2010. These working immigrants, mostly nonwhite, will be supporting mostly white pensioners with their payroll contributions. Is American society resilient enough to handle the resulting tensions?

* * * * *

"The American economy will have more jobs and businesses if illegal alien workers are allowed to enter freely and work in the United States. But the number of jobs and businesses alone is not an accurate measure of the soundness of economic development or quality of life. Tolerating heavy illegal immigration introduces distortions into the economy that are difficult to remedy, while imposing environmental and social costs that must be borne by the society as a whole."

By introducing race relations into his argument, I believe that Martin reveals his true agenda. It seems apparent from his closing comments that his perception of a good "quality of life" without "environmental and social costs" is one with minimal tension from the presence of "nonwhite" "immigrants or their descendants." Hopefully, policymakers do not share this perception of what constitutes a good American society. The richness in economic and noneconomic terms that new enthusiastic, hard-working immigrants bring to this society are not so easily dismissed.

If on the other hand Martin is referring to a negative effect of immigrants on natural resources and the environment, the empirical evidence is not supportive. As illogical as it may seem, immigrants have a positive rather than a negative effect on the "supply of the resources and the purity of the environment."

Asian and Pacific American Issues Seminar—Legal Immigration Reform

(By Warren R. Leiden, Executive Director, American Immigration Lawyers Association)

I appreciate the opportunity to address the issues of legal immigration reform as they may affect Asian and Pacific Americans. Both Houses of Congress began important debate on legal immigration reform in the last term. By "legal immigration," I mean the eligibility categories and worldwide and national numerical limitations for admission of lawful permanent residents to the United States.

Asian and Pacific Americans constitute a significant portion of those petitioning for foreign-born beneficiaries, both in the family-based and employment-based immigrant categories. Proposals made in the last term could have a significant impact on members of the Asian and Pacific American community and their ability to petition for or "sponsor" immigrants.

In this statement I wish to highlight a number of issues of greatest concern.

FAMILY-BASED IMMIGRANT CATEGORIES

In the 100th Congress, proposals were made to amend or reduce eligibility for two "family-based" immigrant categories: the second preference (for spouses and unmarried sons and daughters of lawful permanent residents) and the fifth preference (brothers and sisters of U.S. citizens). Both categories are currently subject to substantial waiting lists and resultant backlog of visas.

The proposed changes would have limited the second preference to lawful permanent residents' spouses and unmarried sons and daughters under 26 years old. The fifth preference would be limited to unmarried brothers and sisters of U.S. citizens. In their last formulation, petitions pending on the date of enactment would be protected and could be processed; only new applications for sons or daughters 26 or over, or married brothers or sisters, would be prohibited.

Both second and fifth preference are significantly utilized by Asian American families. In fiscal year 1986, about 8 percent of all second preference admissions and over 15 percent of all fifth preference beneficaries were nationals of China or Taiwan.

Also emerging in the 1988 debate was a proposal to permit immediate admission of the spouses and minor children of lawful permanent residents. This would, in effect, recognize the special relationship between spouses and their minor children; whether they are U.S. citizens or lawful permanent residents.

Finally, fueling the concern over the second preference is the awareness of the future impact of the family of those who became permanent residents under the legalization program. Although actual numbers of uncertain, speculation over the number of potential second preference beneficiaries from legalized permanent residents begins in the hundreds of thousands.

EMPLOYMENT-BASED IMMIGRANT CATEGORIES

Proposals have also been made to amend or curtail the employment-based third preference (for professionals and exceptional ability aliens) and sixth preference (for skilled and unskilled workers); both categories require labor certification to establish that qualified U.S. workers are not available for the job.

Proposals in the last term included division of the third preference, separating out professionals without advanced degrees and recognizing business as an endeavor in which one can have exceptional ability. The major reduction proposal would reduce the sixth preference by eliminating eligibility for jobs that require less than two years' training or experience. This change would eliminate sixth preference eligibility for many less skilled occupations, such as ethnic specialty chefs.

In fiscal year 1986, about 30 percent of all third and sixth preference admissions were nationals of China or Taiwan.

INDEPENDENT IMMIGRANT SELECTION SYSTEMS

Notable in the last term of Congress were several proposals for new immigrant selection systems. These "independent" systems relied not on a U.S. family or employer sponsor, but rather focused on the attributes of the immigrant.

The independent immmigrant categories proposed include several types. First is the job-creating investor, for individuals able to make a substantial investment ($500,000 or $1,000,000) in an active enterprise that will employ at least ten U.S. workers. A retiree category was also proposed for self-supporting aliens coming to the United States to retire, who had no interest or need to work.

Other independent immigrant proposals include a point system, in which the age, education, language, and other factors of the immigrant would be measured to qualify the applicant for random selection from an annual pool. The actual structure of the point system is quite critical: high standards will limit the number of qualified applicants; lower standards could permit most applicants to qualify. Just beyond point systems with low requirements are more open, lottery-type selection systems.

In the last days of the last term, Congress enacted a trial independent immigrant program that will permit 10,000 visas per year to chosen applicants. While the criteria for qualifications are minimal, only nationals of countries whose recent preference category immigration does not exceed 5,000 admissions per year could qualify. Because three of the six oversubscribed countries (China, Korea, and the Philippines) come close to or exceed the 20,000 per country limit, their nationals are not eligible under this system.

The challenge of legal immigration reform will be to permit independent immigration that promotes both diversity and fairness while serving the national interest.

LIMITATION ON OVERALL IMMIGRANT ADMISSIONS

Serious proposals were made in both Houses of Congress to raise the overall limits on legal immigration. Increases in the number of legal immigration visas will begin the process of reducing backlogs in several categories. A main point of controversy remains over whether to include the immediate relatives of U.S. citizens under such an overall ceiling that would result in a set off or reduction in other family categories.

Although their inclusion under an overall ceiling would not limit the number of immediate relatives admitted, any increases in "immediate relative" immigration would reduce admissions under other family categories, as the proposal was formulated.

Immediate relatives presently number about 220,000 per year, while the six preference categories total 270,000 per year, a limit set by statute. The total, about 490,000, does not include refugees or those granted asylum in the U.S.

Legal immigration proposals in the last term would have increased this overall number by at least 100,000, to 590,000, which is the equivalent of raising the preference category visas to 370,000. Obviously, allocation among the various categories is critical.

ANNUAL "PER COUNTRY" LIMITATIONS

In addition to the overall worldwide limits on immigrant admissions, there is a limit on the number of nationals admitted from each country. For some time, this "per country" limit has been 20,000 per year. In fiscal year 1986, China, India, Korea, and the Philippines all reached or almost reached their per country limit.

Proposals were made in the last term that would have changed the per country limit, as part of the separation of family-based from employment-based and independent

immigrants. Although, under present law, either family-based or employment-based immigrants are counted to calculate the 20,000 limit, legal immigration proposals that separate family from employment-based immigrants with separate allocations must account for fluctuations in the ratio of the two categories. For instance, a four-to-one ratio of family immigrants to employment-based immigrants would result in up to 16,000 visas available for family-based immigration from China. While this is in line with the overall ratio of family to employment-based immigration, this limit is more than 1,000 visas less than China actually used for family preference immigration in fiscal year 1986.

Moreover, a serious interest in reducing the backlogs of preference category immigrants must consider some increase in this per country limit. The benefit of increases in overall immigration will not affect those countries that have already reached their per country limit, unless the per country limit is raised. That is, nationals from China already use all 20,000 visas available. A 100,000 visa increase in overall immigration would have no effect on Chinese immigrants unless the 20,000 ceiling was raised to permit additional utilization of the increased visas.

Finally, the type of visas available to nationals of the "oversubscribed" countries is also affected by the number of visas used in the past fiscal year. Section 202(e) of the Immigration and Nationality Act provides that only when a country "uses" the maximum number of visas available in the prior year will the current year's visas be allocated among the six immigrant preference categories, rather than made available in order of preference class.

This complicated formula results in making certain preference categories unavailable to nationals of certain countries on an every-other-year basis. For instance, the sixth preference is currently unavailable to Chinese nationals throughout fiscal year 1989. This is due to the fact that China failed to "use" all 20,000 available visas in fiscal year 1988. It is expected that China will be able to use its full allocation in fiscal year 1989 and thus will qualify for the application of Section 202(e) in fiscal year 1990. In other words, visas will again be available in the sixth preference for Chinese nationals. Because of the interplay between the family-sponsored and employment-based immigrant categories, it is thought that separation of the two classes of immigrants would reduce or eliminate the impact of and need for the provision.

CONCLUSION

Asian and Pacific Americans have a substantial stake in the outcome of legal immigration reform. Whether for family unification or the employment of needed personnel, changes to the legal immigration program will have an important effect on the Asian and Pacific American community.

In particular, changes in the preference categories and the overall, as well as per-country, numerical limitations on admissions will affect family unification and employment-based immigration. Because of their significant involvement in modern immigration to the U.S., the Asian and Pacific American communities must continue to make their views known in the development of U.S. legal immigration policy.

Thank you again for the opportunity to highlight these concerns.

WASSERMAN, MANCINI & CHANG,
ATTORNEYS AT LAW,
Washington, DC, November 23, 1988.

Re Asian and Pacific American Issues Legal immigration reform.

Hon. TOM DASCHLE,
U.S. Senator, Washington, DC.

DEAR SENATOR DASCHLE: It is a great honor to have the opportunity to present this statement regarding Legal immigration reform to you.

As we all know, the drive behind the 1986 Immigration reform was motivated by a variety of political, economic and social forces that came into sharpest focus in 1981. Years of inadequate funding and second-class status among Executive Branch, Immigration and Naturalization Service unable to keep up with enforcement responsibility at the border or in the interior; American public was, at the same time, becoming more aware of the newcomers in our midst, from the hundred of thousands of refugees from Southeast Asia in late 1970; Immigration Service's inability to decisively account for tens of thousands of Iranian foreign students in the United States following the hostage crisis; then the arrival of Haitian boat-people. Finally and most alarming, was over 100,000 Cuban nationals via the "Marriel Boatlift".

Add to all this the economic recession, high inflation, and high unemployment of the late 1970's. This ends up the introduction of the Immigration and Refugee Policy in the Congress in Spring 1981, and passed in Fall 1986.

Since the advent of employer sanctions, Small business owners (a lot of them are Asian and Pacific Americans)—chiefly restaurant and hotel owners—have been unable to hire persons to fill their service positions, which are unattractive for salary, prestige and distance reasons. These jobs have traditionally been filled by illegal aliens and no one else wants them.

With a minimal unemployment rate, there is a severe labor shortage which shows no signs of abating. The statutory mechanism for solving this—H-2 Visa—has been written out of the statute by Immigration Service's interpretation of double temporariness.

However, H-2 Visa do not use Visa numbers and do not immigrate the aliens to the United States. They can work for one year or up to two years and if unemployment rises, contracts cannot be renewed because they need labor certification to prove the labor shortage. I believe the Immigration and Naturalization Service shall change their interpretation and let the employers bring from abroad chefs and workers who would work temporarily in the United States. Otherwise, we believe it is about time for Congress to create a new law for not only hiring in Agriculture H-2 temporary workers, but also for industrial or service business' temporary workers for one or two year terms.

We support the Rodino-Mazzoli bill, H.R. 5115, which proposes a number of needed changes to our law. H.R. 5115 includes modest increases in overall annual immigration quotas, grants a small number of visas for investors who create at least ten new jobs, and provides backlog reductions for the close families of lawful permanent residents and of those legalized by the Amnesty Program.

In particular, we support the independent category for foreign investors who create at least ten jobs by investing at least $500,000.00 in a new United States enterprise. To encourage investment in economically disadvantaged areas of the United States an independent investor quota should be established, specifying minimum dollar investments geared to census tracts (as determined by HHS). For instance, a person willing to invest $500,000.00 in a new manufacture operation in Louisiana might qualify, but the same person in New York would have to invest $750,000.00. The investment, if honored, would result in Legal permanent resident for the investors.

Thank you very much for your attention to this matter. For your information, I am enclosing a summary of the testimony on this subject by the American Immigration Lawyers Association.

Sincerely yours,

SAM H. CHANG.

Enclosure.

SUMMARY STATEMENT OF WARREN R. LEIDEN, EXECUTIVE DIRECTOR, AMERICAN IMMIGRATION LAWYERS ASSOCIATION ON H.R. 5115 AND S. 2104

PRINCIPLES OF LEGAL IMMIGRATION REFORM

AILA believes that a number of fundamental principles should guide reform of legal immigration law and policy:

Immigration sponsored by a U.S. family member or employer should continue to be the major source of newcomers to the United States.

Family-sponsored immigration directly and immediately benefits the national interest by unifying American families, and by helping newly-arrived immigrants adjust and assimilate into American society.

Unlike independent, non-sponsored immigration, employer-sponsored immigration is based on a real job, offered by a known U.S. employer after a direct test of the availability of U.S. workers.

Through either their family or employer, sponsored immigrants have built-in support systems that help them both financially and in becoming acculturated to American society.

Immediate relatives of U.S. citizens should not be placed under a cap, nor set-off against other family-sponsored immigrants.

Immediate relatives are the closest and most intimate of family relationships. Present law is faithful to the American ideal of family unification. Restrictions on the immigration of immediate relatives would undermine family unification and could fragment and divide American immigrant families.

Modest increases in annual immigration admissions are in the national interest.

Almost eight years ago, the Select Commission on Immigration and Refugee Policy recommended that annual, numerically-restricted immigration be increased up to 450,000, including backlog reduction. All of the current reform proposals recognize that modest increases in immigration are in the national interest.

No changes in family- or employer-sponsored immigration should be made until we know the effects of the legalization and employer-sanctions bill passed in 1986.

The sweeping changes brought on by passage of the 1986 Immigration Reform and Control Act are just now being realized. This bill is having a profound impact on U.S. business, agriculture, and immigrant families.

The present preference categories have stood the test of time: they are relied upon by many U.S. families and employers and serve as a stable foundation for legal immigration to the United States. Until the impact of the 1986 law can be more fully

evaluated, major revisions to preference categories are not justified.

Backlogs are not a reason to eliminate eligibility categories.

If there must be changes to the preference categories, let them be made on a deliberate and reasoned basis, not simply because of the existence of a waiting line or backlog of qualified applicants.

With appropriate selection criteria, nonsponsored, independent immigration could promote diversity and fairness.

Although AILA favors sponsored immigration as the major source of immigrants, an independent, selected-immigrant program could also permit some additional immigration from nations whose greatest numbers of immigrants came to the United States generations ago. Efforts should be made to promote both independent and sponsored immigration, but not at the expense of sponsored immigration.

Congress should not be circumvented in making future changes to numerical limits and eligibility categories.

Frustration with the historically slow nature of Congressional action in making changes in annual immigrant admissions and preference categories has led to proposals to permit automatic changes. Establishing a commission to study of the effects of immigration to the United States is desirable, but their recommendations should not become law without direct congressional action.

ANALYSIS OF H.R. 5115, LEGAL IMMIGRATION AMENDMENTS OF 1988

For the reasons stated below, AILA generally endorses the Rodino-Mazzoli legislation, H.R. 5115, with some suggestions for improvement.

FAMILY UNIFICATION AND PREFERENCE CATEGORIES IN H.R. 5115

To the great credit of its sponsors, H.R. 5115 does not impose a ceiling on the annual admissions of immediate relatives of U.S. citizens, nor sets off such immigrants against other family-sponsored immigration. Furthermore, H.R. 5115 does not eliminate any portions of either the family or employer sponsored preference categories. Also, H.R. 5115 would establish a Commission to study U.S. immigration that would serve as a basis for further analysis and facts.

While leaving family-sponsored immigration largely intact, Rodino-Mazzoli would change independent immigration significantly by creating three separate categories for independent immigration, both sponsored and non-sponsored. Each of these categories would be allocated 50,000 visas, for a total of 150,000 independent visas.

FIRST INDEPENDENT CATEGORY OF H.R. 5115

Essentially, this category is the equivalent of the present third preference: members of the professions, and immigrants of exceptional ability in the arts, sciences, and education. H.R. 5115 continues the requirement of current law that the employer sponsor seek Labor Department certification that no qualified U.S. workers are available and that the wages and working conditions will not harm other U.S. workers.

SECOND INDEPENDENT CATEGORY OF H.R. 5115

The second independent category would allocate 50,000 visas among three subcategories. SUBCATEGORY ONE, equivalent to the present sixth preference. would allocate visas for skilled and unskilled workers based on Labor Department certification that qualified U.S. workers are not available. SUBCATEGORY TWO would allocate visas for investors who create at least ten jobs by investing at least $500,000 in a new U.S. enterprise. And SUBCATEGORY THREE would allocate visas for self-supporting retirees who do not intend to seek employment in the United States.

Although AILA supports the creation of these three subcategories, we recommend allocating these visas so that at least 27,000 visas are available specifically for skilled and unskilled workers.

THIRD INDEPENDENT CATEGORY OF H.R. 5115

The third independent category would allocate its 50,000 visas to aliens who score at least 30 points on a point system based on age, education and qualification in a shortage occupation, as determined by the Labor Department, with additional points for training, experience, or arranged employment in such shortage occupations. Although AILA supports experimentation with non-sponsored independent immigration, we are concerned whether such general labor shortages can be adequately predicted.

ADDITIONAL VISAS FOR SPOUSES AND CHILDREN OF PERMANENT RESIDENTS AND OF LEGALIZED ALIENS

AILA strongly supports provisions within H.R. 5115 that make available visas for the spouses and minor children of legalized aliens, allowing them to lawfully remain with or join their immediate family members in the United States. We also support the provision of additional visas to reduce the backlog in the current second preference category.

S. 2104, KENNEDY-SIMPSON IMMIGRATION ACT OF 1988

AILA supports the principles within S. 2104 that would reform the legal immigration system by separating independent and family-connection visa categories, increasing the worldwide ceiling on immigration, and allocating visas for job-creating investors. However, S. 2104 is seriously flawed.

AILA is strongly opposed to the bill's imposition of a cap that "sets off" immediate relatives against other family sponsored immigrants. AILA also opposes provisions of S. 2104 that change the second, fifth, and sixth preference categories by eliminating immigrant eligibility for unmarried sons and daughters who turn 26, married brothers and sisters, and most skilled and unskilled workers.

SUMMARY

Senators Kennedy and Simpson and Congressmen Rodino and Mazzoli are to be commended for initiating discussion and debate over U.S. immigration law and policy. However, AILA urges Congress to reject any proposals imposing a ceiling or set off of immediate relatives against other family-sponsored immigrants. AILA also urges Congress to reject proposals eliminating any of the present family or employer sponsored preference categories.

AILA urges Congress to make choices that reaffirm family unification as a primary goal and family or employer sponsorship as a primary method of selecting immigrants to join our nation.

NOVEMBER 28, 1988.

Reference Legal Immigration Reform.

To Senator Tom Daschle and Senator Paul Simon.

From Oscar Chiang, senior researcher-reporter, Time magazine, New York, NY.

As a naturalized citizen I personally benefited from a previous immigration legislation reform. I remember it was President John F. Kennedy who proposed major amendments to the 1952 Immigration and Naturalization Act, better known as the McCarran-Walter Act, just before his tragic assassination in 1963, and it was his brother, then Freshman Senator Edward Kennedy, who in 1965 introduced the legislation from which I benefited.

My understanding is that the 1965 legislation (The Immigration and Nationality Act Amendments of 1965) virtually wiped out the European advantage and opened the U.S. to immigration worldwide. In essence, it established a maximum number (270,000) of immigrants with no more than 20,000 from any single country. It also replaced the national-origin quotas with a system of priorities, or preferences based primarily on reunification of families and skills needed in this country. Of the six preferential categories four involve various blood relatives of U.S. citizens or resident aliens.

As a consequence, the faces of new immigrants have drastically changed over the past 23 years. According to a New York "Times" report early this year, "while almost half were European as recently as the mid-1960's, today nearly 90 percent come from Asia and Latin America under a system that favors, to the exclusion of almost all other factors, immigrants who already have close relatives in the U.S."

I presume that the current immigration reform is designed to address this imbalance. If this is the case, I do not think it's fair. I believe that the days of national-origin quotas are gone. I also believe our immigration legislation should, first of all, reflect this country's tradition of hospitality. Then, the social and economic needs should all be taken into consideration. Above all, we must not give the world the impression that the purpose of the current immigration reform is to favor certain nationalities at the expense of others.

The Kennedy-Simpson Bill that was passed by the Senate on March 15 contains several major changes which may be interpreted along this line. For example, the reduction on the annual number of visas in the First and Fourth and Fifth Preferences—all involving relatives of U.S. citizens—unfavorably reflects on the Asians because of their large and extended families. At the same time, the new point-system on the basis of age, education and skills also put many Asians in a disadvantage because, in order to acquire the necessary level of education and skills they are usually in a higher age bracket which, in turn, will qualify them for less points. The provisions to award 20 extra points to those who have English proficiency will give the English-speaking nationals an automatic advantage over those whose native tongues are not English.

Despite these obvious debatable features I find that on the whole the new immigration legislation is a step in the right direction. It is flexible enough to accommodate all the four main categories of immigrants, namely, relatives of U.S. citizens, people with special skills and talents, investors, and those who do not belong to any of the above. If sufficient safeguards can be provided to avoid arbitrary decisions on "skills" and "talents," and if the total ceiling can be raised to 670,000 as Representative Charles E. Schumer of New York has proposed, I personally think that the new legislation will accomplish what its co-sponsors set out to do, namely to stop the "chain migration" and to

open more opportunities for those who could contribute more to our society.

To make it more equitable for all potential immigrants regardless of their national origins, I suggest that physical fitness be added as a qualifying factor. I realize that some immigration application forms do include a few questions about the applicants' health problems. But it would be appropriate to include this now for their point-system. If education levels and English proficiency can earn points, I see no reason that good health should be denied points. After all, people with poor physical conditions cannot be expected to do much for their adopted country, can they?

I also suggest that only 10 points be awarded to those who speak English and 10 points be awarded to those who are judged by medical experts to be in excellent health. In this way both the English factor and the fitness factor will be equally weighed. The potential immigrants will have an equal opportunity to be accepted. The impression that the current Kennedy-Simpson bill will favor native English speakers can be corrected, and the obvious bias against Asians can also be eliminated.

In short, this is my personal view. I hope you will find some merit in it. Thank you for giving me this opportunity to take part in your seminar.

STATEMENT OF CAROL HAMPE, MINORITY COUNSEL, SENATE SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS

Thank you for the opportunity to address this seminar on Asian and Pacific American Issues. I am a counsel to Senator Simpson on the Immigration Subcommittee, and I will discuss some of the key issues regarding legal immigration reform.

BACKGROUND

Legislation to change the mechanism for setting the level of Immigration and the criteria used to admit permanent resident aliens to the U.S. passed the Senate in 1982, and again in 1983. These proposals were part of the Senate version of the "Simpson-Mazzoli" bills, but they were never passed by the House of Representatives. When the "Simpson-Rodino" bill was finally enacted in 1986, the new law contained provisions concerning illegal immigration only, and no major changes were made to the legal immigration system.

In March of 1988, the Senate passed the "Kennedy-Simpson" bill by a vote of 88-4. This bill would have established a national level of immigration (of 80,000 persons per year higher than current immigration levels), modified the existing criteria used to admit immigrants with family connections or offers of employment in the U.S., and created a new category of immigration for persons who possessed certain skills and qualities that the bill's sponsors felt were in the national interest and would contribute to the country.

The House of Representatives did not act on the Kennedy-Simpson bill, but it did pass legislation which would extend the "NP-5 Program" for two years (which grants visas to persons from 36 countries which were "disadvantaged" by the 1965 immigration amendments) and create a new category for persons applying from "underrepresented countries" (consisting of approximately 162 countries that used less than 25 percent of the maximum number of preference visas available to them under current law). The Senate passed the bill without amendment, and President Reagan signed it into law earlier this month.

Both Senate and House members have expressed interest in pursuing overall legal immigration reform in the new Congress.

SPECIFIC REFORMS

The Kennedy-Simpson bill was based on the following premises: (1) that we should decide in advance that number of immigrants who will enter in any one year, and then review that number regularly (2) that while the vast majority of visas should still be granted to immigrants with family connections in the U.S., a greater number and proportion of visas should nonetheless be given to immigrants with offers of employment in the U.S. or to immigrants who have skills and qualities that are beneficial to our country, and (3) that while no country or region of the world should face discrimination regarding immigration opportunities, neither should a particular country or region of the world be allowed to have a "lock" on our immigration system.

Immigration level: The Kennedy-Simpson bill of 1988 set a "national level" of immigration of 590,000 immigrants per year. Reports are required each year from the Administration on the effects of immigration on our country. Every third year the President must decide whether immigration levels should be increased, decreased, or not changed. Congress has the ability to review, in expedited fashion, the President's determination.

Family immigrants: The bill also increased the number of visas allotted to the "second preference" (immediate family of permanent resident aliens), and narrowed the number of visas available and the class of persons eligible for "fifth preference" visas (brothers and sisters of U.S. citizens). The basic policy here was that, with a finite number of visas available, and demand for visas far exceeding the supply of them, more priority should be given to the closer family members. To partially compensate for this change, 30,000 extra visas per year, for three years, were granted to current fifth preference applicants.

Independent immigrants: The bill expanded the current number of non-family visas from 54,000 per year to 120,000 per year. Approximately 55,000 of the new "independent" visas were to be granted to immigrants chosen by a system which recognized certain skills or qualities that would benefit the country (i.e., age, education, language ability, and occupational skills). A narrow category, of 5,000 visas per year, was created for immigrants wishing to invest money in a new enterprise in the U.S. which would provide employment for at least ten U.S. workers.

ISSUES CONCERNING ASIAN COMMUNITY

Senator Simpson is aware of the concerns that the Asian-American community has over proposed changes in the fifth preference. Representatives of the Asian-American community were invited to testify before Sen. Simpson and the immigration subcommittee in 1984 about these concerns.

The reason for narrowing or eliminating the fifth preference is that there are only a finite number of visas that Congress, and the American public, will support being granted each year. With backlogs developing in both the second and fifth preferences, Sen. Simpson believes that the closer family members (in the second preference) should be accommodated first. In addition, given again the finite number of visas available, Sen. Simpson believes that the national interest is better served by allocating more visas to the "independent immigrant" category, than by giving automatic petitioning rights ot the brothers-in-law, sisters-in-law, nieces, and nephews of U.S. citizens.

There is no question that many fifth preference relatives would be eligible to apply under the independent immigrant category. It is also likely that Asians, with their strong education backgrounds, would qualify in large number under the independent system.

It is time, however, to face a simple fact. The fifth preference under current law is becoming a "phantom preference" for new and recent applicants. Due to the tremendous number of applicants, we are only today admitting persons who applied for fifth preference visas on May 15, 1982 (and the date is even more distant for "oversubscribed" countries such as China, India, Korea, and the Philippines). But for new applicants, the likely wait is not slightly over five years, but in fact closer to twenty years. This is because the "priority date"—now May 15, 1982—for fifth preference applications is moving up approximately one week every month. Thus, it is now taking four years for the priority date to move one year, or twenty years for the priority dates to move five years.

Senator Simpson believes that it is simply not in the national interest to reserve a large number of visas that are "collectable in twenty years" when closer family members, and needed independent immigrants, could be admitted instead.

CONCLUSION

Legal immigration reform is likely to be a priority item in the coming Congressional session. The issues raised by the Kennedy-Simpson bill will likely be debated again. I encourage the Asian community to take part in this debate.

I also encourage every participant in the debate to look squarely at the issues which face us. In the ideal world, there would be enough visas available for everyone who wished to immigrate. Unfortunately, that is simply not the case. We therefore must make the difficult choice of whom to admit, and give solid justifications for those choices. I hope I have helped explain some of the choices made by Sen. Simpson.

DISCRIMINATION AGAINST ASIAN-AMERICANS IN HIGHER EDUCATION: EVIDENCE, CAUSES, AND CURES

(By Wm. Bradford Reynolds, Assistant Attorney General, Civil Rights Division, U.S. Department of Justice)

I am very grateful to Senators Simon and Daschle for the opportunity to meet with you this afternoon. The questions we are discussing here are profoundly important ones, and it is a healthy sign that Congress and the public are paying attention to them. I will try briefly to address three aspects of the issue. First, are some of the country's most prestigious universities discriminating against Asian-American applicants? Second, if they are, then why? And, third, what can we—university officials, Executive branch administrators, and members of Congress—do about it?

I.

Charges that certain universities—Berkeley, U.C.L.A., Harvard, Stanford, Princeton, Brown, and others—are maintaining quotas to limit the number of Asian-American admissions have been made with alarming frequency in recent years. The charges are serious and, on the surface, they do not appear to be wholly implausible.

To their credit, some of the universities against which the charges are leveled have begun to examine their own admissions policies critically. Berkeley, for instance, has appointed a special Task Force, headed by Professor Yuan T. Lee, to investigate the issue.[1] Outside investigators are also at work. As the Washington Post[2] and N.Y. Times[3] recently reported, the Office of Civil Rights of the Department of Education has targeted two other universities—Harvard and U.C.L.A.—for compliance reviews, to determine whether anti-Asian discrimination exists at those institutions.

At this stage of the investigations, the extent to which the charges may have merit cannot be determined. Even so, we view the accusations as cause for legitimate concern. In order to be fair to the universities under investigation, while at the same time suggesting what I perceive to be the true dimensions of the problem, I will paint with a broad brush, and refrain for now from depicting any particular institutions as culprits.

The first point to be made is that suspicions arise because university admissions committees tend to be extremely vague about the impact of race on their acceptance/rejection decisions. Indisputably, the use of racial preferences is now standard practice in many of our major universities. This can make a profound difference to an individual candidate's chances of being selected.[4] Robert Klitgaard of Harvard found, in his acclaimed book *Choosing Elites* (1985), that at Williams, Colgate, and Bucknell, minority status added 40 to 50 percentage points to an applicant's chances of admission. *Id.* at 40. Nor are those three prestigious colleges in any respect exceptional. Indeed, Klitgaard found that, "[a]s a generalization, the more selective the college, the greater the preferential treatment for minorities," *id.* at 154.

Of particular interest to the topic at hand is the fact that such racial preferences generally do not operate in favor of Asian-Americans.[5] Indeed, quite the opposite is true—they are the most likely explanation of the alleged discrimination *against* Asian-Americans.

There is, moreover, substantial statistical evidence that Asian-American candidates face higher hurdles than academically less qualified candidates of other races, whether those candidates be minorities (black, Hispanic, Native American) or white.[6] Thus, "white or Asian students are rarely accepted by Berkeley without a GPA [grade point average] of at least 3.7 or 3.8," while "virtually all American Indians, Hispanics, and blacks who apply to Berkeley, and who meet minimum UC requirements, are admitted"—even though it is possible to meet those minimum standards with a GPA as low as 2.78.[7] And even when Asian-American admission rates are not compared to those of black, Hispanic, or Native American candidates (groups which are often the beneficiaries of racially preferential policies), but to the admission rates for Caucasians instead, the statistics again suggest that elite universities may be discriminating.

In 1982, for instance, the Asian-Americans to whom Harvard offered admission had average verbal and math SAT scores of 742 and 725, respectively, for a combined average of 1467; Caucasians had average SAT scores of 666 and 689, for a total of only 1355.[8] "The figures suggest that in order to be offered admission, Asian Americans had to score an average 112 points higher than on the SAT than Caucasions who were admitted." Not surprisingly, therefore, in 1982, Harvard's Asian-American admission rate (14%) was less than three quarters (.74%) of the Caucasian admission rate (19%); and in 1983, the figure was even worse (below .70 of the Caucasian rate).[9]

While these particular figures are now several years old, we expect that the Education Department's compliance review of Harvard will bring its more recent admission rates to light. We have no real confidence, however, that the updated information will show improved Asian acceptance rates (whether vis-a-vis Caucasians or vis-a-vis all others). A 1988 study reports that "[t]he admit rates of Asian Americans have been up to 30% lower than average at Harvard for the past several years."[10] Nor does it appear that Harvard stands alone in this regard. Figures from Brown University for the five-year period 1983-1987 reveal a trend of declining Asian-American admission rates coupled with improving academic quality (measured in SAT scores and class ranking) of Asian-American applicants.[11] While there has been some subsequent improvement, Asians applying to Brown had the lowest admission rate of all five identified racial/ethnic groups in the 1983-1987 period.[12]

There is other evidence of anti-Asian discrimination. A report by the Corporation Committee on Minority Affairs at Brown, for instance, found that the "cultural bias and stereotypes which prevail in the admission office" worked to the detriment of Asian-American applicants.[13] There is anecdotal evidence as well. A member of the graduate school admissions committee at Princeton in 1983 has said that when the committee was going over the applicant list and reached a clearly qualified Asian-American, one colleague of his remarked, "We have a lot of them," and another said, "You have to admit, there are a lot."[14]

The picture that emerges from these admittedly "broad brush" strokes leaves, at the very least, the unsettling inference that many of the country's elite universities may well be practicing discrimination against Asian-American student applicants—that is, evaluating their applications differently from the applications of non-Asian students of comparable qualifications. Assuming that further investigation bears out the "'worst case" scenario of pervasive and systemic discrimination, the obvious next question is: what is its cause?

While university officials are understandably loath to admit that they are discriminating against qualified Asian-Americans, rejection of such applicants ironically appears to be driven by the universities' "affirmative action" policies aimed at favoring other, preferred racial minorities. The New Republic cut to the quick of the problem when it said:

"If Asians are underrepresented based on their grades and test scores, it is largely because of affirmative action for other minority groups. And if blacks and Hispanics are underrepresented based on their fraction of the population, it is increasingly because of the statistical overachievement of Asians."[15]

The short of it is, quite simply, that where admissions policies are primarily merit-based, Asian-Americans will in all likelihood be accepted in numbers that far outstrip their percentage share of the general population (or even of the applicant pool), but that fairly reflect their higher-than-average performance on objective measures of academic performance, such as grades, class rank, SAT scores, and so on. But where admission policies are skewed by a mandate to achieve some sort of proportional representation by race (as, for instance, has been true in the California university system since 1974[16]), then, inevitably, there will be pressure to squeeze out Asian-Americans in order to make room for other minorities (or for whites[17]). Under the regime of preference, university admission becomes a racial zero-sum game: if your neighbor's ox isn't gored, then yours will be.

In other words, the phenomenon of a "ceiling" on Asian-American admissions is the inevitable result of the "floor" that has been built for a variety of other, favored racial groups. This has been the Department of Justice's objection all along to racial preferences, and the fact that the victims now are not white but members of other minority groups merely dramatizes the moral bankruptcy of the whole enterprise. Whether the preferences operate against Asians for the benefit of whites and blacks, or against whites and Asians for the benefit of some other groups, racial discrimination is indefensible.

For seven-plus years now, I have remained steadfast in my opposition to quotas, "goals and timetables," and any other racial preference for a particular minority group. Critics invarably ask: what is wrong with giving a boost to blacks, or Hispanics, or whomever? There is a ready, and indeed unassailable, answer: inevitably, one group's preference unfairly disadvantages all others not fortunate enough to be members of that group. Any such racially-inspired policy for selecting some and rejecting others is discriminatory in the worst sense of the word. It measures prospective college students by color, not performance. And there appear to be strong indications that student applicants of Asian-American descent are being wrongly denied college admission at some universities under just such a misguided selection standard.

There is nothing "benign" or "affirmative" about the racially-inspired policy I have described. Whether the exclusionary admissions process that is targeted against Asians is calculated to benefit blacks or whites, it is legally and morally wrong. Discrimination by any other name is still discrimination, and it resides no more comfortably in an academic environment when the victims are Asian-Americans than when they are Black-Americans or Hispanic-Americans or Native Americans or European-Americans.

The predictable response from the campus scholars is that there is sufficient legal latitude to play this "numbers game" with the educational opportunities of our children as a result of the Supreme Court's decision in *University of California Regents* v. *Bakke*, 438 U.S. 265 (1978). The pivotal opinion in that case was Justice Powell's. He there stated gratuitously in passing that it might well be permissible for a medical school to award a "plus" because of the applicant's race, 438 U.S. at 317, in order to achieve greater racial and ethnic "diversity." Justice Powell found no other members of the Court who were willing to endorse that proposition,[18] and more recent Supreme Court decisions appear to have wholly discredited it.[19] Nonetheless, the academic community holds tight to this irrelevant dictum in *Bakke* as its apology for racial preferences. Thus, the buzzword invariably employed by university officials pressed to defend their race-conscious "affirmative action" programs is academic "diversity."

In practice, this "diversity" explanation operates more often than not as a "cover" for the allocation of freshman positions based on race—precisely the evil condemned in *Bakke*.[20] Admissions results are less and less the product of informal and collegial decisionmaking by professors on a case-by-case basis, as Justice Powell seemed to assume, and more and more the product of an administrative bureaucracy. Thus, group statistics in many universities drive the admissions decisions, at the expense of individual achievement. While specific numbers of places are no longer overtly set aside, percentages are regularly assigned as a method of reserving slots for different minority and nonminority groups.[21] The losers under such a regime are those high school graduates deserving admission but passed over for less qualified applicants who are taken in order to satisfy percentage benchmarks. The claim is that Asian-Americans are among those who suffer most at the hands of these discriminatory policies—and it appears that the charge may not be entirely without merit.

If this is the case, academic "diversity" provides no excuse for such behavior.[22] To be sure, as Justice Powell made clear in his *Bakke* opinion, there should be a noticeable reluctance, on grounds of academic freedom, to inject the government into a university's selection process. But that reluctance cannot permit a greater tolerance for race-based discrimination on our college campuses than we will allow with respect to other programs or institutions subject to federal civil rights laws. A college degree is every bit as important to an individual as a seat on a bus, membership in a union, or the ability to run for public office and participate in the electoral process. To suggest that this opportunity, like the others, be granted equally to high school graduates of all races and ethnic backgrounds, based on individual merit, hardly raises a threat to academic freedom. Rather, that proposition is, it seems, nothing short of a ringing endorsement of the very ideal of academic freedom.[23]

III.

At this point, the question "What is to be done?" naturally arises. I have three suggestions.

First, I urge the universities to continue and to intensify their self-scrutiny. The California system, under some prodding by the Asian-American community and the State Legislature, has begun such a process. Although its investigations thus far leave important questions unanswered,[24] it is a useful first step. I certainly encourage further investigations, both in California and elsewhere, and in both private and public universities.

Second, the Department of Justice and the Department of Education have major roles to play, particularly if the Education Department's compliance reviews of Harvard and U.C.L.A. find a case of unlawful discrimination. In this regard, a word as to the administrative procedure is in order.

The Justice Department cannot bring suit against a private, federally funded university (such as Harvard) under Title VI of the Civil Rights Act of 1964, unless it receives a prior referral from the Department of Education. But before the Department of Education makes such a referral, it must undertake a compliance review. Furthermore, under Title VI, if the Department of Education's compliance review finds a violation, that Department must try to remedy the discrimination through voluntary compliance efforts. In cases where the violations cannot be resolved through negotiations, the Department can elect either to proceed via an administrative enforcement proceeding to terminate federal funding, *or* it can refer the case to the Justice Department for a suit in federal court seeking injunctive relief.

Title IV of the Civil Rights Act, by contrast, does enable the Justice Department to bring suit directly, but only against a *public* university. To bring such a suit, the Justice Department first needs a written complaint signed by an individual (or parent), to the effect that the complaining individual has been denied admission to the university because of race. 42 U.S.C. 2000c-6(a)(2). Any complaints we have received (say, as to discrimination at U.C.L.A.), we have also asked the Department of Education to review; thus, when that process is completed, we are positioned to bring suit if the Department of Education's findings warrant it.

Finally, I think that Congress can and should be a major player in the effort to root out and bring to an abrupt halt any unlawful discriminatory admission policies at our colleges and universities. For example, Congress can legitimately use its own investigative authority to conduct hearings into the question of discrimination. Such an investigation could shed a great deal of light on the often shadowy, and highly discretionary, area of university admissions. We could hope to learn from such an inquiry (far more than from litigating in isolated cases) how the nation's universities' admissions processes really work, exactly how important a factor race is in admission decisionmaking, and why there are so many disturbing reports from so many different institutions throughout the country that some of our citizens are being discriminated against because of their Asian ancestry.

Congress also has the information-gathering powers to determine how substantial the costs of discrimination of this kind. These include not only the human costs of unfairly denying people the educational opportunities which they deserve, and of preventing talented individuals from developing their true potential; they include also the more general societal and productivity costs that come from the compromising of rigorous academic standards and the scrapping of a truly meritorious selection system in the name of the social engineering scheme of racial "proportional representation." Simply by focusing public attention on the issue, and forcing university admissions officers to answer honestly some very tough, searching questions, Congress could do a great deal, in my judgment, to cure the problem at its source.

Discrimination based on race is a sinister evil. We have in the last eight years come a long way towards eliminating some of the worst features of such policies—policies that encouraged the favoring of some, while disfavoring others, because of skin color or ethnic background. Any regime that allocates individual opportunity on a racially proportional basis—be it defined by a quota, a goal, a set-aside, or some other reserved percentage—is inherently pernicious and never benign. This is as true on the campuses of our colleges and universities as it is everywhere else in a democratic society. It therefore follows that student admissions policies—which hold the key to so many others opportunities for future generations of Americans, whatever might be their race, color, creed, or ethnic background—deserve the strictest scrutiny.

FOOTNOTES

[1] See Bernstein, "Asian Newcomers Hurt By Precursors' Success," *N.Y. Times*, July 10, 1988 (National), at 16, col. 1. We understand that the Task Force report, originally due out last August, has not yet been published.

[2] Vobejda, "Harvard, UCLA Admissions Policies Probed," *Washington Post*, Nov. 18, 1988, at A4, col. 1.

[3] Molotsky, "Harvard and U.C.L.A. Face Inquiries on Quotas," *N.Y. Times*, Nov. 20, 1988, at 35, col. 1.

[4] See Bunzel, "Affirmative-action admissions: how it 'works' at UC Berkeley," 93 *The Public Interest* 111, 117-118 & n.3 (1988). Dr. Bunzel (formerly a member of the U.S. Civil Rights Commission) cites to a study of Harvard Law School's admission procedures by Harvard Law Professor Alan Dershowitz and his associate, Laura Hanft. The Dershowitz-Hanft study says that the Admissions Committee was "circumspect" about the quantitative factors at work in its racial preferences.

[5] In the California system, however, persons of Filipino ancestry currently receive a preference.

[6] Underscoring these troubling statistics is the fact that, when challenged, university admissions officers defend their practices by reference to statistical benchmarks that are legally and logically irrelevant. The very weaknesses of such "defenses" raise disturbing questions about the fairness and the legality of the practices being defended. Thus, the *New York Times* (see n.3, *supra*) recently reported Thomas Lifka, Assistant Vice-Chancellor at U.C.L.A., as saying that while Asian-Americans make up 6% to 8% of California's high school graduates, they constitute 20.7%—and, including Filipino-Americans, 24.7%—of U.C.L.A.'s freshman class. But the overall racial make-up of the state's high school graduates is simply *not* a valid comparison for determining whether discrimination exists, since that benchmark totally disregards (for example) differences in the average academic qualifications of racial groups within the high school graduating class, and the different rates at which members of those groups apply for admission. When those circumstances are considered, as of course they must be, the evidence of discrimination against Asian-Americans may become much more powerful. In fact, Asian-American high school graduates in California have a significantly higher eligibility rate (26%) than whites (16%), Hispanics (6%), or blacks (4%). See Gibney, "The Affirmative Action Squeeze," *The New Republic*, April 11, 1988, at 15. And a significantly higher proportion of California Asian-American high school graduates take the SAT than do their Caucasian peers. See Bunzel & Au, *supra*, at 51 & n.1 (1983 data). Any comparison to the racial breakdown of the high school graduating class which omits reference to such crucial differences is bound to be misleading.

[7] See Bunzel, *supra*, at 119-120; see also Bunzel & Au, "Diversity or discrimination? Asian Americans in college," 87 *The Public Interest* 49, 50-51 & n.1 (1987). In 1987, the ratios of admissions to applications for Berkeley's freshman class for black and Hispanic applicants were, respectively, 84.2% and 88.4%; for Filipino-Americans, 51.3%; for Caucasians, 31.4%; and for (non-Filipino) Asian-Americans, 27.7%. (Source: Office of Student Research, January 7, 1988.)

[8] Compare the 1987 U.C.L.A. freshman class, in which the average Asian GPA was 3.91 (as against 3.8 for whites and 3.36 for blacks); in the same class, the average Asian SAT composite score was 1176 (as against a slightly higher 1185 for whites, but 912 for blacks). See *Response to Assembly Concurrent Resolution 70*, *supra*, at 6.13-6.14.

[9] Bunzel & Au, *supra*, at 54.

[10] J. Hsia, *Asian Americans in Higher Education and At Work* 94 (1988).

[11] *Id.* at 96-100.

[12] *Id. at* 100-101.

[13] Cited in Bunzel & Au, *supra*, at 59.

[14] Cited in Bunzel & Au, *supra*, at 60 n.3.

[15] See Gibney, *supra*, at 17.

[16] See the University of California's *Response to Assembly Concurrent Resolution 70* at 3.22 (1988).

[17] "An Assistant Vice-Chancellor at Berkeley warned that 'if we keep getting well-prepared Asians, and we are, we may get to the point where whites will become an affirmative action group.'" Bunzel, "Choosing Freshmen: Who Deserve an Edge?", *Wall Street Journal*, Feb. 1, 1988, at 26, col. 3.

[18] Justice Powell's *Bakke* opinion therefore cannot be construed as stating the law. But even if

the standards his dictum describes *were* binding, many current race-based admissions policies might still not survive judicial scrutiny if those standards were applied to them. Justice Powell's opinion made it extremely clear that set-asides or numerical quotas in the admissions process are unlawful; race (in his view) could be considered only if it did not "insulate the individual from comparison with other candidates for the available seats." 438 U.S. at 317; see also *id.* at 265, n.53 ("[i]f an applicant can establish that the institution does not adhere to a policy of individual comparisons, or can show that a systematic exclusion of certain groups results, the presumption of legality might be overcome"). Thus, an admissions program that in effect reserves a certain proportion of places for certain racial groups (perhaps by granting admission contingent only upon meeting minimum eligibility requirements), or that shelters members of such groups from head-on competition with *every* other candidate, would be legally questionable even under Justice Powell's standards.

[19] In a series of post-*Bakke* cases, including *Wygant* v. *Jackson Board of Education*, 476 U.S. 267 (1986), *Bazemore* v. *Friday*, 478 U.S. 385 (1986), *Local 28, Sheet Metal Workers* v. *EEOC*, 478 U.S. 421 (1986), and *United States* v. *Paradise*, 107 S. Ct. 1053 (1987), the Supreme Court has upheld racial preferences only in a "remedial" context, as a last resort, and solely to combat egregious discrimination—and even then it has required that such preferences be temporary and narrowly tailored. As for the Title VII cases, *Steelworkers* v. *Weber*, 443 U.S. 193 (1979), and *Johnson* v. *Transportation Agency, Santa Clara Cty.*, 107 S. Ct. 1442 (1987), preferences were upheld there only in order to correct the obvious exclusion of virtually all minorities or all women from traditionally segregated job-categories—and again, even then, only a temporary and narrowly tailored basis. See also *Fullilove* v. *Klutznick*, 448 U.S. 448, 507 (1980) (Powell, J., concurring) (governmental racial classifications must serve a compelling purpose). For a review and analysis of these Supreme Court cases, see Reynolds, "An equal Opportunity Scorecard," 21 Ga. L. Rev. 1007 (1987).

[20] "It is not unusual to be told by officials at different universities that 'special sensitivity' is shown to certain ethnic minority groups, and that membership in such a minority group is an 'important factor' in allowing a candidate to be chosen over others who have better academic credentials. But these same officials are reluctant to discuss when 'special sensitivity' becomes outright preference, or how far they have to 'stretch' to get the representation of minorities they want.* * * They prefer to point to the 'diversity' they are creating." Bunzel, *supra*, 93 *The Public Interest* at 116–117.

[21] Berkeley, for instance, has for some time been operating a "mixed" system, in which 40% of incoming freshmen are admitted solely on the basis of academic grades and standardized test results (in 1985 it was 50%), 38% are offered spots under "special action" programs (these programs include preferences for blacks, Chicanos, Latinos, American Indians, and persons of Filipino descent), and 22%—mostly whites and Asian-Americans—selected by "supplementary" criteria, some of which (leadership, motivation) are highly subjective, others of which (English achievement, foreign language course work) may operate to the disadvantage of persons of Asian background, and all of which combined may have the designed purpose of limiting the admission of Asian-American "overachievers." The procedures are, indeed, admittedly designed to enable Berkeley to meet the University of California system's (and Berkeley's own) plan for a student body whose racial composition reflects that of the state's high school graduating class. See Bunzel, *supra*, 93 *The Public Interest* at 112–114; 118–119; Gibney, *supra*, at 16; *Response to Assembly Concurrent Resolution 70, supra*, at 3.10–3.13; Asian American Task Force on University Admissions, *Task Force Report*, 8–10; 12–13 (1985).

[22] It is ironic that the "diversity" rationale should apparently be working to *exclude* Asian-Americans. Asian-Americans hardly comprise a single, homogeneous class; on the contrary, they have richly diverse and highly distinctive cultural heritages—Chinese, Korean, Taiwanese, Japanese, Filipino, Thai, and Vietnamese, among others. See Asian American Task Force on University admissions, *Task Force Report*, *supra*, at 3. The ideological blinders of race-based selection processes—which classify individuals solely by superficial characteristics such as pigmentation—ignore such culturally-based forms of diversity.

[23] See *Sweezy* v. *New Hampshire*, 354 U.S. 234, 263 (1957) (Frankfurter, J., concurring) (one of "'"the four essential freedoms" of a university [is] to determine for itself *on academic grounds* * * * who may be admitted to study.'") (emphasis added; citations omitted).

[24] For instance, we have not seen any statistical analysis of GPAs and SAT scores for whites, for Asian-Americans (or specific subcategories—Japanese-Americans, Chinese-Americans, etc.), and for non-Asian minorities among Berkeley entrants admitted on the basis of "supplemental criteria." Nor is it clear to us to what extent certain factors used to determine admission to Berkeley because of "speical qualities" (*e.g.*, athletic achievement, graduation from a rural high school) impaired the chances of Asian-Americans. Indeed, it is difficult to infer what percentage of Berkeley's freshman slots is awarded primarily or solely on the basis of race-conscious "affirmative action." See Berkeley's *Discussion of the Section of the Auditor General's Report Concerning Freshman Admission to the College of Letters and Science* 4–5 (1988).

STATEMENT OF GRACE W. TSUANG BEFORE THE CAPITOL HILL SEMINAR ON ASIAN AND PACIFIC AMERICAN ISSUES: ANTI-ASIAN BIAS IN UNIVERSITY ADMISSIONS POLICIES, NOVEMBER 30, 1988, WASHINGTON, DC

As a recent graduate of Brown University, a former member of Brown's faculty committee on admissions and financial aid, and a current student at Yale Law School, I thank you for the opportunity to address this seminar. I will focus my comments on the admissions practices of private highly selective universities, particularly Brown, Harvard, and Stanford. I wish to emphasize that an Asian applicant denied admission to a private university would not challenge current affirmative action programs nor allege that a Black or Hispanic had gained entrance in place of a better qualified Asian. Instead, the basis of the claim would focus on the treatment of Asian-Americans compared with Caucasians, a group never intended to be the beneficiaries of affirmative action. My statement highlights some of the issues I raised in my comment entitled, "Assuring Equal Access of Asian-Americans to Highly Selective Universities," forthcoming in the January 1989 issue of the Yale Law Journal. A preliminary draft has been provided for you today as background information.

Since the early 1970's, admissions programs at many universities granted preferences to racial minorities, which frequently resulted in high admit rates for minority groups compared to Caucasians. Admit rates are the number of students admitted as a percentage of the total number of applicants in that category. Data from the Brown admissions office shows that prior to the Class of 1985, Asian-Americans [1] fared well in the admissions process. beginning with the 1985 class, however, Asian-Americans were admitted at a lower rate than Caucasians. The disparity continued until the Class of 1987, when only 14 percent of Asian applicants, compared to 19 percent of Caucasian applicants, were accepted for admissions. Although the number of Asian applicants continues to rise, the number of Asian candidates accepted remains fairly constant,[2] suggesting the *Existence of an Upper Limit Quota.* (refer to chart: admissions over a 13-year period) Similar disparities in admit rates occurred at harvard [3] and Stanford,[4] indicating a trend at the Nation's highly selective institutions.

In my Law Journal comment, I discussed and rejected a number of possible explanations for the disparity in admit rates between Asian and Caucasian applicants. Asian-American academic qualifications,[5] selection of competitive majors,[6] and extracurricular achievements,[7] reasons often cited, do not appear to account for the differential treatment of Asian candidates. Given the time limitations today, I would like to focus my statement on the three most disturbing explanations offered by admissions officers for the disparity in admit rates: First, Asian-Americans score lower on personal ratings; second, Asians are "overrepresented" on college campuses; and third, student body diversity justifies the limits on Asians admissions.

First, the suggestion that Asian-Americans perform less well on personal ratings. These judgments are inherently subjective, relying on personal interviews, recommendation letters, extracurricular activities, and personal essays. Highly selective universities have argued that one of their major objectives is to train future leaders, and that personal ratings permit admissions officers to evaluate an applicant's potential in this area. However, studies have demonstrated that the personal ratings used by admissions offices have little predictive power for assessing a candidate's future success.[8] Furthermore, the history of jewish admissions, a powerful analogy, reveals that while similar rationale was used to support the adoption of personal ratings in the 1920's, universities intended to use the measures for exclusionary purposes.[9] Finally, faculty committees at both Brown and Stanford, which investigated the charges of discrimination, found that anti-Asian biases affected the admissions decisions at both universities.

A second argument, as voiced by one dean at Harvard, is that Asian-Americans are "no doubt the most overpresented group in the university." This comment suggest that administrators are comparing the percentage of Asian-Americans in the student body with the U.S. census, rather than a more precise indicator of the potential applicant pool such as SAT testtaking rates. The problem is that institutions like Harvard fail to apply the concept of national representation consistently to reduce the number of other identifiable subgroups. As history reveals, "overrepresentation" was also used to impose a quota on Jewish students beginning in the 1920's. A reliance on census figures, moreover, would perpetuate the history of racism in U.S. immigration policy. Since Asian immigrants were excluded from America, or restricted to an annual quota of 100 per country historically, the growth and current size of the Asian-American population has been artificially constrained. Using the concept of "overrepresentation" to justify limits on Asian admissions perpetuates the denial of equal opportunity for Asian-Americans.

Finally, admissions officers have suggested that student body diversity mandates limitations on the numbers of Asians admitted. In *Regents of the University of California* v. *Bakke*, a 1978 Supreme Court decision, Justice Powell advocated diversity as a legitimate justification for university affirmative action programs which benefitted minorities including Asian-Americans. According to a Harvard assistant dean, admissions officers at highly selective universities, today, have suggested that the Asian applicant pool is "too homogenous." They have contended that "further increases of Asians would diminish the diversity of students for which [these universities] strive."

Such statements distort the concept of diversity; Justice Powell in *Bakke* advocated a program in which "race or ethnic background may be deemed a 'plus' in a particu-

lar applicant's file," with the ideal program being one which considers a broad array of qualifications and characteristics. Using diversity as a justification for limiting Asians, however, implies that an Asian's contribution to diversity derives solely from her race, and that her value is negated by the presence of too many others of her color. This narrow definition of diversity, used by universities, suggested that two Asian-American applicants are interchangeable simply because each can only add a fixed amount, because of her race, to the informal learning process among students. For institutions which purport to base admissions on individual attributes, this is clearly a contradiction.

The three frequently articulated reasons, lower Asian personal ratings, overrepresentation of Asian-Americans, and student body diversity, cannot serve as sound intellectual justifications for the limitations on Asian admissions. Asian-American applicants are not seeking preferential treatment nor challenging affirmative action programs. Asian-Americans merely demand that they be considered on an equal basis and have an equal opportunity as Caucasians to be admitted to the Nation's highly selective universities.

FOOTNOTES

[1] For the purposes of this statement, "Asian Americans" or "Asians" refers to Pacific and Asian Americans of Chinese, Japanese, Korean, Filipino, Vietnamese, Cambodian, Laotian, Asian Indian, Pacific Islander, and Thai descent.

[2] From Class of 1982 to Class of 1990, the number of Asian applicants grew from 307 to 1627, a 430% increase, while the number of Asians admiritted to Brown rose from 141 to 245, a 74% increase. Brown University, Undergraduate Admissions 29 (1987). Asian admit rates from Class of 1985 to Class of 1991 were 19%, 19%, 15%, 19%, 17%, 16%, and 20%. *Id.* at 29.

[3] From Class of 1982 to Class of 1991, the Asian admit rate at Harvard was 12%, 15%, 15%, 14%, 13%, 14%, 13%, 12%, 11%, and 12%. In contrast, the Caucasians were admitted at 17%, 16%, 15%, 16%, 18%, 19%, 18%, 17%, 18%, and 16%, an average of 4% higher than the Asian rates. Harvard University, Asian-Americans at Harvard: Beyond Representation Table 4 (Nov. 1987) (unpublished draft report).

[4] Between 1982 and 1985, "Asian-American applicants to Stanford had admission rates ranging between 66 percent and 70 percent of admission rates for whites." Stanford University, 1985-86 Annual Report of the Committee on Undergraduate Admissions and Financial Aids 5 (1986), *reprinted in* The Stanford University Campus Report, Nov. 12, 1986, at 14, col. 2.

[5] Based on SAT scores, achievement scores and class rank, the academic statistics of Asian American applicants are comparable, if not better, than the academic qualifications of Caucasian applicants to Brown University. Asian American Students Association (AASA), Asian American Admission at Brown University 7, Table 6 (Oct. 11, 1983). Similarly, Harvard's admissions office itself predicted that an average of 30% of Asian compared to 24% of Caucasian applicants from the Class of 1982 to 1990 would graduate with high honors from Harvard and concluded that Asian candidates were stronger academically. Harvard Report, *supra* note 3, at Table 2. Harvard's academic ratings are based on high school grades, recommendations, essays, and standardized test scores. *Id.* at 8. Stanford bases its academic ratings on grades, rigor and quality of high school programs, and test scores. An internal study found that even when the academic ratings of Asians and Caucasians are equal, Asians are admitted at a lower rate. Stanford University, CUAFA Subcommittee Report on Asian-American Admissions Table 5 (Feb. 23, 1986).

[6] Intended major is not an explicit criterion for admissions to Harvard, Stanford or Brown. Even if tentative selection of an engineering or other competitive major accounts for the low Asian admit rate, the rates for Asian applicants should be approximately equal to admit rates for Caucasians within that major. A Stanford report found, however, that for *every category* of intended majors, Asian Americans had a lower admit rate than Caucasians for the Class of 1989. CUAFA Subcommittee, *supra* note 5, at Table 8. At Brown, the perceived high number of "pre-med" applicants cannot account for the disparity in admit rates since only 15% of Asian American "pre-meds" were admitted compared to 18% of Caucasian "pre-med" cadidates for the Class of 1986. AASA Report, *supra* note 5, at Table 7.

[7] Stanford, which assigns each applicant a "non-${ho}academic rating" based on extracurricular achievements, found generally that even when Asians and Caucasians received the *same* non-${ho}academic rating, Asians were still admitted at a *lower* rate to the Class of 1989. CUAFA Subcommittee, *supra* note 5, Table 5. Other studies of Asian American high school students, while not describing the specific extracurricular achievements of applicants to Harvard and Brown, refute the stereotypical perception that Asians avoid extracurricular activities. *See* Peng, School Experiences and Performance of Asian-Pacific American High School Students Table 9 (1984) (U.S. Dept. of Education publication); The College Board, Profiles, College-Bound Seniors, 1985, at xix.

[8] For a summary of studies and criticism of the use of non-academic variables, see R. Klitgaard, Choosing Elites 134-41 (1985).

[9] Beginning in the 1920's, quotas were imposed on Jewish students at highly selective universities including Harvard, Yale, Princeton, and Columbia. In 1929, the Harvard Boad of Overseers recommended that "the rules for the admission of candidates be amended to lay greater emphasis on selection based on character and fitness and the promise of greatest usefullness in the future." M. Synnott, The Half Opened Door: Discrimination and Admissions at Harvard, Yale, and Princeton, 1900-1970, at 109. President Lowell stated that any test of character "passed with the intent of limiting Jews should not be . . . applicable to Jews and Gentiles alike." *Id.* at 63.

Assuring Equal Access of Asian Americans to Highly Selective Universities

(Grace W. Tsuang)

In the post-*Bakke* [1] era, many institutions of higher education have sought to maintain their commitment to minority admissions programs without the use of explicit racial quotas. In *Bakke,* Justice Powell deemed the Harvard Admissions Program, which considers race or ethnic background a "plus" in evaluating the applicant, the ideal means to achieve ethnic diversity.[2] Recently, critics have alleged that a new type of quota, established under the auspices of diversity, sets an upper limit on the number of Asian Americans [3] admitted to highly selective institutions.

This Note discusses the legal basis for a claim by an Asian American applicant denied admission to a public or private university due to an upper limit quota. An Asian applicant would not challenge the legality of preferential admissions nor allege that a Black or Hispanic had gained entrance in place of a better qualified Asian. Instead, the basis of the claim and, thus, the bulk of the data presented here, would focus on the treatment of Asian Americans compared with Caucasians, a group never intended to be the beneficiaries of affirmative action. An Asian applicant would not seek special consideration because of her race, but equitable treatment regardless of her race.

The statistics presented in Section I provide an overview of the Asian admissions problem as exemplified by four universities and outline the type of evidence plaintiffs should seek during discovery to challenge a university's admissions practices. Section II analyzes available legal theories and sets forth the type of allegations that should be included in a complaint against any institution. Finally, Section III offers suggestions for fashioning a remedy that would enhance the fairness of admissions practices and reduce the obstacles faced by Asians seeking entrance to the nation's highly selective universities.

I. Evidence of Quotas on Asian American Admissions

This Section focuses on the admissions criteria used at the University of California at Berkeley (Berkeley), Stanford, Harvard, and Brown Universities,[4] and considers possible explanations for the lower numbers of Asian Americans admitted.

A. The evolution of upper limit quotas on Asian Americans

In the early 1970's, major universities adopted affirmative action programs for minority admissions which included Asian Americans within their guidelines.[5] The number of Asian American students increased gradually until the 1980's, when the size of the Asian applicant pool escalated dramatically as a result of liberalized immigration policies [6] and an overall rise in the number of potentially qualified Asian applicants.[7] At present Berkeley and Stanford do not consider Asians a protected minority,[8] Brown does not address their status in the admissions process,[9] and Harvard gives "positive weight" to Asian applicants.[10]

Admissions programs at many institutions granted preferences to racial minorities in the selection process,[11] which frequently resulted in high admit rates [12] for minority groups compared to Caucasians. Statistics from the Brown Admissions Office reflected such patterns.[13] Beginning with the Class of 1985, however, Asian Americans were admitted to a lower rate than Caucasians, and the disparity continued until the Class of 1987, when only 14% of Asian applicants, compared to 19% of Caucasian applicants, were accepted for admissions. Although the number of Asian applicants continued to escalate, the number of Asian candidates accepted remained fairly constant,[14] suggesting the existence of an upper limit quota. Similar disparities in admit rates occurred at Harvard [15] and Stanford,[16] suggesting a trend at the nation's highly selective institutions.

B. Academic qualifications and Asian admit rates

One possible explanation for the disparity between Asian and Caucasian admit rates is that Asian applicants are less academically qualified than Caucasian candidates. At Berkeley, the Auditor General of California found that from 1981 to 1987, Caucasians gained admission to Berkeley's five colleges at rates generally higher than those of Asians,[17] even though Asian applicants overall had higher grade point averages and standardized test scores. While each of Berkeley's five colleges has its own admissions formula, applicants to each college are evaluated according to a two-tiered system adopted in 1985.[18] Students in the first tier are admitted solely on the basis of scholastic criteria (grade point average, SAT scores, and three achievement tests), while students in the second tier are evaluated both on scholastic and non-academic criteria (supplemental criteria) or are admitted through various "protected programs." [19] From 1985 to 1987, the Auditor General found that for the College of Letters and Science, which accounts for seventy-eight percent of the student body [20] "the Tier 1 admission rates of Asians were higher than the admission rates of Caucasians" in all three years, while "the Tier 2 admission rates of Caucasians were higher than the

Tier 2 admission rates of Asians in all three years." [21] This finding suggests that Asian applicants perform better than Caucasians on strictly academic criteria [22] and implies that the use of Tier 2 methodology has a detrimental impact on Asians.

A confidential Harvard report of applicants from the Class of 1982 to Class of 1990 similarly undercuts the scholastic qualifications argument. Harvard's Admissions Office predicted that an average of 30% of Asian applicants compared to 24% of Caucasian applicants would graduate with high honors from Harvard and concluded that Asian candidates were stronger academically.[23] While Harvard, Brown, and Stanford do not claim that they admit applicants exclusively on the basis of scholastic ability, academic qualifications presumably play a significant role in the selection process.[24] The available evidence on academic performance of Asians undermines this presumption and suggests that scholastic ability cannot account for the discrepancy in admit rates.

C. Non-academic qualifications of Asian American applicants

Some university officials argue that while Asian Americans score high on academic ratings, they perform less well on personal ratings.[25] According to these administrators, Asian candidates tend to concentrate in the sciences or seek admissions to highly selective programs, are less well-rounded, and generally score lower on non-academic qualifications. Each of these claims is based on questionable racial stereotypes.

1. Intended majors

An applicant's intended major is not an explicit criterion for admissions to Stanford, Harvard, or Brown.[26] Even if the tentative selection of a competitive major was to account for the low Asian admit rate, the rates for Asian applicants should be approximately equal to admit rates for Caucasians within that major. A confidential Stanford report found, however, that for *every* category of intended majors, Asian Americans had a lower admit rate than Caucasians for the Class of 1989.[27]

Brown's Director of Admissions has stated that the low Asian admit rate is caused by the overwhelming number of Asians applying as "pre-meds." [28] In response, the Asian American Students Association has alleged that the Director has never defined what constitutes a "pre-med;" instead, he bases his determination on subjective considerations and stereotypes of Asian applicants.[29] Brown's Faculty Committee on Minority Affairs (COMA) rejected the myth that there are too many Asian "pre-meds" and found that the "claim results from a reliance on inference and not necessarily on the declared [major] of the applicant." [30]

Berkeley administrators have also suggested that the low Asian admit rate is caused by the high number of Asians applying to the College of Engineering.[31] Yet in Berkeley's two largest engineering departments, Caucasian admit rates still exceeded Asian admit rates in all seven years studied.[32] Thus, the competitiveness of admissions to this college cannot account for the disparity between Asian and Caucasian admit rates.[33]

2. Extracurricular activities

Admissions officers have claimed that Asians participate in fewer extracurricular activities in high school than their Caucasian counterparts,[34] and have characterized Asian applicants as "one-dimensional." [35] Stanford, which assigns each applicant a "non-academic rating" based on extracurricular achievements, found generally that even when Asians and Caucasians received the same non-academic rating, Asians were still admitted at a lower rate to the Class of 1989.[36] Other studies of Asian American high school students, while not describing the specific extracurricular achievements of applicants to Harvard, Brown, and Berkeley, refute the stereotypical perception that Asians avoid extracurricular activities.[37]

3. Personal Ratings

The third and most problematic rationale offered by admissions officers for the disparity is that Asian Americans score lower on personal ratings.[38] Such judgments are inherently subjective, relying on the admissions officers' interpretation of personal essays, extracurricular activities, high school recommendations, and reports of interviews conducted by admissions officers or college alumni. Brown's COMA discovered that Asian applicants received comparatively low personal ratings, but concluded that the "unjustified low ratings are due to the cultural biases and stereotypes which prevail in the admissions office. Such biases and stereotypes prevent admissions officers from appreciating and accurately evaluating the backgrounds and nuances of the Asian American cultural experience." [39]

Stanford's Committee on Undergraduate Admissions and Financial Aids (CUAFA) found that academic and extracurricular ratings, declared majors, legacies,[40] athletics, and geographic origin could not account for the low Asian admit rate.[41] Implicitly, the only remaining explanation was that Asians received lower personal ratings. The Committee concluded that there were real or perceived differences [42] in the subjective materials and/or that "unconscious biases have influenced the admissions decisions." [43]

While colleges may pursue legitimate goals through their admissions processes, the use of personal ratings has a disparate impact on Asian applicants. Such criteria should be a principal focus of a legal challenge.

II. LEGAL ANALYSIS

An Asian American plaintiff could predicate her cause of action on either a statutory or a constitutional theory. Supreme Court jurisprudence suggests that a case filed under Title VI regulations,[44] which incorporate a disparate impact standard, would offer the greatest possibility of success. The admissions practices of the three private universities serve as examples for this legal theory, although a suit against a public institution should also include a Title VI disparate impact claim.

The constitutional theory, based on the equal protection clause of the Fourteenth Amendment,[45] is another means for attacking upper limit quotas at public institutions. Such a claim would require a demonstration of discriminatory intent. While the constitutional analysis will focus on Berkeley's admission policies, its significance for private universities should not be disregarded, since a suit filed on the basis of Title VI,[46] as distinguished from Title VI *regulations*, would require a showing of intent identical to the constitutional standard.[47]

A. The Legacy of Racial Discrimination

Both the equal-protection clause and Title VI are designed to protect against discimination on the basis of race or national origin. While Asian Americans are entitled to such protection, these formal rules have not been applied as rigorously to safeguard the rights of Asian Americans throughout most of American history. For example, in *Korematsu v. United States*,[48] the Court purportedly applied strict scrutiny, the most exacting level of judicial review, but nonetheless upheld the mass internment of 110,000 Japanese Americans during World War II on the basis of "military urgency."[49] In stark contrast, Germans and Italians were subject to individual review.[50] This fact, combined with the legacy of state-sponsored discrimination against Asians,[51] forms the backdrop to the allegations of upper-limit quotas on Asian American applicants.

Quotas on the admissions of identifiable minorities are also a part of America's past. The current claims bring to mind the quotas imposed on Jewish students at Harvard, Yale, Princeton, and Columbia beginning in the 1920's.[52] University officials used similar techniques such as personal ratings, and stated similar reasons such as the need to preserve college traditions and student body diversity to justify the limitations.[53] Historic discriminatory practices are now directed at the newest immigrant group to challenge the racial composition of highly selective institutions.

B. The standard for a title VI claim

The legislative history of Title VI fails to provide clear guidance on the meaning of "discrimination," [54] but subsequent Supreme Court decisions, beginning with *Lau v. Nichols*,[55] have clarified the standard for a Title VI claim. The *Lau* Court adopted the effects test for Title VI,[56] relying on regulations issued by the Department of Health, Education, and Welfare.[57] Although *Bakke* cast doubt on the continuing validity of *Lau*,[58] seven Justices in *Guardians Association v. Civil Service Commission of New York* [59] agreed that the Title VI standard is identical to the constitutional standard—both require proof of discriminatory intent.[60] However, five Justices concluded that proof of disparate impact is sufficient to establish a violation under the *regulations* adopted pursuant to Title VI.[61] A unanimous Court in *Alexander v. Choate* [62] clarified the apparent contradiction by reading *Guardians* to hold that "Title VI itself directly reached only instances of intentional discrimination," but "actions having an unjustifiable disparate impact on minorities could be redressed through agency regulations designed to implement the purposes of Title VI." [63]

Although Title VI applies to the admissions practices of private universities that receive federal funds,[64] an Asian plaintiff would stand a greater chance of success by filing a suit under Title VI regulations.[65] Since *Guardians*, six circuits have stated that a cause of action premised on Title VI regulations does not require proof of discriminatory intent.[66]

1. Admissions practices of private universities subject to attack

An Asian American plaintiff must allege that specific admissions practices or policies have a disparate impact on Asian applicants; this Section examines two such practices.

a. Personal Ratings

An Asian plaintiff could plead the racially nondiscriminatory personal ratings employed by Stanford, Harvard, and Brown have a disparate impact on Asian candidates and are not related to educational performance. An applicant could also rely on the findings of investigations at Brown [67] and Stanford [68] if she were to file suit against either institution. Both reports, based on testimonies of admissions officers, acknowl-

edge the existence of conscious or unconscious biases against Asian applicants, as reflected in low personal ratings, and suggest that such biases may influence admissions decisions at other universities.

b. Benchmark System

Some highly selective universities have used "historic benchmarks" or target systems[69] to determine the composition of each entering class. A Brown study[70] revealed that the use of such benchmarks by the admissions office served to perpetuate the existing racial composition of the university, to the detriment of rapidly expanding groups within the applicant pool. Each fall, the admissions office establishes a set of enrollment goals based on the structure of previous year's matriculating freshman class. The number of admittees is monitored throughout Brown's admissions seasons to ensure that the relative proportions of identifiable groups, such as athletes, minorities, and alumni children, remain fairly constant from year to year. However, this type of admissions process fails to account for demographic changes. As a result, the use of benchmarks at Brown[71] has a detrimental impact on Asians, the fastest growing applicant group.[72]

2. Potential defenses of private universities

The defenses which highly selective universities may assert are unknown since this sort of claim has not yet been litigated. However, several likely defenses can be anticipated.

a. Personal Ratings Serve an Educational Purpose

Once a prima facie case has been established, the burden of proof shifts to universities to "demonstrate that the requirement which caused the disproportionate impact was required by educational necessity."[73] Highly selective universities may argue that one of their major objectives is to train future leaders,[74] and that subjective standards permit admissions officers to evaluate this potential. If so, personal ratings should bear some correlation to this goal. However, it is not clear that interviews, personal essays, or recommendations can adequately evaluate personal traits, much less predict an applicant's future contributions to society. In fact, studies have demonstrated that personal ratings used by admissions offices have little predictive power for assessing a candidate's future success.[75] Furthermore, the history of Jewish admissions reveals that while similar reasons were used to support the adoption of subjective criteria in the 1920's, universities intended to use the measures for exclusionary purposes.[76]

b. Legacy and Athletic Admissions

Harvard and other selective universities have stated that low Asian admit rates result partially from the "very few Asian-Americans in our applicant pool who are alumni/ae children or prospective varsity athletes."[77] The relationship between an athletic program and the institutional purpose of a highly selective college is ambiguous, although a winning football team may induce alumni donations to the general fund.[78] Admissions of alumni children, however, may be justified by legitimate financial concerns because these admissions often encourage alumni contributions. While catering to current alumni without weighing the future contributions of potential Asian alumni is shortsighted, this may be the strongest defense available to a university.[79]

Despite the strength of this argument, universities may hesitate to use this defense because efforts to justify the rejection of competitive Asian applicants solely on the basis of legacy and athletic admissions would portray highly selective universities as institutions that cater to their alumni and football coaches in pursuit of increased donations. This concession could severely undermine the image of a meritocratic admissions process which highly selective universities seek to project to society at large.[80]

c. Diversity

Justice Powell advocated diversity[81] as a legitimate justification for preferential admissions on the ground that a diverse student body promotes an "atmosphere of 'speculation, experiment and creation.'"[82] Since *Bakke*, universities have successfully relied upon diversity to validate such programs,[83] and they are likely to raise diversity as a defense to allegations of an upper limit on Asian Americans.[84] According to an assistant dean at Harvard, admissions officers at prestigious institutions have contended that "further increases of Asians would diminish the diversity of students for which [these universities] strive" and have suggested that the Asian applicant pool is "too homogeneous."[85]

Such statements distort the concept of diversity; Justice Powell advocated a program in which "race or ethnic background may be deemed a 'plus' in a particular applicant's file, yet it does not insulate the individual from comparison with all other candidates for the available seats."[86] Such a program would not grant or deny admissions solely on the basis of an applicant's race, but would consider a "broader array of qualifications and characteristics."[87] Using diversity as a justification for limiting Asians, however, implies that an Asian applicant's contribution to diversity derives solely from her race, and that her value is negated by the presence of too many others of her color; her "plus" ceases to exist and instead acts as a negative. For institutions that purport to base admissions decisions on individual attributes, this is a clear contradiction.

Furthermore, Justice Powell certainly did not intend diversity to be used as a justification for discrimination against racial minorities. Efforts to limit the number of Asian admittees do in fact "establish a quota in the invidious sense of a ceiling on the number of minority applicants to be admitted."[88] Universities have distorted diversity, transforming what was intended to be a shield for preferential admissions[89] into a sword against a minority group seeking admissions.

d. Overrepresentation

One dean at Harvard voiced a related theme, which may be used as a defense against allegations of a quota, by stating that Asian Americans are "no doubt the most over-represented group in the university."[90] The claims of Asian "overrepresentation" suggest that administrators have some ideal racial balance in mind, partially based on census figures and on the benchmark system, but not on the differential SAT test-taking rates between Asian Americans and Caucasians.[91]

First, institutions like Harvard fail to apply the concept of national representation consistently,[92] and as history reveals, identical reasons were used to impose a quota on Jewish students.[93] Furthermore, if admissions are determined by current census figures, such practices would perpetuate the history of "[r]acism in U.S. immigration policy."[94] Using "overrepresentation" to justify limits on Asian admissions perpetuates the denial of equal opportunity for Asian Americans.

B. The standard for an equal protection claim

The constitutional standard requires evidence of discriminatory intent or purpose in order to establish a violation of the equal protection clause and, following *Guardians*, Title VI. The decisionmaker must have "selected or reaffirmed a particular course of action at least in part 'because of,' not merely 'in spite of,' its adverse effects upon an identifiable group.'"[95] A plaintiff suing a public university under the equal protection clause must demonstrate that impermissible motives, not the neutral explanations offered, account for the university's action.[96] The intent requirement is a formidable barrier, raising questions such as whose intent is relevant and how much illicit intent is required. A court will inquire into "circumstantial and direct evidence of intent as may be available,"[97] including whether the official action bears more heavily on one race than another, whether a clear pattern emerges, whether the sequence of events reveals the decisionmaker's purpose, whether decisionmakers departed from normal procedures or policies, and whether contemporaneous statements by parties involved shed light on motivation and intent.[98]

1. Policies of a Public University Subject to Attack

At Berkeley, the sharp decline in the number of newly enrolled Asian Americans from 1,303 in 1983 to 1,031 in 1984, a 20.9% drop in one year, suggested that new admissions policies may have been adopted.[99] The Asian community alleged that Berkeley had instituted a minimum 400 SAT verbal score, a policy with a detrimental impact on immigrant Asians, to limit Asian admissions.[100] While Berkeley may have a legitimate interest in assuring the English competence of its students, the Chancellor never acknowledged and repeatedly denied the existence of a minimum verbal score.[101] Finally, under pressure from the Asian Community, the Chancellor admitted that such a policy had indeed been adopted in 1984, but was withdrawn after a brief time.[102] The dispute fueled suspicion that Berkeley had covertly adopted guidelines which, though neutral on their face, caused an inevitable or foreseeable drop in Asian American admissions.[103]

The decline in Berkeley's Asian enrollments can also be attributed to a 1984 decision, made without the participation of the faculty committee on Admissions and Enrollment,[104] to remove the "protection" for Educational Opportunity Program (EOP)[105] applicants and to "redirect" EOP students "who were not Black, Hispanic or Native American" to other U.C. campuses.[106] This was the first time that EOP, a program designed to promote access to Berkeley for all economically disadvantaged students regardless of race, acquired a racial criterion.[107] The decision affected three times as many Asians as Caucasians,[108] since a larger proportion of Asian applicants come from disadvantaged backgrounds.[109] While disparate impact is not "the sole touchstone of an invidious racial discrimination,"[110] such policy changes, accompanied by the disparity between Asian and Caucasian admit rates over a seven year period, suggest that Berkeley may have intended to decrease the number of Asians admitted.

It is, however, unclear what weight the Supreme Court will give to statistical disparities in determining discriminatory

intent. It appears that while statistical disparities can support a claim of discriminatory intent, the disparity has to be quite substantial before the Court will deem the state action violative of the equal protection clause.[111]

An Asian plaintiff can also allege that sudden policy changes provide evidence of discriminatory intent.[112] U.C. administrators were aware that Asians performed well academically, but the percentage of students admitted on the basis of scholastic criteria alone declined from 60% in 1985 to 50% in 1986 to 40% in 1987,[113] without any explanation.

Furthermore, in response to the allegation that supplementary criteria (based on extracurricular activities, personal essays, and English and foreign language requirements) favored Caucasians, the Auditor General reviewed the Tier 2 supplemental criteria scores of 100 Caucasians and 100 Asians who applied to Berkeley in 1985 and 1986. The investigation showed that Asians had marginally higher supplementary scores than Caucasians in both years.[114] If Asians in the applicant pool as a whole outscore Caucasians on both scholastic and supplemental criteria, no nondiscriminatory reason can account for the disparity in admit rates.

Finally, although he later stated that he was misinterpreted,[116] the President of the University of California asserted in an interview that Asian Americans "are in the university well above their representation in the high school graduation pool," while Caucasian students are "underrepresented in the entering freshman classes."[116] At another U.S. campus, UCLA's Director of Admissions explicitly recognized that such efforts to address the "under-representation" of Caucasians will reduce the numbers of Asians admitted.[117] While each piece of evidence alone may not be sufficient to establish discriminatory intent, the combination of all such factors may satisfy the constitutional standard.[118]

2. Potential defenses of a public university

After an Asian plaintiff establishes a prima facie case, Berkeley will have the opportunity "to rebut the presumption of unconstitutional action by showing . . . permissible racially neutral selection criteria . . . ."[119] Berkeley probably will seek to demonstrate that the use of minimum SAT scores and supplemental criteria, and the redirection of EOPs are necessary to improve academic qualifications or to increase student body diversity. The university may also rely on the athletic admissions and the overrepresentation defenses.[120] However, the plaintiff need not show that the invidious purpose was the sole motivation,[121] but that the new policies were adopted in part "because of" a desire to limit the number of Asian admittees. The existence of a permissible motive "would not render nugatory the purpose of discriminate. . . ."[122]

III. REMEDIES

An Asian American plaintiff could seek an injunction[123] against a university, whether public[124] or private, to halt its discriminatory practices against Asian applicants.[125] In certain circumstances, a request for damages may also be appropriate.[126] The following recommendations set forth possible elements of an injunction, to be modified as information concerning the admissions process becomes available through discovery.

A major impediment to increasing Asian American admissions appears to be the use of historic benchmarks.[127] An injunction could require a university to discontinue the use of benchmarks that serve as upper limit quotas[128] on candidates from rapidly increasing applicant pools.

The creation of an Asian recruitment coordinator position[129] could reduce the hurdles faced by Asian applicants in the advocacy admissions process[130] used by some highly selective universities. The Asian recruitment coordinator could be assigned to a region of the country with a large number of Asian candidates and also play an informal role in educating fellow admissions officers in the difficult process of overcoming stereotypes. In addition, as the implications of cross-cultural differences,[131] and their effects on the admissions process, are evaluated at trial, a plaintiff could consider methods to ameliorate the disparate impact of personal ratings on Asian American applicants. She could seek to modify the use of interviews, personal essays, and recommendation letters.

Furthermore, the university should be required to articulate in its application materials the criteria, specifically the subjective considerations, which serve as the basis for admissions decisions.[132] A task force consisting of admissions officers, university administrators, community leaders, educators, and psychologists could work together to formulate the most suitable admissions standards, and the most effective means to articulate such standards, given the relevant educational objectives. The university also should be required to submit annual reports[133] to the court and to the plaintiff's attorney documenting the admit rates for Asian Americans compared to Caucasians. A reporting requirement would push a university to be vigilant in its efforts to eliminate discriminatory barriers for Asian applicants and would also provide an external monitoring mechanism.[134]

While such policy changes may not ensure high Asian admit rates, they can serve to eliminate discriminatory and arbitrary barriers to highly selective universities for all applicants.

IV. CONCLUSION

This Note has provided a framework for examining the allegations of an upper limit quota on Asian American admissions. The four sample universities have illustrated the type of evidence necessary to challenge the admissions process and the legal theories upon which to plead a complaint. A suit can be brought against a public institution based on either the equal protection clause or Title VI, but such a suit would require evidence of discriminatory intent and would encounter difficult proof problems. A more promising approach is to challenge either a public or a private university on the basis of Title VI regulations, incorporating a disparate impact standard. If an Asian plaintiff is successful, a court order could mandate changes in specific admissions practices and require universities to articulate their subjective criteria for determining admissions.

The Asian admissions issue raises complex questions which may be unresolvable, but ultimately, it calls for an affirmation of the principles of racial equality fundamental to the promise of America.

FOOTNOTES

[1] In Regents of Univ. of Cal. v. Bakke, 438 U.S. 265 (1978), a Caucasian applicant to the University of California (U.C.) at Davis Medical School claimed that the special admissions program, which reserved 16 places in a class of 100 for minorities, violated his rights under the equal protection cause of the Fourteenth Amendment and Title VI of the Civil Rights Act of 1964. In a complicated plurality opinion, Justice Powell, with Justices Stevens, Burger, Stewart, and Rehnquist concurring in the judgment in part, held that the racial classifications used in the admissions program failed the "strict scrutiny" test and violated the equal protection clause. *Id.* at 305, 320. However, Justice Powell, with Justices Brennan, White, Marshall, and Blackmun concurring in the judgment in part, next held that race can still be considered a factor in admissions decisions. *Id.* at 320.

[2] Justice Powell, however, was the sole member of the Court to justify preferential admissions on the basis of "diversity," *Id.* at 315–19 (Powell, J.).

[3] Since the term "Asian Americans" encompasses individuals from a variety of cultural, historic, and ethnic backgrounds, it raises the definitional problem of who should be included in the group, and whether "Asian Americans" should be viewed as a group at all. While these are important issues, most universities, with the exception of the U.C. system, collect data only on "Asian Americans" and/or "Oriental Americans," and thus, treat Asians as a single group. For the purposes of this Note, "Asian Americans" or "Asians" refers to Americans of Chinese, Japanese, Korean, Filipino, Taiwanese, Vietnamese, Cambodian, Laotian, Asian Indian, Pacific Islander, and Thai descent.

[4] Berkeley receives a high number of applications from Asians because of the increasing number of Asian residents in its vicinity. *See* BUREAU OF THE CENSUS, 1980 CENSUS OF POPULATION vol. 1, ch. D, pt. 6, at 7; vol. 1, ch. B, pt. 6, at 26 (estimating that Asians comprise 6% of the total population of California and 22% of the population of San Francisco). Stanford is an appropriate subject for study because it is also located in California, and it has analyzed its admission process. Cited by Justice Powell as an "illuminating example," *Bakke*, 438 U.S. at 316, Harvard's current practices should be scrutinized. Finally, in response to student allegations of a quota on Asians, Brown has examined and produced a report on its internal admissions process. Similar claims of discrimination have also been raised at Princeton, Yale, and UCLA. *See* Nakanishi, *Asian Pacific Americans and Selective Undergraduate Admissions*, J.C. ADMISSIONS, Winter 1988, at 18 (discussing Princeton, Yale, and UCLA). Since the complete admissions records of private institutions are not available to the general public, the statistics presented in this Note are limited and do not necessarily examine the same set of Asian and Caucasian candidates at each institution. But a plaintiff should seek to expand the data presented here through the discovery process.

[5] *E.g.*, U.C. Davis Medical School included Asians within its student affirmative action programs. *Bakke*, 438 U.S. at 274 (Powell, J.).

[6] Hune, *U.S. Immigration Policy and Asian Americans: Aspects and Consequences*, in U.S. COMMISSION ON CIVIL RIGHTS, CIVIL RIGHTS ISSUES OF ASIAN AND PACIFIC AMERICANS: MYTHS AND REALITIES 283–86 (1979); *See also* U.S. DEPT. OF JUSTICE, 1986 STATISTICAL YEARBOOK OF THE IMMIGRATION AND NATURALIZATION SERVICE Table 2 (1987) (153,000 Asian immigrants entered the U.S. from 1951–60, compared to 428,000 from 1961–70 and 1,588,000 from 1971–80).

[7] The explosion in the number of Asian SAT test-takers, an exam required at all four universities discussed in this Note, illustrates the changing demographic composition of the applicant pool. From 1978 to 1988, the number of Asian SAT test-takers increased 177% (from 23,152 to 64,102), compared to 10% for Caucasians (from 742,154 to 813,116). COLLEGE BOARD, NATIONAL REPORT: COLLEGE-BOUND SENIORS, 1978, at 15; COLLEGE BOARD, COLLEGE-BOUND SENIORS: 1988 PROFILE OF SAT AND ACHIEVEMENT TEST-TAKERS 6.

[8] Berkeley excludes from its "protected programs" all Asians, as defined in *supra* note 3, except for Filipinos. REPORT BY THE AUDITOR GENERAL OF CALIFORNIA, A REVIEW OF FIRST-YEAR ADMISSIONS OF ASIANS AND CAUCASIANS AT THE UNIVERSITY OF CALIFORNIA AT BERKELEY 5 (Oct. 1987) [hereinafter AUDITOR GENERAL'S REPORT]. Stanford's catalogue states: "Given our goal of achieving a richly diverse student population, we do make special efforts to attract, [and] admit . . . students who are Black, Mexican American, and American Indian." STANFORD UNIVERSITY, STANFORD TODAY 1988–89, at v (1988) [hereinafter STANFORD TODAY].

[9] Brown, however, lists Asians in its compilation of minority admissions. BROWN UNIVERSITY, REPORT TO SCHOOLS 5 (Sept. 1987).

[10] In a confidential document, Harvard's Dean of Admissions stated, "The Admissions Committee gives positive weight to . . . Asian-Americans be-

cause of [their] particular . . . ethnic and cultural experiences. . . ." HARVARD UNIVERSITY, ASIAN-AMERICANS AT HARVARD: BEYOND REPRESENTATION 4 (Nov. 1987) [hereinafter HARVARD REPORT] (unpublished draft report) (on file with author).

[11] Preferential admissions was sanctioned by five Justices in *Bakke*. *See supra* notes 1-2.

[12] The admit rate is the number of students admitted as a percentage of the total number of applicants in that category.

[13] *E.g.*, admit rates for Class of 1982 were 47% for Asians, 26% for Caucasians; 26% Asian versus 23% Caucasians for Class of 1983; and 23% Asian versus 20% Caucasian for Class of 1984. BROWN CORP. COMM. ON MINORITY AFFAIRS, STATISTICAL SUMMARY BY THIRD WORLD CATEGORIES FOR CLASSES '79-'87 (June 3, 1983), *reprinted in* ASIAN AMERICAN STUDENTS ASSOCIATION (AASA). ASIAN AMERICAN ADMISSION AT BROWN UNIVERSITY Tables 2a, 2b (Oct. 11, 1983) [hereinafter AASA REPORT].

[14] From Class of 1982 to Class of 1990, the number of Asian applicants grew from 307 to 1627, a 430% increase, while the number of Asians admitted to Brown rose from 141 to 245, a 74% increase. BROWN UNIVERSITY, UNDERGRADUATE ADMISSIONS 29 (1987). Asian admit rates from Class of 1985 to Class of 1991 were 19%, 19%, 15%, 19%, 17%, 16%, and 20%. *Id.*

[15] From Class of 1982 to Class of 1991, the Asian admit rates at Harvard were 12%, 15%, 15%, 14%, 13%, 14%, 13%, 12%, 11%, and 12%. In contrast, the Caucasian rates were 17%, 16%, 15%, 16%, 18%, 19%, 18%, 17%, 18%, and 16%, an average of four percentage points higher than the Asian rates. HARVARD REPORT, *supra* note 10, at Table 4. *See infra* note 71.

[16] Between 1982 and 1985, "Asian-American applicants to Stanford had admission rates ranging between 66 percent and 70 percent of admission rates for whites." STANFORD UNIVERSITY, 1985-86 ANNUAL REPORT OF THE COMMITTEE ON UNDERGRADUATE ADMISSIONS AND FINANCIAL AIDS 5 (1986), *reprinted in* The Stanford University Campus Report, Nov. 12, 1986, at 14, col. 2 [hereinafter CUAFA REPORT].

[17] AUDITOR GENERAL'S REPORT, *supra* note 8, at P-722, S-4.

[18] *Id.* at 9-15.

[19] *Id.*

[20] OFF. OF INSTITUTIONAL RESEARCH AND OFF. OF STUDENT RESEARCH, CAMPUS STATISTICS FOR THE UNIV. OF CAL. AT BERKELEY FALL 1987, at 1-2 (1987).

[21] AUDITOR GENERAL'S REPORT, *supra* note 8, at 48.

[22] According to the admissions criteria established by the state legislature, 15.8% of 1986 Caucasian high school graduates, compared to 32.8% of Asian graduates, were eligible for freshmen admissions to the U.S. system. CALIFORNIA POSTSECONDARY EDUCATION COMMISSION, ELIGIBILITY OF CALIFORNIA'S 1986 HIGH SCHOOL GRADUATES FOR ADMISSION TO ITS PUBLIC UNIVERSITIES 15 (Mar. 21, 1988). *See infra* text accompanying notes 113-14.

[23] HARVARD REPORT, *supra* note 10, at Table 2. Harvard's academic ratings are based on high school grades, recommendations, essays, and standardized test scores. *Id.* at 8. Stanford bases its academic ratings on grades, rigor and quality of high school programs, and test scores. A confidential study found that even when the academic ratings of Asians and Caucasians are equal, Asians are admitted at a lower rate. STANFORD UNIVERSITY, CUAFA SUBCOMMITTEE REPORT ON ASIAN-AMERICAN ADMISSIONS Table 5 (Feb. 23, 1986) [hereinafter CUAFA SUBCOMMITTEE] (on file with author).

[24] *E.g.*, "The primary criterion for admission is academic excellence." STANFORD TODAY, *supra* note 8, at 108.

[25] The decision-making process at HARVARD relies on academic qualifications and "personal qualities and character." HARVARD UNIVERSITY, OFFICIAL REGISTER OF HARVARD UNIVERSITY 1988-89, at 19 (1988) [hereinafter HARVARD REGISTER]. Stanford relies on "academic excellence" and "personal achievement." STANFORD TODAY, *supra* note 8, at 108. Brown requires high school counselors to evaluate candidates on the basis of "intellectual ability and achievement," and "character and personality." BROWN UNIVERSITY, APPLICATION TO THE COLLEGE 2A (1988-89) [hereinafter BROWN APPLICATION].

[26] "An applicant's intended major is not taken into account when we make our admissions decisions." STANFORD TODAY, *supra* note 8, at vi. "[A] student's academic preference does not limit his chances for admission." HARVARD REPORT, *supra* note 10, at 10. "University policy dictates that no candidate for admissions be denied solely on the basis of the degree program for which he or she seeks consideration." BROWN APPLICATION, *supra* note 25, at 16.

[27] CUAFA SUBCOMMITTEE, *supra* note 23, at Table 8.

[28] "The vast majority of Asian-Americans applying here, 70 to 75 percent, are premedical students," according to Brown's Director of Admissions. "The question is not one of race, it's academic balance." *Asian-Americans Question Ivy League's Entry Policies*, N.Y. Times, May 30, 1985, at B1, col. 3. Brown's internal statistics reveal that only 39 percent of Asian applicants for the Class of 1986 were premedical students. AASA REPORT, *supra* note 13, at Table 7.

[29] Brown Daily Herald, May 8, 1986, at 10, col. 3.

[30] BROWN UNIVERSITY, REPORT TO THE CORP. COMM. ON MINORITY AFFAIRS FROM ITS SUBCOMM. ON ASIAN AMERICAN ADMISSIONS 3 (Feb. 10, 1984) [hereinafter COMA REPORT].

[31] *When Being Best Isn't Good Enough*, L.A. Times, July 19, 1987, (Magazine), at 28.

[32] The disparity in admit rates between Asian and Caucasian Engineering applicants varied from a high of 10.7 percent in 1983, to a low of 2.2 percent in 1987. AUDITOR GENERAL'S REPORT, *supra* note 8, at 58-65.

[33] Statistics from UCLA also reveal that the Asian admit rate to the School of Engineering is consistently lower than the Caucasian admit rate, Nakanishi, *supra* note 4, at 22.

[34] Biemiller, *Asian Students Fear Top Colleges Use Quota System*, Chroncile Higher Educ., Nov. 19, 1986, at 34.

[35] COMA REPORT, *supra* note 30, at 9.

[36] CUAFA SUBCOMMITTEE, *supra* note 23, at Table 5.

[37] A Department of Education study of 58,000 high school students found that 13 percent of Asian Americans participated in band or orchestra compared to 14 percent of Caucasians. The rates for debating or drama were 9 percent and 13 percent, respectively. Asians, however, had higher participation rates for sutdent government (21 percent versus 16 percent for Caucasians) and honorary clubs (28 percent versus 17 percent for Caucasians). PENG, SCHOOL EXPERIENCES AND PERFORMANCE OF ASIAN-PACIFIC AMERICAN HIGH SCHOOL STUDENTS TABLE 9 (1984) (U.S. Dept. of Education publication). Profiles of SAT candidates also indicated that "Asian-American students [were] more likely to participate in social, ethnic, or community organizations" than other SAT candidates. THE COLLEGE BOARD, PROFILES COLLEGE-BOUND SENIORS, 1985, at xix [hereinafter 1985 SAT PROFILES].

[38] COMA REPORT, *supra* note 30, at 4.

[39] *Id.*

[40] Children of alumni, and at times faculty, are categorized as legacies and receive preferences in the admissions process.

[41] CUAFA REPORT, *supra* note 16, at 14, col. 2.

[42] "[D]escriptions of 'focused interest,' especially in science or engineering, might be interpreted positively when applied to whites ('the student delves deeply into one topic and learns it thoroughly'), and negatively when applied to Asian Americans ('the student has narrow interests'). *Id.* at 14, col. 3.

[43] *Id.* After the extensive study, Stanford's Asian admit rates, which were previously only 65% to 70% of Caucasian admit rates, rose to 89% of Caucasian rates for the Class of 1990. Bunzel & Au, *Diversity or Discrimination? Asian Americans in College*, PUB. INTEREST, Spring 1987, at 61.

[44] According to Title VI regulations issued by the Department of Education, recipients of federal funding may not "utilize criteria or methods of administration which have *the effect* of subjecting individuals to discrimination because of their race, color, or national origin, or have *the effect* of defeating or substantially impairing the accomplishment of the objectives of the program as respect to [sic] individuals of a particular race, color, or national origin." 34 C.F.R. § 100.3(b)(2) (1987) (emphasis added). Other sources of federal funding use identical language in their regulations. *See, e.g.*, 45 C.F.R. § 611.3(b)(2) (1986) (NSF); 45 C.F.R. § 1110.3(b)(2) (1986) (NFAH); 14 C.F.R. § 1250.103-2(b) (1987) (NASA).

[45] "No state shall . . . deny to any person within its jursidiction the equal protection of the laws." U.S. CONST. amend. XIV, § 1. Enforcement actions against public institutions should be brought under 42 U.S.C. § 1983 (1981).

[46] "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." Civil Rights Act of 1964, § 601, 42 U.S.C. § 2000d (1982). *See infra* note 64.

[47] Thus, a suit against a private university that receives federal funds would be based on Title VI and Title VI regulations. A suit against a public university, in contrast, would be filed under the equal protection clause, Title VI, and Title VI regulations. This Note does not address the alternative of seeking administrative review under Title VI. *See* 34 C.F.R. § 100.7-8 (1987).

[48] 323 U.S. 214 (1944).

[49] *Id.* at 223.

[50] U.S. COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS, PERSONAL JUSTICE DENIED 283-89 (1982).

[51] Since the 1850's, Asian Americans have been repeatedly subjected to state-sponsored discrimination. *See, e.g.*, Yick Wo v. Hopkins, 118 U.S. 356 (1886) (San Francisco laundry ordinance held unconstitutional); Queue Ordinance (1871) (cropping hair of every male prisoner contrary to Chinese customs); Cubic Air Ordinance (1870) (requiring lodging houses to provide space exceeding average footage in Chinatown); Chinese Head Tax (1852) (taxing all Chinese over age 18 who were not already paying a tax). *See* E. SANDMEYER, THE ANTI-CHINESE MOVEMENT IN CALIFORNIA 50-55 (1939). In People v. Hall, 4 Cal. 399 (1854), Chinese were prohibited from testifying against caucasians in either civil or criminal proceedings; thus, crimes perpetuated against Chinese residents went unpunished if no Caucasian would act as a witness. At the federal level, immigration laws deemed Chinese and Japanese immigrants "aliens ineligible for citizenship" and excluded immigrants from both nations. *See* E. SANDMEYER, *supra*, at 96-105; Hune, *supra* note 6, at 283-86. In education, the "separate but equal" doctrine for Asian Americans in education was sanctioned by the United States Supreme Court in Gong Lum v. Rice, 275 U.S. 78 (1927). States such as California did not repeal statutes segregating Asian students until 1947. Guey Heung Lee v. Johnson, 404 U.S. 1215 (1971). *See* V. LOW, THE UNIMPRESSIBLE RACE: A CENTURY OF EDUCATIONAL STRUGGLE BY THE CHINESE IN SAN FRANCISCO (1982). Recent incidents of violence directed against Asian Americans, while non state-sponsored, indicate the persistence of anti-Asian sentiments in the United States. U.S. COMMISSION ON CIVIL RIGHTS, RECENT ACTIVITY AGAINST CITIZENS AND RESIDENTS OF ASIAN DESCENT (1986).

[52] In 1926, Harvard reduced its Jewish enrollment from about 25-27% to about 10-16%, and the Committee on Admissions continued to make references to "the quota" in 1942. M. SYNNOTT, THE HALF OPENED DOOR: DISCRIMINATION AND ADMISSIONS AT HARVARD, YALE, AND PRINCETON, 1900-1970, at 20, 112 (1979); D. OREN JOINING THE CLUB: A HISTORY OF JEWS AND YALE (1985).

[53] President Lowell of Harvard argued for controlled racial mixing so that Jews, "a group which is not easily assimilated," would not undermine the position of old-stock Americans in the college and threaten college traditions. M. SYNNOTT, *supra* note 52, at 57, 59, 64. Admissions officers today point to "conflicts between the cultural patterns of Asian families and the educational traditions and administrative goals of American colleges." Biemiller, *supra* note 34, at 1.

[54] During the congressional debates, it was unclear whether Title VI was meant to incorporate the constitutional standard for discrimination or whether it relied on some other philosophical grounds. The final political compromise required each federal agency to promulgate regulations for its programs, suggesting that Congress delegated to the agencies the authority to define the meaning of discrimination under Title VI. *See* Abernathy, *Title VI and the Constitution: A Regulatory Model for Defining "Discrimination,"* 70 Geo. L.J. 1, 20-39 (1981); *Civil Rights, Hearings on HR 7152 Before the House Comm. on the Judiciary*, 88th Cong., Sess. 1520-21, 1890, 2740 (1963).

[55] 414 U.S. 563 (1974) (failure of school system to provide English instruction to non-English speaking Chinese students denies meaningful opportunity to participate in public educational programs in violation of Title VI).

[56] "Discrimination is barred which has that *effect* even though no purposeful design is present . . . . " Id. at 568 (emphasis in original).

[57] Id. at 566-67.

[58] Ironically, Justices Brennan, White, Marshall, and Blackmun, in seeking to uphold the validity of

the university's preferential admissions program, equated the Title VI standard for discrimination with the constitutional standard, thereby requiring proof of intent and narrowing the scope of Title VI protections. *Bakke*, 438 U.S. at 325, 331 (Brennan, White, Marshall, and Blackmun, JJ.).

[59] 463 U.S. 582 (1983).

[60] Id. at 610 (Powell, J., joined by Burger, C.J., and Rehnquist, J., concurring); *id.* at 612 (O'Connor, J. concurring); *id.* at 640-42 (Stevens, J., joined by Brennan and Blackmun, JJ., dissenting).

[61] Id. at 592-93 (opinion of White, J.), *id.* at 618-24 (Marshall, J., dissenting); *id.* at 642-43 (Stevens, J., joined by Brennan and Blackmun, JJ., dissenting).

[62] 469 U.S. 287 (1985) (consideration of § 504 of Rehabilitation Act, which Congress modeled after Title VI, prompted review of scope of Title VI).

[63] Id. at 293 (footnote omitted).

[64] Congress amended the "program or activity" language of Title VI to "mean all the operations [of] . . . a college, university, . . . or a public system of higher education," Civil Rights Restoration Act of 1987, Pub. L. No. 100-259, § 606, 102 Stat. 28-32 (1988). Admissions practices of private universities are part of their overall operations and could fall within the scope of the Act.

[65] *See supra note* 44 and text accompanying notes 62-63. Universities are also prohibited from treating "an individual differently from others in determining whether he satisfies any admissions, enrollment . . or other requirement." 34 C.F.R. § 100.3(b)(1)(1987).

[66] *See* Larry P. v. Riles, 793 F.2d 969 (9th Cir. 1986) (IQ tests with discriminatory effect on enrollment of Black children violated Title VI regulations). Five other circuits have acknowledged the availability of a claim under Title VI regulations, but plaintiffs failed to allege specific practices or policies which caused the disparate impact. Latinos Unidos de Chelsa v. Secretary of Hous., 799 F.2d 774, 784-85 n.20 (1st Cir. 1986) ("under the regulations, plaintiffs must show a discriminatory impact"); Castaneda v. Pickard, 781 F.2d 456, 465 n.11 (5th Cir. 1986) ("Title VI action can now be maintained . . . in the guise of a disparate impact case . . . [where] proof of discriminatory intent is not necessary"); Craft v. Board of Trustees of Univ. of Ill., 793 F.2d 140, 142 (7th Cir.), *cert. denied*, 107 S. Ct. 110 (1986) ("Title VI reached non-intentional discrimination because agency regulations implementing Title VI prohibited the expenditure of federal funds in a manner that had a discriminatory impact"); Mabry v. State Bd. of Community Colleges, 813 F.2d 311, 317 n.6 (10th Cir. 1987) ("a bare majority of the Supreme Court [in *Guardians*] upheld the validity of Title VI regulations incorporating a disparate impact standard"); Georgia State Conference of Branches of NAACP v. State of Ga., 775 F.2d 1403, 1417-18 (11th Cir. 1985) (In *Guardians*, "five Justices were of the opinion that the regulations promulgated under Title VI permit the filing of suits alleging a disparate impact theory").

[67] "All admission officers confirmed that such biases and stereotypes function negatively in the admission process for Asian Americans." COMA REPORT, *supra* note 30, at 4.

[68] "[E]thnic stereotyping might inter-act with subjective ratings in the minds of readers to create an aggregate portrait that is unintentionally detrimental to Asian Americans.", CUAFA REPORT, *supra* note 16, at 14, col. 3.

[69] Yale's Dean of Admissions refers to a "target" system or expected distribution within each freshmen class. *Chang, Yale Dean Defends Policy on Asian Admissions*, BLACK ISSUES IN HIGHER EDUCATION, Nov. 15, 1985, at 6, *cited in* J. HSIA, ASIAN AMERICANS IN HIGHER EDUCATION AND AT WORK 94 (1988).

[70] COMA REPORT, *supra* note 30, at 2-3.

[71] Similar allegations of using benchmarks have been directed at Harvard. Neer, *Harvard Official Denies Allegation that Quota Imposed*, Boston Globe, Dec. 7, 1985, at 23, col. 1. See *supra* note 15 for Harvard admit rates. The U.S. Department of Education is currently investigating the admissions processes at Harvard and UCLA to ensure compliance with the nondiscriminatory provisions of Title VI. *Harvard and U.C.L.A. Face inquiries on Quotas*, N.Y. Times, Nov. 20, 1988, at 28, col.

[72] *See supra* notes 7 & 14 and *infra* note 128.

[73] Larry P. v. Riles, 793 F.2d 969 982 (9th Cir 1986). In the context of Title VII, the Supreme Court recently held that disparate impact analysis may be applied to subjective employment criteria. A plurality opinion, though, stated that only the burden of production, not proof, shifts to the employer. Watson v. Fort Worth Bank & Trust, 108 S. Ct. 2777, 2790 (1988). However, the Court has been reluctant to consider Title VII and Title VI as interchangeable. *See, e.g., Johnson v. Transporation Agency, 107 S. Ct. 1442, 1450 n.6(1987) ("Title VII and Title VI, therefore, cannot be read in pari materia.").*

[74] Harvard and Stanford catalogues specifically refer to the goals of leadership training and student body diversity. HARVARD REGISTER, *supra* note 25, at 19; STANFORD TODAY, *supra note 8, at 108.*

[75] For a summary of studies and criticism of the use of non-academic variables, see R. KLITGAARD, CHOOSING ELITES 134-41(1985).

[76] In 1926, the Harvard Board of Overseers recommended that "the rules for the admission of candidates be amended to lay greater emphasis on selection based on character and fitness and the promise of greatest usefulness in the future." M. SYNNOTT, supra note 52, at 109. President Lowell stated that any test of character "passed with the intent of limiting Jews should not be . . . applicable to Jews and Gentiles alike." Id. at 63.

[77] *Statement on Asian-American Harvard-Radcliffe Admissions*, Harvard Gazette, Jan. 22, 1988, at 5, col. 3; *Asian-Americans Question Ivy League's Entry Policies, supra* note 28, at B4, col. 3 (discussing Princeton). The admit rate for legacies and athletes to Brown's Class of 1991 was 46% and 56% respectively. UNDERGRADUATE ADMISSIONS, *supra* note 14, at 30-31. In contrast, Stanford concluded that "the overrepresentation of whites among special groups such as alumni legacies, faculty/staff children, and athletes did not work to account for the differential rate of admission except in a relatively minor way." CUAFA REPORT, *supra* note 16, at 14, col. 2.

[78] While sports victories are correlated with contributions to the universities' athletic programs, several studies have found that there is "no significant relationship" between wins and increased alumni donations to the universities' general funds. *Do Winning Teams Spur Contributions?*, Chronicle Higher Educ., Jan. 13, 1988, at A32, col. 3.

[79] A plaintiff could, however, allege that alumni preferences "perpetuate past patterns of discrimination," giving preferences to "rich and powerful" groups which include a disproportionately small number of minorities. Dershowitz & Hanft, *Affirmative Action and the Harvard College Diversity-Discretion Model: Paradigm or Pretext*, 1 CARDOZO L. REV. 379, 410 (1979).

[80] *See supra* notes 24-25.

[81] Diversity was initially invoked by Columbia to reduce the number of Jewish students from New York and the Northeast. H. WECHSLER, THE QUALIFIED STUDENT: A HISTORY OF SELECTIVE COLLEGE ADMISSION IN AMERICA 149-50, 153 (1977).

[82] Regents of Univ. of Cal. v. Bakke, 438 U.S. 265, 312 (1978) (Powell, J.).

[83] DeRonde v. Regents of the Univ. of Cal., 28 Cal. 3d 875, 172 Cal. Rptr. 677, 625 P.2d 220, *cert. denied*, 454 U.S. 832 (1981) (minority admissions program at Davis Law School upheld to ensure diversity of student body or to mitigate effects of past discrimination). U.C. successfully argued that "an appreciable minority representation in the student body will contribute [to] a valuable cultural diversity for both faculty and students . . ." 172 Cal. Rptr. at 680, 625 P2d at 223; *see also* McDonald v. Hogness, 92 Wash. 431, 598 P.2d 707, 713 n.8 (1979), *cert. denied sub nom.* McDonald v. Gerberding, 445 U.S. 962 (1980) (university's statement in defense of its minority admissions program reflected "a purpose of promoting diversity in the student body").

[84] One Harvard admissions officer stated, "It is the diversity element that hurts most of the Asian applicants because many who apply are pre-medical, science, technical types." Ho & Chin, *Admissions Impossible*, BRIDGE, Summer 1983, at 8. *See supra* notes 28-33 and accompanying text.

[85] Hassan, *Asian American Admissions: Debating Discrimination*, 142 C. BOARD REV. 18, 43-44 (Winter 1986-87).

[86] *Bakke*, 438 U.S. at 317 (Powell, J.).

[87] *Id.* at 315 (Powell, J.).

[88] *Id.* at 375 (Brennan, White, Marshall, and Blackmun, JJ.). Justice Powell also found this type of "two-track" or "multitrack" system legally impermissible. *Id.* at 315 (Powell, J.). With a limited number of slots available under a particular "track" or quota, Asian Americans compete against each other for positions and are insulated from other segments of the applicant pool; this practice imposes higher standards on Asian applicants than on Caucasian applicants.

[89] Commentators now claim that affirmative action for Blacks and Hispanics accounts for the lower Asian admit rates. Gibney, *The Berkeley Squeeze*, NEW REPUBLIC, Apr. 11, 1988, at 17. If this were the case, the impact of such programs should fall evenly on both Caucasians and Asians, but see *supra* notes 14-17 and accompanying text, unless universities are placing a quota on the total number of minorities admitted, so that increases in Black and Hispanic admissions affect only Asians.

[90] Butterfield, *Harvard's 'Core' Dean Glances Back*, N.Y. Times, June 2, 1984, at 8, col. 8 (quoting Dean Rosovsky).

[91] In 1985, 70% of Asian American 18-year-olds took the SAT, compared to 30% of Caucasian 18-year-olds, and 28% of all 18-year-olds. 1985 SAT PROFILES, *supra* note 37, at vii. While test-taking rates do not indicate the number of applicants to each institution, they do provide a more accurate picture of the college-age population or potential applicants than the U.S. census.

[92] Harvard no longer uses "overrepresentation" to reduce its 25-33% Jewish student population down to the 3% that Jews represent in the general population, nor does it limit the numbers of alumni children to their overall national representation. For a similar observation, see AASA REPORT, *supra* note 13, at 20.

[93] In 1924, Princeton decided not to accept any more than the percentage of Jews in the national population, roughly three percent, and used this quota to reduce by half the number of Jewish students admitted. M. SYNNOTT, *supra* note 52, at 20.

[94] Hune, *supra* note 6, at 283. Since historically Asian immigrants were excluded from America, or restricted to an annual quota of 100 per country, the growth and current size of the Asian American population has been artificially constrained.

[95] Personnel Adm'r v. Feeney, 442 U.S. 256, 279 (1979).

[96] Binion, *"Intent" and Equal Protection: A Reconsideration*, 1983 SUP. CT. REV. 397 (criticizing Supreme Court's use of intent to narrow protection provided by equal protection clause).

[97] Arlington Heights v. Metropolitan Hous. Dev. Corp., 429 U.S. 252, 266 (1977).

[98] *Id.* at 266-68. Rogers v. Lodge, 458 U.S. 613 (1982), and Hunter v. Underwood, 471 U.S. 222 (1984), provide additional guidance on how the intent requirement can be satisfied in the context of racial discrimination. The *Rogers* Court upheld the district court determination that the at-large electoral system, though "neutral in origin," was maintained for invidious purposes. 458 U.S. at 626-27. The *Hunter* Court found that a section of the Alabama Constitution would not have been adopted "in the absence of racially discriminatory motives." 471 U.S. at 231-32. Both cases reaffirmed the standards used in *Arlington Heights* and Washington v. Davis, 426 U.S. 229 (1976), recognizing that "discriminatory intent need not be proved by direct evidence" but can be "inferred from the totality of the relevant facts." *Rogers*, 458 U.S. at 618.

[99] ASIAN AMERICAN TASK FORCE ON UNIVERSITY ADMISSIONS, TASK FORCE REPORT 6 (June 17, 1985) (Univ. of Cal., Berkeley). The percentage of Chinese American freshmen enrolled dropped 30% from 1983 to 1984, while the number of Caucasian freshmen declined only 6%. BERKELEY OFFICE OF THE CHANCELLOR, REPORT ON 1984 ENROLLMENTS OF CHINESE STUDENTS 1 (Dec. 5, 1984) [hereinafter 1984 ENROLLEMENTS OF CHINESE STUDENTS].

[100] A 1983 Berkeley report found that over a five year period, the mean SAT verbal scores of immigrant freshmen who were predominately Asian oscillated around 400, a score at least 100 points lower than all other accepted applicants. N. Tang, Immigrant & Refugee Students Project Report and Recommendations: 1983-84, at Table 3 (Mar. 22, 1983) (unpublished report) (on file with author).

[101] 1984 ENROLLMENTS OF CHINESE STUDENTS, *supra* note 99, at 1.

[102] Aoki, *Asians Question UC Admissions Policy*, CAL. J. June 1988, at 259.

[103] Personnel Adm'r v. Feeney, 442 U.S. 256, 279 n.25 (1979).

[104] Lye, *On the Asian Question*, BERKELEY GRADUATE, Dec. 1987, at 3-4.

[105] Adopted in the 1960's, EOP protects economically and educationally disadvantaged high school students who are U.C. eligible from being rejected or redirected to other U.C. campuses.

[106] 1984 ENROLLMENTS OF CHINESE STUDENTS, *supra* note 99, at 2.

[107] L. Wang, Meritocracy and Diversity in Higher Education: Discrimination Against Asian Americans in the Post-*Bakke* Era 15 (Nov. 19, 1987) (unpublished paper presented at Brown University) (on file with author).

[108] "The number of Asian EOP applicants who were offered admission dropped from 183 of 197 (92.9 percent) in 1983 to 58 of 167 (34.7 percent) in 1984. Similarly, the number of Caucasians who were offered admission dropped from 41 of 45 (91.1 percent) in 1983, to 29 of 61 (47.5 percent) in 1984." AUDITOR GENERAL'S REPORT, *supra* note 8, at 48.

[109] Berkeley's internal data show that 41% of Asian immigrant freshmen and 18% of all Asian freshmen, compared to 5% of Caucasian freshmen, came from families with parental incomes under $20,000 (definition of economically disadvantaged under EOP) BERKELEY OFF. OF STUDENT RESEARCH, 1985 ENTERING FALL FRESHMEN WITH LOW AND MODERATE ESTIMATED ANNUAL PARENTAL INCOME (Oct. 29, 1986).

[110] Washington v. Davis, 426 U.S. 229, 242 (1976).

[111] Justice O'Connor, a swing vote on the Court, has suggested in the context of a Title VII reverse discrimination case that overwhelming numbers are required. At the Santa Clara County Transportation Agency, only 12 of 124 technicians, no skilled craft workers, and 1 of 110 road maintenance workers were women. Justice O'Connor deemed the severe statistical disparities sufficient to establish a violation of the equal protection clause, thus permitting the Agency to voluntarily adopt an affirmative action plan. Johnson v. Transportation Agency, 107 S. Ct. 1442, 1462-63 (1987) (O'Connor, J., concurring). The *Johnson* majority disagreed with Justice O'Connor, stating that they would only require a showing of "manifest imbalance" before upholding the affirmative action plan. 107 S. Ct. at 1452. It may be inferred, however, that all members of the Court would require more than a "manifest imbalance" in order to support an equal protection claim.

[112] "Departures from the normal procedural sequence also might afford evidence that improper purposes are playing a role." Arlington Heights v. Metropolitan Hous. Dev. Corp., 429 U.S. 252, 267 (1977).

[113] *When Being Best Isn't Good Enough*, *supra* note 31, at 25.

[114] AUDITOR GENERAL'S REPORT, *supra* note 8, at 50.

[115] *Asian Task Force Meets with UC President Gardner*, East/West News, Mar. 19, 1987, at 1, col. 2.

[116] *UC Fee Formula was Born of Student Fear of Huge Hikes*, San Diego Union, Dec. 21, 1986, at C-7. The research coordinator for U.C. admissions services also stated that "Asians are overrepresented by almost three times their high-school population." Biemiller, *supra* note 34, at 36. Finally, Berkeley's Assistant Vice Chancellor warned that "if we keep getting extremely well-prepared Asians, and we are, we may get to the point where Whites will become an affirmative-action group." Bunzel, *Affirmative-Action Admissions: How It "Works at UC Berkeley*, PUB. INTEREST, Fall 1988, at 127.

[117] "The campus will endeavor to curb the decline of Caucasian stendents. . . . A rising concern will come from Asian students and Asians in general as the number and proportion of Asian students entering in the freshman level declines—however small the decline may be." Memo from Rae Lee Siporin, UCLA Director of Admissions to Undergraduate Enrollment Committee (Dec. 10, 1984) (on file with author).

[118] "[A]n invidious discriminatory purpose may often be inferred from the totality of the relevant facts, including the fact, if it is true, that the law bears more heavily on one race than another." Washington v. Davis, 426 U.S. 229, 242 (1976).

[119] *Id.* at 241 (quoting Alexander v. Louisiana, 405 U.S. 625, 632 (1972)).

[120] *See supra* notes 77-80, 90-94 and accompanying text.

[121] Arlington Heights v. Metropolitan Hous. Dev. Corp., 429 U.S. 265 (1977).

[122] Hunter v. Underwood, 471 U.S. 222, 232 (1984).

[123] For a comprehensive analysis of structural injunctions, see Special Project, *Remedial Process in Institutional Reform Litigation*, 78 COLUM. L. REV. 784 (1978). For scholarly discussions of the dynamics of structural injunctions, see O. FISS, CIVIL RIGHTS INJUNCTIONS 8-37 (1978); Diver, *Judge as Political Powerbroker: Superintending Structural Change in Political Institutions*, 65 VA. L. REV. 43, 52-53, 72-86 (1979).

[124] Where the suit involves public universities, legislative action can supplement judicial action. Relief sought in a suit against Berkeley, for example, will be affected by Assembly Concurrent Resolution 70, adopted by the California legislature in September 1987, which called for each U.C. campus to: describe its exact admissions policies in its catalogues, create an advisory committee of community members, and ensure multi-ethnic representation on the academic senate committees governing admissions. Aoki, *supra* note 102, at 261. The California legislature has no direct control over the U.S. system. CAL. CONST. art. IX, § 9. However, in adopting California Senate Resolution No. 2126 on March 24, 1988, the legislature exercised its oversight and budgetary powers to create a special committee to investigate Asian admissions at Berkeley and U.C. admissions in general. The senate committee's findings are likely to influence any judicial proceedings involving Berkeley.

[125] The conflict will be more effectively resolved in the long run if defendant university participates in drafting the order and shaping the remedies. Parties in *Lau v. Nichols* jointly appointed a task force comprised of school board members, minority community leaders, and educators to study implementation plans. The San Francisco School Board, defendants in *Lau*, provided funding to hire experts and design future bilingual education programs in compliance with Title VI regulations. Lau v. Nichols, No. 72-6520 (N.D. Cal. May 1974) (consent decree).

[126] Damages are available in a suit based on the equal protection clause or Title VI itself. However, the Supreme Court has not conclusively determined the nature of the relief available in a suit based on title VI regulations. In *Guardians*, four Justices agreed that both compensatory and prospective relief would be available for intentional and unintentional discrimination. Guardians Ass'n. v. Civil Serv. Comm'n 463 U.S. 582, 635-39 (1983) (Stevens, J., joined by Brennan and Blackmun, JJ., dissenting); *id.* at 625-34 (Marshall, J., dissenting). Justice White, joined by Justice Rehnquist, asserted that compensatory or "make whole" remedies would not be appropriate without a showing of discriminatory intent. *Id.* at 596 (opinion of White, J.). The crucial vote, Justice O'Connor, *disagreed* with "the limitations that Justice White's opinion would place on the scope of equitable relief available to private litigants suing under Title VI," but since she concluded that Title VI required proof of intentional discrimination, she did not discuss the availability of monetary relief. *Id.* at 612 & n.1 (O'Connor, J., concurring). Three circuits have suggested, when discussing § 504 of the Rehabilitation Act, that only prospective relief is available in a suit filed under Title VI regulations. *See* Manecke v. School Bd., 762 F.2d 912, 922 n.8 (11th Cir. 1985) ("at least five Justices would not allow *compensatory* relief to a private plaintiff under Title VI absent proof of discriminatory intent") (emphasis in original); Marvin H. v. Austin Indep. School Dist., 714 F.2d 1348, 1357 (5th Cir. 1983) (no damages available absent intentional discrimination); Timms v. Metropolitan School Dist., 722 F.2d 1310, 1318 n.4 (7th Cir. 1983) (Title VI "has been held not to require proof of intentional discrimination except as a basis for compensatory relief"). For a Title VI case, see Craft v. Board of Trustees, 793 F.2d 140, 142, *cert. denied*, 107 S. Ct. 110 (1986) ("compensatory relief under section 2000d [of Title VI] requires proof of discriminatory intent").

[127] *See supra* notes 69-72 and accompanying text.

[128] Benchmarks can be used for both positive and negative purposes. If the court finds at trial the benchmarks have been used to impose a quota or ceiling on Asians, such uses should be eliminated, but progressive uses may still be permitted.

[129] This remedy may not only be appropriate at universities with a higher than threshold percentage of Asian applicants, a figure to be determined by the court. The Asian recruitment coordinator position should be filled by someone with an understanding of Asian cultural norms and familial backgrounds.

[130] "For each candidate, an 'advocate' on the committee present[s] the case for acceptance," and the committee's perception of the applicant is strongly shaped by the force of that presentation. R. KLITGAARD, *supra* note 75, at 30.

[131] For a summary of studies on cultural differences, see Sue & Sue, *Cultural Factors in the Clinical Assessment of Asian Americans*, 55 J. CONSULTING & CLINICAL PSYCHOLOGY 479, 481-82 (1987); Sue, Ino & Sue, *Nonassertiveness of Asian Americans: An Inaccurate Assumption?*, 30 J. COUNSELING PSYCHOLOGY 581, 586 (1983).

[132] For a discussion of the need for ascertainable standards in admissions, see Gellhorn & Hornby, *Constitutional Limitations on Admissions Procedures and Standards—Beyond Affirmative Action*, 60 VA. L. REV. 975, 1002-06 (1974).

[133] Compliance reports are a common requirement in institutional reform litigation. *See* Special Project, *supra* note 123, at 824.

[134] Such requirements would be similar to those instituted on remand by the district court, which required the *Lau* school board to submit to the court and to plaintiffs' attorney an annual publication describing its progress in providing bilingual education to San Francisco area school children. Lau v. Nichols, No. 72-6520 (N.D. Cal. May 1974) (consent decree).

BROWN UNIVERSITY,
Providence, RI, November 30, 1988.

STATEMENT ON ASIAN-AMERICAN ADMISSIONS BY ERIC WIDMER, DEAN OF ADMISSION AND FINANCIAL AID

At Brown, the question of how we managed the admission of Asian-American students came up most pointedly two years ago, when the number of Asian-American applicants increased over the previous year by almost a hundred, but the selection percentage decreased by two percentage points and the matriculation percentage also declined, so that we ended up with 17 fewer Asian-Americans in the Class of 1990 than we had in the Class of 1989. To Asian-American students at Brown at the time, this suggested the chilling possibility that Asian-American applicants were being discriminated against. Since then, discussion at Brown (and elsewhere, I imagine) has centered upon the following questions.

1. Do we discriminate against Asian-American applicants for admission on any illegal basis? (Obviously those candidates who are denied by Brown feel discriminated against, but no one questions our institutional right to deny five students for every one whom we admit).

2. In deciding for or against an Asian-American applicant, we are consciously or not, applying any stereotypical considerations?

3. Are Asian-American applicants competing against each other because the majority of them appear to be in the pre-med applicant group?

4. Is it fair to expect that the numbers of admitted Asian-American students will go up as their application numbers rise?

5. Is it appropriate to apply the all-college admit grade (which at Brown is 20 percent) as a standard for the selection percentage of any sub-group within the total applicant pool?

6. Finally, if all these questions are resolved satisfactorily, there still remains this one: by the various ways that colleges and universities in this country define everything from their overall enrollment goals to the generalized characteristics of the students whom they aspire to admit, is any law being broken? Are any invidious distinctions being made? Is unfair discrimination occurring?

At Brown, the number of Asian-American applicants declined somewhat this past year. The selection percentage was one point off of the all-college admit-rate, up four percentage points from two years ago. We have 134 Asian-American freshman as a result, the largest number yet, or 9.6 percent of the freshman class. Because the questions listed above are always under active discussion, I expect that if the number of applications from Asian-American students goes up, and if the quality of

the Asian-American applicant pool remains constant, we would see an increase in the number of matriculating Asian-American students at Brown. And given our attention to these questions, that might well be the case even if applications do not increase.

EQUALITY AND JUSTICE IN HIGHER EDUCATION, HENRY DER, EXECUTIVE DIRECTOR, CHINESE FOR AFFIRMATIVE ACTION, BEFORE ASIAN AND PACIFIC AMERICAN ISSUES SEMINAR, UNITED STATES SENATE, WASHINGTON, DC, NOVEMBER 28, 1988

Minorities and women recognize that access to higher education is a critical factor in the struggle to achieve equality in American society. As the cost to attend a private college has gone beyond the economic reach of many qualified students, admission as a freshman student to a public university has become an economic necessity for many high school graduates, especially low-income persons.

With the passage of Title VI of the Civil Rights Act of 1964, institutions of higher learning which receive federal funding have the responsibility to provide equal educational opportunities on a non-discriminatory basis without regard to race, ethnicity, or sex. The California State Legislative enacted Assembly Concurrent Resolution 151 in 1974 to prod the University of California to recruit and admit underrepresented minority high school graduates (blacks, Hispanics, and American Indians) as freshman students. Since then, the University of California has implemented a student affirmative action program to include underrepresented minority students so that members of the black, Hispanic and American Indian communities will achieve a higher education experience and skills to be leaders in their respective communities and society as a whole.

California's Master Plan for Higher Education calls for the University of California to serve the top one-eighth of the state's high school graduates. To be eligible for the UC, high school students must meet a subject requirement (1 year of history, 4 years of English, 3 years of mathematics, 1 year of laboratory science, 2 years of foreign language, 4 years of college preparatory electives), a scholarship requirement of 3.3 grade point average, and an examination requirement.

Among all racial/ethnic groups including whites, Asian American high school seniors have achieved the highest eligibility rate for freshman admission at the University of California. According to the California Postsecondary Education Commission, 32.8 percent of all 1986 Asian American public high school graduates were eligible for admission to the University of California; whites, 15.8 percent; blacks, 4.5 percent; Hispanics, 5.0 percent. Between 1983 and 1986, Asian American high school graduates achieved the highest percentage point gain in UC-eligibility. In 1983, 26 percent of Asian American high school graduates were UC-eligible. During this same period, blacks achieved a 0.9 percent percentage point gain. For Hispanics and whites, their respective eligibility rate stayed the same between 1983 and 1986.

In 1984, 8.9 percent of all high school graduates were Asian Americans. Because of their high UC-eligibility rate, Asian Americans high school graduates then constituted 17.3 percent of all UC-eligible high school seniors, or 5,373 out of a total of 31,455 UC eligibles. By 1987, Asian Americans grew impressively to 24.3 percent of all UC-eligible high school graduates, or 8,268 out of a total of 34,087 UC-eligibles. (During this same period, the number of UC-eligible white high school dropped from 22,890 in 1984 to 22,500 in 1987.)

Because UC-eligible Asian American high school seniors have applied for freshman admission to UC in significant numbers, the University of California has never included Asian Americans in its student affirmative action programs. Asian American high school seniors must compete with their white counterparts for the non-protected, regularly-admissible freshman enrollment slots.

There are eight undergraduate campuses within the University of California system; Berkeley, UCLA, San Diego, Santa Barbara, Santa Cruz, Irvine, Riverside and Davis. Campuses like Berkeley and UCLA have attracted historically some of the most competitive academic students who also qualify easily for admission to the Ivy League schools and other national universities and colleges. UC Berkeley's outstanding record of 12 Nobel laureates, 782 Guggenheim fellows, 51 National Science Foundation Presidential Young Investigators, and being the greatest producer of college students who go on to achieve doctorates commands the respect and interest of the most competitive of UC-eligible applicants.

Situated in a region where there is a large concentration of Asian Americans, UC Berkeley represents access to quality higher education for many low-income, immigrant Asian American students. Because of economic necessity, it is not uncommon for Bay Area Asian American students to commute daily to the UC Berkeley campus.

Prior to the 1980's, each of the eight UC undergraduate campuses could accommodate generally all non-protected and underrepresented applicants in its freshman class. Between 1985 and 1987 though, freshman applicants doubled at selective UC campuses like Berkeley and UCLA. In spite of the increased demand for freshman admissions, both Berkeley and UCLA have not expanded the size of their respective freshman class. Consequently, Berkeley and UCLA have instituted the use of subjective criteria to screen in/out Asian American and white applicants for the competitive, regularly admissible slots while maintaining their affirmative action programs to include underrepresented minority students.

Underrepresented minority communities believe rightfully that the University of California has not done enough to recruit and admit black, Hispanic and American Indian students. Once admitted as freshmen, underrepresented minority students strongly believe that the University of California has been negligent in not providing adequate retention and other supportive services for successful attainment of a baccalaureate degree.

Asian American applicants fear the institutionalization of admission quotas at the selective UC campuses and the use of subjective criteria in freshman admission decisions. UC Berkeley selects only 40 percent of its freshman admittees based solely on grades and test scores. (Please refer to the chronology listed below of the struggle of the Asian American Task Force on UC Admissions to oppose freshman admission quotas against Asian American applicants.)

Numerous white families have expressed both fear and anger to the UC President's Office about the declining enrollment of white students at the selective, competitive UC campuses. These families have raised objections about UC's affirmative action programs for underrepresented students. Many families also believe wrongfully that Asian American applicants are benefitting from UC's affirmative action program.

The total number of freshman admission opportunities is finite. This UC freshman admission dilemma raises numerous public policy questions and considerations:

How does society parcel out limited, "prized" opportunities to population groups that have distinctly different needs and histories?

What does "equality in higher education" mean for underrepresented group members? For Asian American and white students who compete against each other for regularly-admissible freshman enrollment slots?

As the Master Plan for Higher Education calls for the University of California to serve the top one-eighth of the State's high school graduates, what should be the numerical balance between underrepresented students and those who are admitted on a competitive basis? The number of white athletes and other white students who are guaranteed admission to UC Berkeley equals the number of black students admitted on an affirmative action basis. Should protection or "affirmative action" be extended to white students?

Are grades and test scores (meritocracy) still a viable means to screen in/out competitive students? What role, if any at all, should subjective considerations play in a "traditionally meritocratic" institution?

The UC Board of Regents has adopted a resolution which calls on each of its eight undergraduate campuses to enroll a student body that, "beyond meeting the University's eligibility requirements, demonstrates high academic achievement or exceptional personal talent, and that encompasses the broad diversity of cultural, racial, geographic socio-economic backgrounds characteristic of California." In order to achieve this desired "diversity," should society distribute these educational opportunities through traditional merit, proportional racial/ethnic representation, a "lottery system" for all eligible applicants and/or a combination of these factors?

As the public student body of a state like California becomes more ethnically and racially diverse and as Asian Americans demonstrate its ability in certain instances to go beyond affirmative action, does the notion of "diversity" become a strategic defense for whites to maintain a minimum level of representation in highly competitive, national universities and colleges?

There are numerous indicators that certain segments of white American society are ill-prepared or maybe unwilling to acknowledge or accept the reality that members of a racial/ethnic minority group(s) have the ability, drive and stamina to compete vigorously for highly-prized opportunities in higher education. Access to higher education has provided traditionally one of the most effective means to gain socio-economic mobility and to attain leadership responsibilities in American society. The strong desire of and work on the part of many Asian American students to be admitted to numerous highly-competitive, national universities and colleges severely test the willingness and commitment of American society to abide by objective standards and qualifications.

For underrepresented minority students, colleges and universities must continue to provide "equal educational opportunities" through necessary student affirmative action programs and strategies. As many go

beyond the need for affirmative action assistance, Asian American students challenge institutions of higher learning to establish "equal educational opportunity" as fair, open competition without any discriminatory, subjective impediments to hold constant or suppress the presence of Asian Americans in higher education.

ASIAN AMERICAN STRUGGLE FOR FAIRNESS IN HIGHER EDUCATION: HIGHLIGHTS OF ASIAN AMERICAN TASK FORCE ON UC ADMISSIONS, 1984-88

Fall 1984: Asian American freshman enrollment at University of California at Berkeley experiences a sharp, unexpected decline. Compared to Fall 1983, Asian American freshman enrollment in Fall 1984 drops by 21 percent; in particular, Chinese American freshman enrollment experiences an alarming 28 percent drop; white freshman enrollment declines only 5 percent.

The disproportionate decline in Asian American freshman enrollment contradicts UC Berkeley administration's earlier projections that, throughout the 1980's, Asian American freshman enrollment will increase at a steady rate and will reach easily ⅓ of the undergraduate population by the end of the decade.

Compared to whites and other ethnic/racial groups, Asian American high school graduates have achieved the highest UC eligibility rate. 26 percent of all Asian American public high school graduates in 1983 are eligible for UC freshman admissions; whites, 15.5 percent.

November 1984: Asian American civil rights groups and community representatives form the Asian American Task Force on UC Admissions to investigate, study and monitor the admissions policies and procedures of UC Berkeley. S.F. Municipal Court Judge Lillian Sing and Alameda County Superior Court Judge Ken Kawaichi are co-chairs of the Asian American Task Force. Task Force is very concerned about the institutionalization of subjective criteria in freshman admission considerations for Fall 1985 and subsequent years.

During the next five months, Task Force gathers statistical information about Fall 1984 freshman admittees and analyzes changes in admissions policies. Task Force begins a series of meetings with UC Berkeley officials. Task Force confronts administration officials about the imposition of a minimum 400 score on SAT verbal test to screen out eligible Asian American permanent resident alien applicants. University officials initially deny any such policy existed. Later on, administration officials reveal that there was discussion about imposing a minimum 400 score on SAT verbal test to, but this requirement was never implemented against Asian American applicants.

June 1985: Task Force issues its reports and finds that the sharp decline in Asian American freshman enrollment in Fall 1984 resulted from unilateral, undisclosed changes in freshman admission policies by UC Berkeley admission officials. Specifically, Task Force charges that UC Berkeley admission officials:

Imposed a minimum 400 score on SAT verbal test to deny admission to eligible Asian American immigrant freshman student applicants;

Unexpectedly ceased freshman admission consideration for low-income, first-generation-collegiate Asian American applicants; rejected these eligible Asian applicants and redirected them to other UC campuses; these low-income Asian American students did not enroll in significant numbers at other UC campuses because of the economic barriers in attending a campus far from home;

Did not include Asian American faculty and staff members in the discussion, adoption and implementation of freshman admission policies; did not publicize to affected Asian American applicants changes in freshman admission policies.

July 1985: UC Berkeley officials issue a response to the Task Force Report and disputes the findings of the Task Force. UC Berkeley reaffirms its "strong commitment to serving Asian students and encouraging their participation in higher education."

1986: National, state and local press discuss the allegations of the Asian American Task Force.

December 1986: In an interview with San Diego newspapers, UC President David Gardner cites how the enrollment of Asian Americans at UC and other racial imbalances are causing unrest among some groups, including whites who are experiencing a decline in representation. President Gardner suggests that the State Legislature should reconsider state legislation enacted in 1974 which called for UC undergraduate enrollment to reflect the racial and ethnic makeup of graduating high school seniors in California.

January 1987: UC Berkley Office of Vice-Chancellor for Undergraduate Affairs releases its own report about its admission policies and practices in response to growing Asian American community concerns about freshman admissions quotas. This report states that UC Berkeley does not set quotas against Asian American applicants.

The report further suggests that the grades and test scores of Asian American admittees are not as high as those of white admittees, Asian American freshman applicant flow interest is not evenly distributed among the 5 colleges of UC Berkeley; a disproportionate number of Asian American want to study engineering and chemistry, but there is insufficient space to accommodate all interested applicants; Asian American applicants should consider studying at the other 7 UC undergraduate campuses.

March 1987: Asian American Task Force meets with UC President David Gardner to request the inclusion of Asian Americans on all campus and systemwide admissions and enrollment committees; formation of a systemwide committee to review and investigate admissions problems; adoption and implementation of affirmative action plan to include Asian Americans into key campus and systemwide administrative positions; establishment of an on-going dialogue between the Asian American community and UC President's Office to prevent and reduce tensions.

Task Force meets with Assembly Speaker Willie Brown and other state legislators to discuss its concerns about the lack of clearly articulated freshman admission policies and procedures systemwide and by campus. Assembly Speaker Brown supports greater legislative oversight and involvement to resolve controversy over admissions quotas.

Senate Pro Tempore David Roberti requests the State Auditor General to conduct an audit of the UC Berkeley freshman admissions policies and procedures as they affect Asian American and white applicants.

Spring 1987: UC Berkeley Academic Senate appoints Subcommittee on Asian American Freshman Admissions to review the allegations of the Task Force.

September 1987: The State Legislature unanimously adopts ACR 70, authored by Assembly Speaker Brown, which requests UC to review and make improvements in its freshman admissions policies and to submit report of its actions to the State Legislature by March 15, 1988.

UC Chancellor Mike Heyman establishes the Chancellor's Committee on Asian Affairs, co-chaired by Nobel Laureate Professor Yuan Lee and Janice Koyama. Chancellor Heyman invites Task Force Co-Chairs Sing and Kawaichi to serve on the committee. The principal charge of the Committee is to recommend how Asian American students, faculty members and community can be integrated fully into every aspect of campus life.

October 1987: State Auditor General releases his audit of UC Berkeley freshman admissions policies and practices from Fall 1981 to Fall 1987. Auditor General calculates 49 separate rates of freshman admission for Asians and whites among 5 colleges and 2 departments over this seven-year period. The Auditor General finds that, of the 49 Asian admission rates and the 49 white admission rates that were compared, the White rates were higher in 37 instances and the Asian rates were higher in 12 instances.

Further, the Auditor General finds that, from 1981 to 1987, the average high school grade point average (gpa) of Asian applicants rose from 3.20 to 3.72; the average gpa of whites during the same period rose only from 3.27 to 3.62.

The Auditor General cites that the removal of freshman admission consideration for low-income Asian American applicants resulted in a greater number of white athletes admitted. (UC Berkeley officials publicly confirm that admissible, but non-competitive white students were admitted.) The loss of protection for low-income applicants since 1984 has been one of the factors in the persistent disparity in admission rates between Asians and whites.

Auditor General observes that 3 of the 5 colleges at UC Berkeley did not maintain written policies on the implementation of subjective criteria.

UC Berkeley Academic Senate reconstitutes its Subcommittee on Asian American Admissions so as to restore public confidence in the objectivity of its investigations of allegations about freshman admissions quotas.

January 1988: The Assembly Sucommittee on Higher Education releases two internal memos (dated 12/28/83 and 1/4/84) by the Director of Admissions at UC Berkeley establishing a minimum score of 400 on the SAT verbal test for all "permanent resident alien" applicants.

At legislative hearing, UC Berkeley Chancellor Heyman apologizes publicly to the Asian American community for the manner in which UC Berkeley administration officials have handled and responded to the concerns of the Asian American community about freshman admissions quotas. Chancellor Heyman announces the formation of an Admissions Coordination Review Board and pledges to work with the Asian American Task Force to restore public confidence in UC Berkeley admissions policies and procedures.

February 1988: UC Berkeley officials reveal that, in the Fall 1987 College of Letters and Science freshman class, 631 White freshman admittees (out of a total of 2622 white admittees or 24.1%) were given "assured access" without going through traditional meritocratic, academic competiton.

February 1988: Task Force appears before the UC Board of Regents and asks for the adoption of fair, systemwide freshman admissions policies. Task Force points out the urgent need for a systemwide admissions policy based on economic status (instead of race) in regard to low-income, first-generation collegiate applicants.

March 1988: UC presents its Report on ACR 70 to the State Legislature. In meeting with state legislators and UC President Gardner, Task Force voices its objection to the differences in freshman selection criteria from campus to campus.

May 1988: UC Board of Regents revises its policy on Undergraduate Admissions to provide that "the University seeks to enroll, on each of its campuses, a student body that, beyond meeting the University's eligibility requirements, demonstrates high academic achevement or exceptional personal talent, and that encompasses the broad diversity of cultural, racial, geographic, and socio-economic backgrounds characteristic of California."

July 1988: UC President's Office issues Guidelines for Implementation of University Policy on Undergraduate Admissions. These guidelines call for each of the eight undergraduate campuses to select at least 40 percent but not more than 60 percent of freshman admittees on the basis of academic criteria: academic grade point average; test scores (SAT or ACT and College Board Achievement Tests); number and content of high school courses successfully completed in academic subjects beyond the minimum; number of University-approved accelerated/advanced placement/honors courses.

These guidelines further permit each campus to select the remaining 60 percent to 40 percent of the freshman admittees on the basis of supplementary criteria: special talents, interests or experiences beyond the academic criteria; special circumstances adversely affecting one's life experience; ethnic identity, gender, and location of residence.

ASIAN AND PACIFIC AMERICAN ISSUES RELATED TO UNDERGRADUATE ADMISSIONS AT THE UNIVERSITY OF CALIFORNIA

(By Alice C. Cox, Assistant Vice President, Student Academic Services, University of California)

Good afternoon. Before I begin, I want to take this opportunity to thank Senators Simon and Daschle for their invitation to appear as a panelist this afternoon to discuss the very important issue of Asian American concerns regarding admission to higher educational institutions.

How to achieve full and equitable admissions for all qualified students is one of the most complex problems facing many educators today. I would like to begin my comments by briefly describing the University I represent with particular emphasis on what we are seeking to accomplish in our undergraduate admissions policies and procedures.

For many people outside of California, the University of California means Berkeley or UCLA. However, we currently enroll 153,000 students on our eight general campuses. As a land-grant public institution, the University's admission policy is guided by two long standing commitments to all of the citizens of the state: first, to serve the people and the needs of the state, within the framework of a master plan developed for California higher educational institutions, and second, to provide places within the University for all eligible applicants who are California residents.

This in itself is a sensitive balancing act not easily accomplished. To fulfill its commitment, however, the University approaches all it does with the two institutional goals of academic excellence and diversity also in mind.

In meeting its institutional goals, the University weighs a variety of factors during its admissions process. First, we select approximately half of our students strictly on the basis of academic criteria as measured by standardized test scores (such as SAT) and grade point averages, and the other half on these same academic criteria supplemented by factors such as where a student lives, special talents, social or economic hardships, and cultural background.

The major and the campus selected determines the degree of difficulty an applicant encounters in getting admitted. For example, while all UC-eligible students who apply on time to some of our campuses are automatically admitted, at the other extreme, this year the Berkeley campus received 26,000 admissions applications for 6,000 spaces.

The University has been successful in meeting its goal of admitting the best and the brightest—for example, the mean Grade Point Average of this year's entering freshmen class at UCLA is 3.82, and is moving toward its second goal of creating on each of its campuses a student body that is representative of the ethnically rich population of the State. This Fall, Berkeley became the first UC campus where white students are no longer the majority among undergraduates. In fact, in the last ten years enrollment growth for people of color has far outstripped that of whites in the entire University system:

While white enrollments have increased 11 percent during that time, people of color have increased 73 percent.

Asian-Americans and Filipinos, taken together, are increasing their enrollment at a fast pace: their numbers have increased by 162 percent in the last eleven years. Today, one in five (or 20%) of our domestic undergraduates on all of our eight campuses are Asian American or Filipino.

We are proud of our accomplishments and those of our students. This is not to imply, however, that the University's success has come without challenges at the undergraduate level, many of which have been brought to our attention by members of the Asian American community. The most serious of these concerns fall into three general categories:

1. The University's inability to admit each student to his or her first choice of campus or field of study;

2. The failure to inform the public about selection criteria used in the admissions process; and

3. The use of certain selection criteria such as foreign language requirements, which are important components in our admissions selection process, while there are no achievement tests in Asian languages—placing Asian American students at a disadvantage.

First, the inability to provide a space for every applicant at the campus or major of first choice. University faculty and administrators understand that many students have studied diligently in order to pursue a particular major or need to attend a campus which is close to their homes. Their very real and personal disappointment when they are not admitted to the campus or major of choice underscores the University's central problem of finding ways to accommodate the increasing number of students who are both academically eligible and eager to attend, but who must be turned away because of the campus or major they select. The simple truth is that the number of students seeking admission far exceeds the number of spaces available on some of our campuses. We use the word "impacted" to describe campuses or majors where this occurs and places like Berkeley and UCLA are finding that even traditionally less popular majors are becoming impacted and reaching enrollment limits. The University is attempting to meet this challenge by building three new campuses to address its increased admissions demand. But this is a long-term solution and only goes so far in addressing the problem.

Without immediate solutions, it becomes critical for the University to educate potential applicants about their chances for admission, and leads me to the second concern raised by the Asian American community: the need to provide better information upon which high school students can base their decisions.

The University shares the desire of the Asian American community to provide students and their parents with the information needed to make educated and realistic choices in applying to our campuses. The Asian American community has quite properly chastised the University about its dearth of written information regarding the criteria it uses in making admissions decisions for impacted campuses and majors. We appreciate the advice and recently have published the criteria our eight campuses use to admit students where there are more eligible applicants than a program can accommodate. But matching applicants with the most appropriate campuses is a shared responsibility. University policy cannot accomplish this alone. The University, in conjunction with high school counselors and Asian American parents, must help Asian American youth set realistic goals and work with them in building new visions for their future when disappointments occur.

Now, I would like to touch upon the third concern that is shared by the University and our Asian American constituency: fair selection criteria, and in particular our foreign language requirement. Currently, standardized achievement tests for Asian languages do not exist. As Trustee and Vice Chair of the College Entrance Examination Board, I am personally working with the College Board in the development of appropriate examinations so that Asian American students can demonstrate their proficiency in Asian languages. As an interim measure, the University is reviewing its admissions policies and our foreign language requirement to see if alternatives can be used in evaluating applicant records in those cases where students are proficient in a language where no standardized achievement tests exist.

In summary, the University shares similar concerns as those raised not only by Asian American students and parents, but other people of color as well. And the University is working toward solutions:

First, The University is engaged in a long range planning effort which proposes the construction of three new campuses and expansion of existing campuses to help with the demand for more undergraduate spaces.

Second, Through various means, the University is working hard to communicate to students, counselors, and parents its admis-

sions policies and to assure their fairness so that applicants can make informed decisions and will know what their chances for admission to their campus of first choice are realistic.

Third, The University is seeking short-term adjustments to its foreign language requirements and a long-term solution to the lack of Asian language standardized tests to ensure that students proficient in Asian languages are credited with possessing those skills during the selection process.

In closing, let me say that, yes, we could have been more sensitive at times to the real concerns of our many constituents—and here I include other groups as well as Asian Americans. However, over the years, the University has made tremendous strides in opening communication with all interested groups and in providing more understandable and open descriptions of our admissions policies and procedures. Recently, our Board of Regents established formally a "Policy on Undergraduate Admissions," a concise statement of the University's admissions policy and mission. This statement, together with companion implementation guidelines now provides a comprehensive Universitywide framework for admissions. The University also has established numerous task forces and standing committees at the University and campus level with broad representation, including Asian American leaders.

We take pride in the steps we have taken, especially when you view our entire record on providing opportunities for all people of color, including Asian Americans. But we have yet a long way to go in this process.

I am pleased to have had another opportunity in this seminar setting to continue the dialogue regarding our search for solutions to the very real challenges facing higher education today.

STATEMENT OF THE ORGANIZATION OF CHINESE AMERICANS BEFORE THE HONORABLE TOM DASCHLE AND THE HONORABLE PAUL SIMON, HOSTS OF THE ASIAN AND PACIFIC AMERICAN ISSUES SEMINAR, NOVEMBER 30, 1988

The Organization of Chinese Americans (OCA) congratulates Senator Tom Daschle and Senator Paul Simon on hosting today's seminar addressing legal immigration reform and anti-Asian university admissions policies. As a primary sponsor of this event, OCA appreciates the opportunity to participate in this precedent-setting public forum on these two extremely critical issues affecting the Asian and Pacific American community. OCA is a national, non-profit, non-partisan network of concerned Chinese Americans. Since its formation in 1973, OCA has been dedicated to promoting the active participation of Chinese Americans in civic affairs at all levels and securing justice, equal treatment and equal opportunities for Chinese Americans. With 44 chapters and over 7,500 members nationwide, OCA is the only national Chinese American civic organization with headquarters in Washington, D.C. Included in OCA's membership are local, state, and federal-elected officials.

LEGAL IMMIGRATION REFORM

Legal immigration reform policy in the United States will continue to have a great impact on the Asian and Pacific American community into the twentieth-century and beyond. Currently, Asian countries experience and average fifteen-year backlog of immigrants waiting to enter the United States. In the 100th Congress, the defeated Kennedy-Simpson Immigration Reform Bill contained detrimental provisions affecting the Asian and Pacific American community. One of the key proposals of concern to the community was the severe reduction of the fifth preference category of immigrants, never married brothers and sisters of U.S. citizens. OCA will continue to advocate fair immigration policy in the 101st Congress that include the following standards:

No cap on the overall level of immigration.

Family reunification principles embraced.

A point system that does not favor young, educated and English-speaking individuals.

ANTI-ASIAN UNIVERSITY ADMISSIONS POLICIES

Anti-Asian university admissions policies has never before been addressed in the United States Congress. Alleged cases of anti-Asian quotas in universities nationwide have multiplied in the past several years. OCA firmly believes that restrictive quotas based on race, nationality, or ethnicity are legally and morally indefensible and have no place in the admissions process. Affirmative action goals should only be used as a floor, never as a ceiling, in order to promote minority groups enrollment.

To further document the problem, OCA is currently conducting the first national study on undergraduate university Asian and Pacific American admissions policies. This study has been designed to explore the following topics:

Whether colleges and universities have experienced very large increases in Asian and Pacific American enrollments;

Whether Asian and Pacific American undergraduate applicants should have higher admission rates, or are subject to number "ceilings", "quotas", or "enrollment goals";

Whether the admission rate percentage for Asian and Pacific Americans has actually been dropping over the last 10 years; and

Whether Asian Pacific American backgrounds are found to be generally deficient in certain characteristics rated as important for admissions.

Upon completion of the study, OCA will make the data available to the Department of Education, the Department of Justice, members of Congress and the general public. OCA encourages the Congress to explore the possibility of a Congressional Inquiry on this serious issue of alleged discrimination in our nation's institutions of higher learning.

Once again OCA applauds Senator Daschle and Senator Simon for initiating this important seminar on Asian and Pacific American issues. This forum has brought the community together to establish dialogue and an agenda for future legislative proposals in the areas of legal immigration reform and anti-Asian university admissions policies. OCA looks forward to continuing to work closely with the United States Congress on crucial public policy issues that impact the lives of Asian and Pacific Americans.

Respectfully Submitted,

MELINDA C. YEE,
Executive Director.

STATEMENT OF THE CHINESE AMERICAN SOCIETY FOR THE ASIAN PACIFIC AMERICANS ISSUE SEMINAR, NOVEMBER 30, 1988

The Chinese American Society would like to thank both Senator Thomas Daschle and Senator Paul Simon and their staffs for providing this seminar today to have Asian Pacific Americans address their concerns on the issues of legal immigration reform and college admissions bias.

On the issue of immigration reform, we believe that fairness and equality to all ethnicity must be the fundamental and guiding principle which can ensure that a dedicated balance among all interests be stricken and that the ultimate goal of reform be achieved. We support the concept of bringing more qualified immigrants to this country through the means of expanding third and sixth preferences, or the "independent immigrants". However, such an expansion shall not be achieved at the expense of immigrants of other categories, or the "family immigrants". In light of the fact that the backbone of this nation's immigration policy has been, and still is, family reunion, if Congress should enact a law, like it almost did in 1988, to eliminate the fifth preference category and to reduce the number of people that can be admitted through other family immigration categories, it would be in effect a reverse back to the dark age of this country's past in which Asians were excluded from immigrating to the United States. Further, in determining who are qualified as independent immigrants, evaluation should be given on the merits of each alien applicant. We do not believe that the current situation warrants the adoption of a single, uniform formula such as the "point" system proposed by some. The administration should be allowed to exercise discretion, under close scrutiny of Congress, to gradually formulating a feasible guideline on this issue. More specifically, we urge Congress to take very cautious steps in considering whether an alien applicant's language skills should be a major factor in the outcome of his or her immigration application.

On the issue of college admissions bias against Asians, we urge Congress and the administration take clear and strong actions against those who are found to be conducting illegal discriminatory practices. We believe that equitable doctrine ought to be applied in each college's admissions process, i.e., let the overall performance of the student be the one and only criterium in the admissions process. Race shall not be a major factor. We further urge Congress to introduce an amendment to the Civil Rights Act by clearly defining the illegality of higher education admissions biases or discriminatory practices. We trust that Congress will strike a dedicated balance between minority's civil rights protection and the problems of so called 'reverse discrimination."

Once again, we appreciate the commitment and efforts made by the two senators to Asian Pacific Americans which make this seminar possible. The Chinese American Society is very honored and proud to be one of the two major sponsoring organizations of today's event. We hope that similar events will be held in the near future so that Congress and its Asian Pacific American constituents can effectively communicate with each other and mutual benefits be brought forth.

STATEMENT BEFORE THE ASIAN AND PACIFIC ISLAND AMERICAN ISSUES SEMINAR, NOVEMBER 30, 1988

(By Rita Takahashi, Washington Representative, National Japanese American Citizens League)

The National Japanese American Citizens League is pleased that Senator Paul Simon and Senator Tom Daschle organized this issues seminar. The focal issues of this seminar—"legal immigration reform" and "anti-Asian bias in university admissions"—are significant, indeed.

The Japanese American Citizens League (JACL) is a non-profit, civil rights organization which was established in 1929. It currently has one hundred and fifteen (115) chapters throughout the United States, and it has twenty-five thousand (25,000) members. As an organization, JACL supports and will continue to support immigration laws which promote equity and diversity. Family reunification measures are fully endorsed by the JACL.

In addition, JACL has been disturbed by the range of discriminatory treatment directed at non-whites generally and at Asian and Pacific Island Americans specifically. The issue of anti-Asian bias in university admissions is one among the many forms in which this discrimination is manifested. JACL has vigorously fought to break these barriers down and to eliminate such discriminatory treatment. It will continue to vigorously oppose any actions which unfairly discriminates.

JACL extends appreciation to Senators Simon and Daschle for their support for and sponsorship of a range of civil rights issues. Among the important civil rights issues, which were raised in the 100th Congress, were: the Civil Rights Restoration Act, the Hate Crimes Bills (one of which was sponsored by Senator Simon), Fair Housing Bill, census bill for an accurate count of Asian and Pacific Islander Americans, Racial Justice Act, and the Civil Liberties Act.

When H.R. 4432—the census bill—passed with overwhelming support, JACL was gratified. However, when President Ronald Reagan pocket vetoed the bill, JACL (along with many other Asian and Pacific Island American individuals and groups) was disappointed. The attached press release addresses the reactions of JACL, as well as the positions of the National Coalition for an Accurate Count of Asian Pacific Americans and the National Organization of Chinese Americans. In this release, the three organizations asked that the U.S. Bureau of the Census keep their promise to use the check-off format.

Civil rights victories were won in the 100th Congress. One victory that JACL and JACL-Legislative Education Committee (JACL-LEC) were particularly involved in for many years, was the Civil Liberties Act. JACL and JACL-LEC were gratified by the overwhelming support for this bill in both houses of Congress. Senators Simon and Daschle—along with the many other senators and representatives—provided strong support for this bill. For this, we are thankful.

Because President Reagan signed H.R. 442 (the Civil Liberties Act) into law on 10 August 1988, the newly-established Public Law 100-383 provides for monetary compensation to the thousands of individuals who were denied their constitutional rights. During World War II, the U.S. Government incarcerated and restricted approximately one hundred and twenty thousand (120,000) persons from the West Coast. Most were incarcerated in concentration camps, solely on the basis of their heritage. All persons of Japanese ancestry, in the United States, were affected by the discriminatory actions taken by the U.S. Government. Redress legislation passed some forty-five years later.

JACL commends the 100th Congress for its progressive moves forward in the area of civil rights. At the same time, JACL anticipates the passage of many other civil rights legislation during the 101st Congress.

ON H.R. 4432—THE CENSUS BILL

Three national organizations—the National Coalition for an Accurate Count of Asian Pacific Americans, the National Japanese American Citizens League, and the National Organization of Chinese Americans—expects the U.S. Department of Commerce's Bureau of the Census to follow through on its promise to use the check-off format to count Asian and Pacific Island Americans during the 1990 decennial census.

We are pleased that the U.S. House of Representatives and the U.S. Senate passed H.R. 4432—the bill which requires the U.S. Bureau of the Census to use a check-off format to count Asian and Pacific Island Americans. Overwhelming support for this bill (in both houses) conveyed a clear message and a potent mandate to the Census Bureau. Asian and Pacific Island Americans are to be counted through this check-off format.

Prior to final passage of this bill in Congress, the U.S. Bureau of the Census agreed that it would use this format. Not only did the Bureau make this promise to members of Congress, it also announced this point to Asian and Pacific Island American representatives. During a meeting of the U.S. Bureau of the Census' Advisory Committee on Asian and Pacific Islanders, in October, the Census Bureau confirmed that it would use the check-off format.

This resolve was also conveyed to a group of Asian and Pacific Island American representatives, who gathered from throughout the country, on 22 October 1988. At the invitation and expense of the U.S. Census Bureau, these individuals met to provide input to the Bureau. It was at this meeting that the Census Bureau showed the group an example the form which included the check-off format. Clearly, this format was shown to be reasonable and appropriate, and definitely feasible.

Should they to retract their promise to Congressional leaders and to the Asian and Pacific Island community, the U.S. Bureau of the Census will realize the long-term negative implications for years. This slap to Congress and insult to the Asian and Pacific Island American community would be difficult to repair because of resulting senses of "no confidence".

We urge the U.S. Bureau of the Census to move forward with its commitments and promises. To do otherwise would be unconscionable and objectionable.

NATIONAL COALITION FOR AN ACCURATE COUNT OF ASIAN PACIFIC AMERICANS,
San Francisco, CA, November 16, 1988.

Re: Fulfilling Promises to Federal Legislators and Asian Pacific American Communities—1990 Race Question.

Secretary C. WILLIAM VERITY,
U.S. Department of Commerce, Washington, DC.

MR. JOHN G. KEANE,
Director, U.S. Bureau of Census, U.S. Department of Commerce, Washington, DC.

DEAR SECRETARY VERITY and MR. KEANE: On behalf of the National Coalition for an Accurate Count of Asian Pacific Americans, comprised of a broad coalition of community and civil rights groups across the country, we are writing to urge you to proceed with previously-announced Census Bureau plans to list nine specific Asian-Pacific Islander racial groups (along with a write-in for all other Asian/Pacific Islander groups) in the 1990 race question.

Notwithstanding the pocket veto of H.R. 4432 by President Reagan, the Census Bureau has an obligation to fulfill promises made to federal legislators and community representatives during the week of October 17 that the Census Bureau has committed itself to list these nine different Asian/Pacific Islander groups in the 1990 race question. As we have testified before the United States Congress and have stated personally to you and your staff numerous times, the specific listing of these nine Asian/Pacific Islander groups will cover approximately 95% of the national Asian Pacific American population. Asian and Pacific Islander citizens should enjoy the same level of ease and simplicity in checking off their respective racial grouping as white, Black, and Hispanic respondents experience in filling out the race and ethnic questions through a check-off system.

When some of us community representatives attended the Bureau's October 22, 1988 meeting on tabulation and publication of racial data, we received a copy of how the Bureau will format the 1990 race question to accommodate the specific listing of the nine Asian/Pacific Islander groups. Contrary to earlier statements made by Census Bureau officials that it was not technically feasible to accommodate the listing of nine specific Asian/Pacific Islander groups in the 1990 race question, the Census Bureau demonstrated unequivocally at this October 22 meeting that the 1990 race question can include the specific listing of these Asian/Pacific Islander groups.

We are very troubled that, upon the pocket veto of H.R. 4432 and when questioned about the Bureau's plans to list specifically the nine Asian/Pacific Islander groups in the 1990 race question, census officials have been less than candid and forthright in publicly re-committing itself to proceed with previously-announced plans to use the 1980 format in the 1990 race question with regard to Asians and Pacific Islanders. Worse yet, it appears that the Census Bureau may be trying to interpret the Memorandum of Disapproval of H.R. 4432 as an executive order mandating the Census Bureau to revert back to the "short race" question which excludes the listing of any Asian or Pacific Islander racial subgroup.

Over six million Asians and Pacific Islanders deserve to be counted accurately and efficiently in the 1990 Census. The National Coalition for an Accurate Count of Asian Pacific Americans urges you to keep your word with the community and members of the U.S. Congress and fulfill your promises to list nine Asian/Pacific Islander groups in the 1990 race question.

Thank you for your attention in this matter.

Sincerely yours,

HENRY DER.

[From the Japanese American Citizens League, Nov. 9, 1988]

COMMENTS FOLLOWING PRESIDENT REAGAN'S VETO OF H.R. 4432

(By Rita Takahashi)

President Ronald Reagan's refusal to sign H.R. 4432 into law—despite wide-range support from many groups—is stunning. Clearly, Reagan's decision is counter to the position taken by Congress and many individuals and groups comprising the American public.

The message has already been sent that the check-off format is desired in the 1990 decennial census count of Asian and Pacific

Island Americans. Apparently, President Reagan decided not to go with the sentiments of the congressional leaders of this country.

Like the impact felt when Reagan recently vetoed the "whistle-blower" legislation (S. 508), Congress and public now feel the sting of another slap.

COMMENTS BY WILLIAM YOSHINO, ACTING NATIONAL JACL DIRECTOR

We are dismayed with the President's veto of H.R. 4432 which would have required the Census Bureau to list the various categories of Asian subgroups on the 1990 Census form.

We urge the Census Bureau to proceed with the format as prescribed in the legislation so as to avoid an undercount of services to the community.

[From the Japanese American Citizens League, Nov. 18, 1988]

REAGAN VETOES BILL REQUIRING CENSUS BUREAU TO TALLY ASIAN AMERICANS GROUPS INDIVIDUALLY

WASHINGTON.—A bill requiring the Census Bureau to tabulate nine different Asian American sub-groups individually was vetoed Nov. 8 by President Reagan. The president's pocket veto of H.R. 4432 was because the bill would "* * * unnecessarily restrict the form of the race question in future censuses. Second, it would require the Census Bureau to use a form of race question that the bureau has tested and found to be less accurate than the one it plans to use in 1990. Third, it would specifically require questions relating to plumbing facilities and heating and cooling equipment in housing units that would not produce data sufficiently useful to justify their inclusion. * * * Finally, these changes would increase administrative costs and add to the paperwork burden imposed on the public by the census."

A disappointed Rep. Robert Matsui (D-Calif.), who introduced the measure, responded by saying, "It's disturbing to see the White House take a negative approach to such a basic measure of fairness and democracy." He also said that the bureau assured him weeks ago that it would carry through with the legislation's intent regardless of the bill's future. "I certainly hope the bureau plans to stand by it's word," he added.

Rep. Norman Mineta (D-Calif.) also reacted to the veto and said, "I am angered that President Reagan has chosen to veto this important piece of legislation. By vetoing H.R. 4432, the president has refused to recognize that the changes proposed by the Census Bureau would have distorted the accuracy of the census, thereby making this legislation an absolute necessity." The House approved its version of the bill on Sept. 26, 1988 and the Senate approved its version on Oct. 18, 1988.

Also dismayed by the veto was JACL Acting National Director Bill Yoshino, who said, "We urge the Census Bureau to proceed with the format as prescribed in the legislation so as to avoid an undercount of services to the community." JACL Washington Representative Rita Takahashi said, "President Ronald Reagan's refusal to sign H.R. 4432 into law, despite wide-range support from many groups, is stunning. The message has already been sent that the check-off format is desired in the 1990 decennial census count of Asian and Pacific Island Americans. Apparently, President Reagan decided not to go with the sentiments of the congressional leaders of this country."

The controversy began when it became known that the Census Bureau intended to use an individual write-in method for counting Asian and Pacific Island Americans. In the 1980 count, individuals checked off boxes of their respective ethnic group. As a result of the Census Bureau's decision, Asian American groups, fearing an undercount and subsequent potential lack of services, organized a campaign to force the Census Bureau to use a counting method similar to the 1980 census.

Despite the president's veto, there are still intentions to have the Census Bureau list the individual subgroups. "Until the forms contain those subgroups, this issue is not over," said Matsui.

ORGANIZATION OF CHINESE AMERICANS, INC.,
Washington, DC., November 9, 1988.

President RONALD REAGAN,
The White House, Washington, DC.

DEAR PRESIDENT REAGAN: On behalf of OCA members and the Asian Pacific American community, we are expressing our deep disappointment in your veto of H.R. 4432, a bill requiring that the 1990 Decennial Census form include a format that will provide for detailed tabulations on Asian Pacific Americans.

The One Hundredth Congress expressed great wisdom and sensitivity in dealing with Asian Pacific Americans on this issue. The needs of the individual communities such as Chinese, Japanese, Filipino, Hawaiian, Samoan, Laotian, Asian Indian, Vietnamese, Korean, etc. vary greatly, and should be recognized as separate and unique groups. In the 1980 Census, the Census Bureau has proposed to lump Asian Pacific Americans into one category, which would seriously affect political representation and the allocation of federal aid.

At public hearings held on 20 October 1988, Census Bureau officials introduced a check-off format, similar to the form used in 1980, that they stated would be used "in response to Congressional legislation." This format is acceptable to the Asian Pacific American community, and we are hopeful that the Census Bureau will use this form for the 1990 Census. If this form is not used, then Asian Pacific Americans will be severely undercounted and not properly recognized by local, state, and federal governments.

Your veto of H.R. 4432 is extremely detrimental to civil rights concerns of the Asian Pacific American community. While we are encouraged by your support of Japanese Redress and the appointments of several Asian Pacific Americans to high level policy-making positions, we are strongly discouraged by your actions on this bill. Regardless of your decision, the Asian Pacific American community will continue to fight for a fair and accurate count and the use of distinct ethnic categories in the 1990 Decennial Census.

Sincerely,

FRANK Y. LIU,
National President.

MARGARET CHAO,
Vice President Public Affairs.

MELINDA C. YEE,
Executive Director.

POSITION OF THE NATIONAL CONGRESS OF VIETNAMESE IN AMERICA [NCVA] REGARDING CERTAIN ANTI-FAMILY IMMIGRATION PROPOSALS IN CONGRESS

The National Congress of Vietnamese in America expresses its disagreement with the numberous legislative proposals in the 100th Congress which would have undermined the position of the family in immigration policy. The proposals, while labelled as 'reform', were implicitly vehicles of racial bias against large areas of the Third World (Asia and Latin America). The NCVA urges all Senators and Representatives to the 101st Congress to reject such proposals.

Of this type of legislation, the proposal which came closest to enactment was S. 2104, the "Kennedy-Simpson" bill. It would have made immediate family members, who are currently exempt from quotas, subject to an overall cap on immigration; reduced the number of visas under the preference most used by Asian-American families; reduced the ability for siblings and unmarried children to follow family members; and would replace family as a basis for immigration policy with labor skill. Other bills with a similar anti-family, anti-Asian-American thrust include H.R. 3143 (Representative Donnelly) and H.R. 3910 (Representative Schumer).

One would like to believe that the prejudice of old is dead, that the "Yellow Peril" mentality of the turn of the century is a relic. As the above-cited legislation reveals, however, the desire to restrict people who are different still lives. Immigration from Asia is tied to the family. Attacking the family, as those proposals do, is an effective weapon against Asian immigration.

Asian-Americans have been increasingly recognized recently for their accomplishments in a wide range of fields, from education and the arts to business. Unfortunately, such recognition also engenders feelings of jealousy and insecurity among some elements. Southeast Asians have encountered severe violence in Massachusetts, Texas, and Louisiana. Incidents of racist violence against Asian-American students were reported at the University of Connecticut. There is a perception in the Asian-American community that quotas are being applied against Asian-Americans in screening applicants for some universities. While all of these practices have historical precedent, they are a shameful precedent which must be overturned. College admission should be based on merit, not quotas.

Thus, such immigration proposals must be resisted as part of a potential trend of anti-Asian bias. The Asian American community does not ask for special favors. In the area of immigration, it simply asks continued acceptance of the recommendation of the U.S. Select Commission on Immigration and Refugee Policy, which reaffirmed family reunification policy, as the cornerstone of our immigration system, and recommended no changes to eligibility under the family preferences.

TO THE MEMBERS OF CONGRESS AND SENATE, WASHINGTON, DC, ON IMMIGRATION POLICY 1988

My name is Susan Au Allen. I am speaking on behalf of the Organization of Chinese American Women (OCAW), the Organization of Pan Asian American Women (Pan Asia), and the U.S. Pan Asian American Chamber of Commerce (USPAACC).

I am also speaking personally as a first generation Asian American, an attorney

who practises immigration and nationality law here in Washington. I confront the issues raised by our distinguished panelists this morning on a daily basis.

We support an immigration policy that reflects the family values of all Americans. These values include the reunification of the nuclear family, and economic growth through competitiveness.

Immigrant visas based upon family relationship such as parents, husband, wife, son, daughter, brother and sister have served the American ideal of the united family well. The united family has given our forefathers the support to persevere in times of adversity; it has given us hope in times of despair; it has comforted the discouraged and enabled them to get up, shake off the dust and continue on.

For these reasons, Congress must preserve the existing laws and expand the numerical system to enable Americans and permanent residents to be reunited with their relatives.

America has realized her vast economic potential, because, in large part, of the efforts of immigrants. They supplied much of the labor and technical skills needed to develop the resources of the continent. From the construction of transportation and public utility systems to the mining, iron, steel and manufacturing industries, immigrants performed back-breaking and less desirable work which many Americans were unwilling to perform.

Today, immigrants continue to be the source of the labor we need, not only in jobs Americans do not want, but also in professional, technical and skilled or unskilled occupations for which there is a shortage to meet the needs of American business.

If American business cannot get the labor it needs, it will either close down or move somewhere else such as Latin America, the Carribean and Asia, where labor is readily available. In the end, America will export jobs in the thousands and import goods in the millions.

Our immigration policy must also reflect the economic needs of America. In the time when we have doubts about our global and domestic competitiveness, when we Americans are told that Americans are exporting too many jobs and importing too many goods, and when news about our national trade deficit continues to trouble us, we need an immigration policy that encourages the admission of professionals, skilled or unskilled workers to fill our labor shortage. Thus, a flexible policy based on labor needs and economic consequences will enable American business to bring in workers when they are needed to sustain growth and expansion. As a result, American business need not relocate to other countries where workers are available; and we will not export jobs and opportunities.

It is not a secret that the Immigration and Naturalization Service (INS) has been criticized for conducting illegal stops, arrests, detentions, and interrogations of persons who they suspect to be aliens unlawfully present in the United States. It is also a long standing policy, procedure, and practice of the INS to detain persons arrested without probable cause, without informing them of the reason for the arrest and refusing to inform them of the conditions of release until twenty-four hours after the arrest.

The employer sanction provision of the Immigration Reform and Control Act of 1986 (IRCA) has cloaked INS agents with apparent but much misunderstood authority to intrude into the privacy of persons in violation of the Constitution and laws of the United States. I am referring to INS agents conducting searches and seizures without warrants, consent or exigent circumstances on the private homes as well as business premises in their efforts to search out aliens, including persons of Asian descent although such persons are United States citizens and permanent residents.

We believe the time has come for Members of the Congress and Senate to take the leadership role and start an inquiry into the policies, procedures, and practices of the INS and its agents which are clearly in violation of the Constitution and laws of the United States.

Thank you for the opportunity to speak before you this morning.

COLLEGE ADMISSION POLICY

To Members of Congress U.S. Senate, Washington, DC, my name is Faith Lee Breen, I am the Vice President for Programs of OCAW and am Associate Professor of Business and Management, and Economics. Our organization is pleased to submit the following statement:

In today's global economy, America needs a highly educated and skilled workforce which can safeguard both our national competitiveness and our national security. Therefore, the Organization of Chinese American Women (OCAW) supports college and university admission policies which are based upon individual merit!

Decisions which are based upon race and fixed quotas are inherently discriminatory and thus compromise America's social values. Although it may be commendable to achieve racial balance and diversity in our prestigious institutions of higher education, it is improper for any institution to put a ceiling on the admission of students who have the academic qualifications, but the wrong racial qualification.

It is wrong to redress ethnic imbalance by denying admission to Asian American students who have succeeded in achieving the standards of academic excellence required for admittance into institutions such as Harvard and The University of California at Berkeley and Los Angeles.

Our universities should not reject a student because of his or her race in favor of another who is less qualified. No applicant should be held to a different standard simply because of his or her race. Although we recognize that our educational system must not create friction between Asian Americans and other minority groups; in America's economic system, competition based on merit is a winner! The same is true for America' educational system!

We understand that the Department of Education has been sensitive and responsive to allegations that certain Ivy League colleges and universities have carried out questionable admission policies including putting caps on the number of Asian American students admitted to their schools. We also understand that although inquiries were initiated to determine the validity of the charges of such policies, the Department of Education has now decided to halt such inquiries. This troubles the Organization of Chinese American Women (OCAW). Because even the perception of a biased admission policy compromises the integrity of our system of higher education, The Organization of Chinese American Women strongly encourages Congress to take the lead in determining the validity of these allegations. And, if discriminatory admission policies are found to exist, that Congress immediately act to stop them.

Finally, we believe that higher education can best serve America by promoting and ensuring academic excellence; an excellence which is based upon individual merit!●

NOMINATION OF TERRENCE E. SAUVAIN TO BE A CAPTAIN IN THE COAST GUARD RESERVE

● Ms. MIKULSKI. Mr. President, it is with great pride that I rise today to commend to my colleagues the nomination of Terrence E. Sauvain to be a captain in the Coast Guard Reserve.

I am proud to say that Terry is a constituent of mine as a resident of Garrett Park, MD, who has served the Coast Guard Reserve with distinction since 1974. In addition to Terry's record in the Coast Guard Reserve, he has had a noted career as a dedicated public servant. He worked at both the National Institutes of Health and as a budget analyst with the Department of Health, Education, and Welfare. Since 1973, he has served Senator ROBERT C. BYRD in a variety of positions, including the elected position of Secretary of the Minority in the 97th Congress.

As we begin the 101st Congress, the Senate is fortunate that Senator BYRD has appointed Terry as the deputy staff director of the Senate Appropriations Committee. I look forward to working with him in that capacity and relying on his help as I assume the chair of the HUD-Independent Agencies Subcommittee.

As a member of the Coast Guard Reserve, Terry served in their Baltimore district, located in my hometown, for 9½ years. During this time, he served the Reserve in a variety of positions.

In light of his record of public service, I urge my colleagues to act promptly on Terry's nomination.●

ST. PAUL, MN

● Mr. BOSCHWITZ. Mr. President, I rise today with great pride to salute a Minnesota city that this week received a great deal of national attention.

St. Paul, MN, the capital city of our great State, was this week acclaimed as one of America's "hot cities" by Newsweek magazine, which listed St. Paul as one of the top 10 cities in the United States.

The positive qualities of life in St. Paul, indeed in all of Minnesota, Mr. President, are numerous, and it is gratifying to see them receive the national attention they deserve.

The availability of jobs and housing, the vibrant cultural community, and the relaxed lifestyle all combine to make St. Paul a marvelous place in which to live.

But perhaps the most important ingredient of St. Paul—as in all of Minnesota—is the greatness of the people. Anyone who has traveled to Minnesota returns home talking about the warmth and kindness of Minnesotans. It is no exaggeration, Mr. President, to say that Minnesotans go through life with smiles on their faces and songs in their hearts, and that in the "star of the north" you will find people whose friendliness is unsurpassed.

Newsweek spoke at great length about St. Paul's rejuvenation in the past few years, and indeed it has been a wonder to behold. New buildings, new parks, and new homes, all the result of planning and prosperity, have sprung up across town. But again, to paraphrase our new President, a city is more than the sum of its possessions, and it is the people of St. Paul that make her truly shine.

To my hundreds of thousands of constituents in St. Paul, I offer congratulations on this week's accolades, and I am confident that Minnesotans across the State share in the pride St. Paul now feels.●

THE PRESIDENTIAL INAUGURATION

● Mr. LEVIN. Mr. President, I recently received a letter from a Ralph J. Kliber, a constituent of mine, who came to Washington to attend President Bush's inauguration and related ceremonies. Mr. Kliber's description of his feelings is so straightforward and moving that I thought I would share it with our colleagues. I know that they will appreciate the directness of Mr. Kliber's feelings, and I hope he will understand my making public his letter to me.

I ask that Mr. Kliber's letter be inserted in the RECORD.

The letter follows:

FISCHER, FRANKLIN, FORD, SIMON & HOGG,
ATTORNEYS AND COUNSELLORS,
Detroit, MI, January 23, 1989.

Hon. CARL LEVIN,
U.S. Senator, Washington, DC.

YOUR HONOR: Thank you very much for your gracious response to my request for a single ticket for the inauguration ceremonies before the United States Capitol on Friday, January 20, 1989. As a result of your courtesy, I flew to Washington in the morning, attended the ceremonies, observed the parade and returned in the evening.

Perhaps you would be interested in my reaction to the events of the day. A roving reporter asked me from whence I came and why I came to Washington. My response was simple, but direct. I came to the center of democracy to watch the transfer of the head of state in a peaceful and exhilarating manner, without a shot being fired, an insult hurled or a threat made.

The ceremony was impressive. The music was excellent. The hundreds of thousands of attendees were in an orderly and jubilant mood. Thank you again.

Sincerely,

RALPH J. KLIBER[1]

A GREAT MAN

● Mr. DURENBERGER. Mr. President, I rise to bring to my colleague's attention a great man, Joe Alexander. Joe has been the commissioner of the Minnesota Department of Natural Resources for the last 11 years. He has been my friend for much longer.

In 1967, when I came to State government, Joe was a regional supervisor in the Minnesota DNR, working in the city of Mankato. I met him then to discuss State environmental issues, and he was an adviser when I was exploring a run for Governor before deciding to run for this seat in 1978.

As commissioner he is the protector and manager of Minnesota's most cherished resources: her natural beauty and fish and wildlife. This, as we all know, is not an easy task. And Joe has taken his lumps. But, no matter what the issue, controversy, or pressure, Joe's maintained his unwavering priority of protecting the resource. His commitment to the resource has won him deserved praise from all sides.

On a personal note, Mr. President, I've appreciated Joe over the years, and I'm especially pleased that Joe, a widower, will marry my first environment and natural resources legislative assistant, and Minnesota's first—and best—environmental crusader, Shirley Hunt, on March 4.

Joe's personal courage and integrity and professional expertise make him a valuable role model for those of us in public service. I share Joe's commitment of resource protection and we have worked together on many important Minnesota issues. He is a longtime friend whose leadership I admired. As tribute, I wish to enter the attached article by Ron Schara, published Sunday, January 15, 1989, in the Minneapolis Star-Tribune, into the RECORD for all my colleagues to read:

ALEXANDER IS STILL GAME FOR THE TASK: DECADE HASN'T DIMINISHED DNR COMMISSIONER'S ARDOR

Historically, it ranks as one of the hottest seats in state government, the one Joe Alexander has occupied for nearly 11 years.

I mean, governors might have silly ideas. And legislators might pass silly laws while bureaucrats waste hardearned tax money.

But only the commissioner of the Department of Natural Resources can screw up the huntin' and fishin', the pickin' and bird watchin'. Or mess up progress over little chunks of earth when so many powerful people want it plowed, drained, clearcut, or paved.

If the fish don't bite, blame the DNR commissioner, right?

The job isn't exactly a wilderness trail to retirement. Yet, there he was the other day, Joe Alexander—at age 65, his silver hair a little thinner, his paunch a little bigger, his steel blue eyes a little softer—still sitting where the DNR buck stops.

Remarkable, after all these fishing seasons.

"I think the record is 12 years as commissioner set way back when," Alexander said. "This will be my 11th year in May. I remember thinking if I got the job, I'd like to be commissioner for four years."

Alexander chuckled at his own change of fate.

Although the DNR is never more than a paddle length from controversy, the department appears on a stable course, responding faster to public concerns yet defending its resource responsibilities.

If so, it's the reflection of the man in the hot seat.

Initially passed over for the commissioner's job by newly elected Gov. Rudy Perpich, Alexander got the nod two years later after Perpich saw his choice for commissioner, an Ohioan named William Nye, being hung in effigy by angry northern Minnesotans.

"My job was to get rid of the controversy, the internal turmoil and level off the department, which was unsteady," Alexander said. "Bill Nye was a nice guy, but he didn't belong. He was out of touch with Minnesotans."

It was a mistake Alexander wouldn't repeat.

Alexander remodeled the DNR hierarchy and launched a series of open meetings between DNR and the public, supporters and adversaries.

"We learned to listen, too," Alexander said of his field staff.

Those were the early years of Alexander's influence.

Within two years, the DNR operation was smooth enough that the next governor Republican Al Quie, decided to stay with the commissioner who had been chosen by a Democrat.

A remarkable feat, in politics.

"If I'll take any credit, it's because God gave me the ability to select good people. I learned early to dictate responsibility and let people do their job," Alexander said.

But there is more than modesty to Alexander's long survival.

He was the people's choice. He played tough but fair. If he made a mistake, he wanted on nature's side. And Alexander had enough of a temper to keep the political flacks at bay.

"I've served under two different administrations, and no governor has ever sent me a person and said 'hire 'em.' And that's unusual in this business."

Alexander also harbored resource principles.

"Only once did I think I had to quit. And that was the day I was called into Gov. Quie's office to meet with a group of southwest legislators who wanted the DNR to reverse its policy on public wetlands. They asked the governor to change the policies or fire the commissioner.

"The governor turned to me and said 'What's the answer?' I said we were on the right track, that those wetlands needed to be preserved and if he (Quie) wanted to reverse that policy, he'd have to get a new commissioner, because I wouldn't do it.

"Gov. Quie turned to the legislators and said 'Gentlemen, you have your answer, and I'm busy.' And he walked into his private office."

Alexander smiled, recalling the story and added "Whew."

High stakes politics is a strange game if your conservation roots started as a $300-a-month game warden 31 years ago. Back then, Alexander wanted the state job enough to quit working as a bottling-plant

manager and take a 50-percent pay cut to chase poachers and check fishing licenses.

"My only regret is I didn't start working in this field when I was younger," he said.

It hasn't been all looking at sunsets.

Alexander's career in conservation survived his fight with alcoholism, his son's highly publicized involvement with drugs and his wife's long, ultimately fatal bout with cancer. Rose Alexander died last summer.

"I've never tried to keep my alcoholism a secret," he said. "I figure if you're not afraid of being a drunk, why should you be afraid of being sober?"

In a cabinet in Alexander's office are reading materials about alcoholism and its treatment. It's for employees who think they might have a problem. Alexander has an open-door policy and meets privately with every new DNR employee in the St. Paul offices.

Alexander's son, Will, has conquered his drug problems and is studying to be a drug counselor. "He's turned his life around," Alexander said.

And the Commissioner also is contemplating a change.

"Although I'll stay as long as the governor wants, this is my last term," Alexander said.

Over the last decade, Alexander said he has noticed great changes in DNR's operations, such as forestry, fish and wildlife, waters, non-game, and the like.

"I'm seeing a melding of ideas between the disciplines," he said. "I went to review a clearcut operation recently, and the forestry guy was talking fish and wildlife, and the wildlife biologist was talking forestry."

"We used to square off. Biologists vs. enforcement, stuff like that. We're out of that now."

However, in Alexander's view, serious issues remain:

Water: "I've always felt the waters of the state belonged to the people of the state. I think I've gotten more bumps and bruises from public access than any other issue. I'm also extremely worried about poisoned waters. They don't clean up very quickly."

Fishing: "I'm worried about how the fishing, the eating advisories. How do we get that shut off so we're able to eat some fish again. The Department of Health keeps checking water and finding more stuff. There are a lot of fishermen who go catch and release, but there are also people like me who like to catch a few bluegills and eat those little fellows."

Acid Rain: "I worry about it a lot. I've been to governor meetings where other governors from smokestack states cannot take a stand."

Endangered Species: "I think we're in good shape in saving both plants and animals. There's more public acceptance now of not wiping out the timber wolf. I support state control of wolves, but not eradicating."

Waterfowl: "I wish I could feel positive about waterfowl. I think we can keep a huntable population, but the good old days are just that. Too much habitat has been destroyed to bring them back."

And how will Minnesotans remember the man who lasted so long in a field with so many experts?

"I hope they'll look back," he said, "and say it was a good time."●

ANNIVERSARY IN BIG RAPIDS

● Mr. LEVIN. Mr. President, today, February 2, 1989, the people of Big Rapids, MI, will be celebrating 75 years under a council-manager plan. This event has a special significance because the city of Big Rapids was the first in Michigan to adopt this form of government.

Big Rapids has a proud history. It was first settled in 1855 and was named Leonard, MI. However, its name was changed to reflect the dominant presence of the big rapids on the Muskegon River.

Big Rapids is a fine place to live and work. From its early days as a center of white pine lumbering activity to today's diversified contributions to Michigan's economy, it has always attracted people looking for a higher quality of life. It is also a center for education. Ferris State University, established in 1884 by Woodbridge N. Ferris, who later became a Michigan Governor and U.S. Senator, is located in Big Rapids. It remains today a unique technical-professional institution of higher education.

Mr. President, I salute all the residents of Big Rapids on this anniversary. I am only sorry that I am unable to join Mayor Norm Mason, City Commissioners Jack Hendersickson, Jean Waddell, Mark Witbeck and Vicky Rumsey, former mayor, Bob Horan, Jr., and all my friends in Big Rapids at the special meeting of the city commission, but I am pleased that my representative will be there. I look forward to hearing his report on the day's events.●

THE CITY OF BIG RAPIDS CELEBRATES ITS 75TH ANNIVERSARY

● Mr. RIEGLE. Mr. President, I rise today to pay tribute to the city of Big Rapids as it celebrates its 75th anniversary. Big Rapids, located in the heart of Michigan, was founded in 1985 but it was not until 1914 when the city charter was adopted. This year Big Rapids is not only celebrating an anniversary, but also celebrating its success as a community which has excelled in industry, tourism, and education.

Big Rapids, like many other small communities, has served the State of Michigan and its people well. The city has an industrial base which has provided jobs to many out county areas and has managed to attract such companies as Wolverine Worldwide and Michigan Knife, which is now the leading knife manufacturing company in the Nation. Over the years, the community has been able to sustain and expand its industrial base. These, and other industries, have provided a stable economic base which continues to spur expansion, not only in Big Rapids but throughout Mecosta County.

Ferris State University has been, and continues to be, an integral part of Big Rapids. While the school has changed names and expanded its curriculum, the quality of education has remained superior. The university has helped build the educational and cultural foundation on which the city now rests. Ferris State will continue to be an attractive option for students who recognize the importance of higher education and still wish to be part of this closely knit community.

Tourism plays an equally important role in Big Rapids. Every year hundreds of visitors choose this tranquil environment to relax and vacation among the numerous lakes, rivers, and forests surrounding the city. Big Rapids provides its guests with a warm welcome and a memorable stay. With the Muskegon River flowing through the center of the city, it is not uncommon on a hot summer day to see families picnicking along the shores of the river. Others come to swim, canoe, and fish. The scenic Muskegon River continues to be a main attraction for visitors, as well as local residents, during any season of the year.

Big Rapids should be proud of its rich heritage and can look to its next 75 years with both optimism and confidence.●

DIRECTING SENATE LEGAL COUNSEL TO TAKE CERTAIN ACTIONS

Mr. MITCHELL. Mr. President, on behalf of myself and Senator DOLE, I send to the desk a resolution directing the Senate legal counsel to appear as amicus curiae in the name of the Senate in the case of American Foreign Service Association, and others, against Steven Garfinkel, and others, and I ask for its immediate consideration.

THE PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 42) to direct the Senate legal counsel to appear as amicus curiae in the name of the Senate in American Foreign Service Association, et al., v. Steven Garfinkel, et al.

THE PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

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

Mr. MITCHELL. Mr. President, the Supreme Court will hear this term an appeal that potentially raises fundamental issues about the constitutional authority of the Congress to legislate on matters relating to national society. The appeal, in the case of American Foreign Service Association versus Garfinkel, is from a judgment of the United States District Court for the District of Columbia holding unconstitutional section 630 of the Treasury, Postal Service and General Government Appropriations Act, 1988.

Section 630 was enacted chiefly to eliminate uncertainty in agreements which the executive branch requires employees to sign as a condition for access to classified information. The need for careful and secure treatment of classified information is important within both the Congress and the executive branch. It is also important to assure that procedures for the protection of national security secrets are not used to inhibit the communication of nonclassified information that would illuminate public debate. The Congress's principal objective in enacting section 630 was to eliminate from nondisclosure agreements vague terminology that might restrict the proper dissemination of nonclassified information. Senator GRASSLEY, Senator PRYOR, and our former colleague, Senator Proxmire, led this effort in the Senate.

In invalidating the statute the District Court accepted a contention of the Department of Justice that section 630 abridges the President's powers over national security. The District Court's opinion failed to give due weight to significant powers that are vested by the Constitution in the Congress concerning foreign policy and national security. Fortunately, the Supreme Court need not referee this contest between the Congress and the President because the administration has issued new forms that eliminate the most questionable feature of the agreements which the Congress sought to reform in section 630.

The resolution which the distinguished Republican Leader and I are offering would authorize the Senate Legal Counsel to file a brief amicus curiae in the name of the Senate to suggest to the court that the judgment of the District Court should be vacated as moot. The brief would also suggest that, although controversies about the implementation of these agreements might arise in the future, no concrete dispute exists at this time which requires the Court's adjudication of matters that are generally best left to the process of communication and accommodation between the political branches.

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

The resolution (S. Res. 42) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 42), with its preamble, reads as follows:

S. RES. 42

Whereas, in *American Foreign Service Association, et al.* v. *Steven Garfinkel, et al.*, No. 87-2127, pending in the Supreme Court of the United States, the constitutionality of Section 630 of the Treasury, Postal Service and General Government Appropriations Act, 1988, Pub. L. No. 100-202, 101 Stat. 1329-391, 1329-432 (1987), extended by Section 619 of the Treasury, Postal Service, and General Government Appropriations Act, 1989, Pub. L. No. 100-440, 102 Stat. 1721, 1756 (1988), have been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c), 288e(a), and 288*l*(a) (1982), the Senate may direct its Counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae in the name of the Senate in *American Foreign Service Association, et al.* v. *Steven Garfinkel, et al.*, to seek relief from the judgment of the district court holding unconstitutional Section 630 of the Treasury, Postal Service and General Government Appropriations Act, 1988.

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

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

The motion to lay on the table was agreed to.

FILING AND ARGUMENT OF MOTIONS BY JUDGE ALCEE L. HASTINGS

Mr. MITCHELL. Mr. President, I understand that the Rules Committee has today filed two resolutions relating to the impeachment proceedings concerning Judge Alcee Hastings. I now ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 39, a resolution to provide for the filing and argument of motions by Judge Alcee Hastings to dismiss Articles of Impeachment.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A Senate resolution (S. Res. 39) to provide for the filing and argument of motions by Judge Alcee L. Hastings to dismiss Articles of Impeachment.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution.

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

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

The resolution (S. Res. 39) was agreed to, as follows:

S. RES. 39

Resolved, that on a date designated by the Majority Leader in conclusion with the Minority Leader, the Senate shall resume its consideration of the articles of impeachment against Judge Alcee L. Hastings for the purpose of hearing argument on a motion or motions by Judge Hastings to dismiss the articles.

SEC. 2. Counsel for Judge Hastings shall file with the Secretary of the Senate on or before February 10, 1989, any motion to dismiss the articles of impeachment. The Managers on the part of the House shall file with the Secretary on or before February 24, 1989, their response to any such motion. Counsel for Judge Hastings may file a reply with the Secretary on or before March 3, 1989.

SEC. 3. There shall be printed as one of several Senate documents under the direction of the Secretary of the Senate, in consultation with the Senate Legal Counsel—

(1) the briefs of the parties on any motion to dismiss the articles of impeachment; and

(2) material that would assist the Senate in the consideration of any such motion, including the articles of impeachment, Judge Hastings' answer to them, the replication of the House of Representatives, the provisions of the Constitution on impeachment, and the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials.

SEC. 4. The Secretary shall notify the House of Representatives and counsel for Judge Hastings of this resolution.

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

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

The motion to lay on the table was agreed to.

REFERRAL OF S. 155 TO THE COMMITTEES ON BUDGET AND GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 155, a bill to amend the Impoundment Control Act of 1974 to provide for enhanced rescission procedures, be referred to the Committee on Budget and Governmental Affairs, pursuant to the order of August 4, 1977.

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

PROVIDING FOR A JOINT SESSION OF CONGRESS TO RECEIVE A MESSAGE FROM THE PRESIDENT ON THE STATE OF THE UNION

Mr. MITCHELL. Mr. President, I ask unanimous consent that no amendments or motions be in order with respect to House Concurrent Resolution 33, a concurrent resolution providing for a joint session of Congress on February 9.

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

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of House Concurrent Resolution 33.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 33), providing for a joint session of Congress to receive a message from the President on the State of the Union.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

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

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 33) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDING SENATE RULES

Mr. MITCHELL. Mr. President, I send a resolution making adjustment in the size of certain committees to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 43) to amend paragraph 2 and 3(a) of Rule XXV.

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

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

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

The resolution (S. Res. 43) was agreed to, as follows:

S. RES. 43

Resolved, That paragraph 2 of Rule XXV of the Standing Rules of the Senate is amended for the One Hundred and First Congress as follows:

Strike "20" after "Banking, Housing and Urban Affairs" and insert in lieu thereof "21".

SEC. 2. Paragraph 3(a) of Rule XXV of the Standing Rules of the Senate is amended for the One Hundred and First Congress as follows:

Strike "24" after "Budget" and insert in lieu thereof "23".

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

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

The motion to lay on the table was agreed to.

MAJORITY PARTY APPOINTMENTS TO SENATE COMMITTEES

Mr. MITCHELL. Mr. President, I send a resolution making majority party appointments to Senate committees under paragraph 3 of rule XXV to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 44) to make majority party appointments to Senate committees under paragraph 2 of Rule XXV for the 101st Congress.

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

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

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

The resolution (S. Res. 44) was agreed to, as follows:

S. RES. 44

Resolved, That the following shall constitute the majority party's membership on the standing committees for the One Hundred and First Congress, or until their successors are chosen:

Committee on Agriculture, Nutrition, and Forestry: Mr. Leahy (Chairman), Mr. Pryor, Mr. Boren, Mr. Heflin, Mr. Harkin, Mr. Conrad, Mr. Fowler, Mr. Daschle, Mr. Baucus, and Mr. Kerrey (NEB).

Committee on Appropriations: Mr. Byrd (Chairman), Mr. Inouye, Mr. Hollings, Mr. Johnston, Mr. Burdick, Mr. Leahy, Mr. Sasser, Mr. DeConcini, Mr. Bumpers, Mr. Lautenberg, Mr. Harkin, Ms. Mikulski, Mr. Reid, Mr. Adams, Mr. Fowler, and Mr. Kerrey (NEB).

Committee on Armed Services: Mr. Nunn (Chairman), Mr. Exon, Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Dixon, Mr. Glenn, Mr. Gore, Mr. Wirth, Mr. Shelby, and Mr. Byrd.

Committee on Banking, Housing, and Urban Affairs: Mr. Riegle (Chairman), Mr. Cranston, Mr. Sarbanes, Mr. Dodd, Mr. Dixon, Mr. Sasser, Mr. Sanford, Mr. Shelby, Mr. Graham, Mr. Wirth, Mr. Kerry (MA), and Mr. Bryan.

Committee on Commerce, Science, and Transportation: Mr. Hollings (Chairman), Mr. Inouye, Mr. Ford, Mr. Exon, Mr. Gore, Mr. Rockefeller, Mr. Bentsen, Mr. Kerry (MA), Mr. Breaux, Mr. Bryan, and Mr. Robb.

Committee on Energy and Natural Resources: Mr. Johnston (Chairman), Mr. Bumpers, Mr. Ford, Mr. Metzenbaum, Mr. Bradley, Mr. Bingaman, Mr. Wirth, Mr. Conrad, Mr. Heflin, and Mr. Rockefeller.

Committee on Environment and Public Works: Mr. Burdick (Chairman), Mr. Moynihan, Mr. Mitchell, Mr. Baucus, Mr. Lautenberg, Mr. Breaux, Mr. Reid, Mr. Graham, and Mr. Lieberman.

Committee on Finance: Mr. Bentsen (Chairman), Mr. Matsunaga, Mr. Moynihan, Mr. Baucus, Mr. Boren, Mr. Bradley, Mr. Mitchell, Mr. Pryor, Mr. Riegle, Mr. Rockefeller, and Mr. Daschle.

Committee on Foreign Relations: Mr. Pell (Chairman), Mr. Biden, Mr. Sarbanes, Mr. Cranston, Mr. Dodd, Mr. Kerry (MA), Mr. Simon, Mr. Sanford, Mr. Moynihan, and Mr. Robb.

Committee on Governmental Affairs: Mr. Glenn (Chairman), Mr. Nunn, Mr. Levin, Mr. Sasser, Mr. Pryor, Mr. Bingaman, Mr. Kohl, and Mr. Lieberman.

Committee on the Judiciary: Mr. Biden (Chairman), Mr. Kennedy, Mr. Metzenbaum, Mr. DeConcini, Mr. Leahy, Mr. Heflin, Mr. Simon, and Mr. Kohl.

Committee on Labor and Human Resources: Mr. Kennedy (Chairman), Mr. Pell, Mr. Metzenbaum, Mr. Matsunaga, Mr. Dodd, Mr. Simon, Mr. Harkin, Mr. Adams, and Ms. Mikulski.

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

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

The motion to lay on the table was agreed to.

MINORITY PARTY APPOINTMENTS TO SENATE COMMITTEES

Mr. LOTT. Mr. President, I send a resolution to the desk on behalf of the Republican leader and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 45) making minority party appointments to Senate committees for the 101st Congress.

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

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

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

The resolution (S. Res. 45) was agreed to, as follows:

S. RES. 45

Resolved, That the following shall constitute the minority party's membership on the standing committees for the 101st Congress, or until their successors are chosen:

Committee on Agriculture, Nutrition, and Forestry: Mr. Lugar (ranking member), Mr. Dole, Mr. Helms, Mr. Cochran, Mr. Boschwitz, Mr. McConnell, Mr. Bond, Mr. Wilson, and Mr. Gorton.

Committee on Appropriations: Mr. Hatfield (ranking member), Mr. Stevens, Mr. McClure, Mr. Garn, Mr. Cochran, Mr. Kasten, Mr. D'Amato, Mr. Rudman, Mr. Specter, Mr. Domenici, Mr. Grassley, Mr. Nickles, and Mr. Gramm.

Committee on Armed Services: Mr. Warner (ranking member), Mr. Thurmond, Mr. Cohen, Mr. Wilson, Mr. McCain, Mr. Wallop, Mr. Gorton, Mr. Lott, and Mr. Coats.

Committee on Banking, Housing, and Urban Affairs: Mr. Garn (ranking member), Mr. Heinz, Mr. D'Amato, Mr. Gramm, Mr. Bond, Mr. Mack, Mr. Roth, Mrs. Kassebaum, and Mr. Pressler.

Committee on Commerce, Science, and Transportation: Mr. Danforth (ranking member), Mr. Packwood, Mr. Pressler, Mr. Stevens, Mr. Kasten, Mr. McCain, Mr. Burns, Mr. Gorton, and Mr. Lott.

Committee on Energy and Natural Resources: Mr. McClure (ranking member), Mr. Hatfield, Mr. Domenici, Mr. Wallop, Mr. Murkowski, Mr. Nickles, Mr. Burns, Mr. Garn, and Mr. McConnell.

Committee on Environment and Public Works: Mr. Chafee (ranking member), Mr. Simpson, Mr. Symms, Mr. Durenberger, Mr. Warner, Mr. Jeffords, and Mr. Humphrey.

Committee on Finance: Mr. Packwood (ranking member), Mr. Dole, Mr. Roth, Mr. Danforth, Mr. Chafee, Mr. Heinz, Mr. Durenberger, Mr. Armstrong, and Mr. Symms.

Committee on Foreign Relations: Mr. Helms (ranking member), Mr. Lugar, Mrs. Kassebaum, Mr. Boschwitz, Mr. Pressler, Mr. Murkowski, Mr. McConnell, Mr. Humphrey, and Mr. Mack.

Committee on Governmental Affairs: Mr. Roth (ranking member), Mr. Stevens, Mr. Cohen, Mr. Rudman, Mr. Heinz, and Mr. Wilson.

Committee on the Judiciary: Mr. Thurmond (ranking member), Mr. Hatch, Mr. Simpson, Mr. Grassley, Mr. Specter, and Mr. Humphrey.

Committee on Labor and Human Resources: Mr. Hatch (ranking member), Mrs. Kassebaum, Mr. Jeffords, Mr. Coats, Mr. Thurmond, Mr. Durenberger, and Mr. Cochran.

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

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

The motion to lay on the table was agreed to.

MAJORITY PARTY APPOINTMENTS TO SENATE COMMITTEES

Mr. MITCHELL. Mr. President, I send a resolution making majority party appointments to Senate committees under paragraph 3 of rule XXV, to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 46) to make majority party appointments to Senate committees under paragraphs 3 (a), (b) and (c) of Rule XXV for the 101st Congress.

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

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

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

The resolution (S. Res. 46) was agreed to, as follows:

S. RES. 46

Resolved, That the following shall constitute the majority party's membership on the committees for the One Hundred and First Congress, or until their successors are chosen:

Committee on the Budget: Mr. Sasser (chairman), Mr. Hollings, Mr. Johnston, Mr. Riegle, Mr. Exon, Mr. Lautenberg, Mr. Simon, Mr. Sanford, Mr. Wirth, Mr. Fowler, Mr. Conrad, Mr. Dodd, and Mr. Robb.

Committee on Rules and Administration: Mr. Ford (chairman), Mr. Pell, Mr. Byrd, Mr. Inouye, Mr. DeConcini, Mr. Gore, Mr. Moynihan, Mr. Dodd, and Mr. Adams.

Committee on Small Business: Mr. Bumpers (chairman), Mr. Nunn, Mr. Baucus, Mr. Levin, Mr. Dixon, Mr. Boren, Mr. Harkin, Mr. Kerry (MA), Ms. Mikulski, and Mr. Lieberman.

Committee on Veterans' Affairs: Mr. Cranston (chairman), Mr. Matsunaga, Mr. DeConcini, Mr. Mitchell, Mr. Rockefeller, and Mr. Graham.

Select Committee on Ethics: Mr. Heflin, Mr. Pryor and Mr. Sanford.

Special Committee on Aging: Mr. Pryor (chairman), Mr. Glenn, Mr. Bradley, Mr. Burdick, Mr. Johnston, Mr. Breaux, Mr. Shelby, Mr. Reid, Mr. Graham, and Mr. Kohl.

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

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

The motion to lay on the table was agreed to.

MINORITY PARTY APPOINTMENTS TO SENATE COMMITTEES

Mr. LOTT. Mr. President, I send a resolution to the desk on behalf of the Republican leader and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 47) making minority party appointments to Senate committees for the 101st Congress.

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

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

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

The resolution (S. Res. 47) was agreed to, as follows:

S. RES. 47

Resolved, That the following shall constitute the minority party's membership on those Senate committees listed below for the 101st Congress, or until their successors are appointed:

Budget: Mr. Domenici, Mr. Armstrong, Mr. Boschwitz, Mr. Symms, Mr. Grassley, Mr. Kasten, Mr. Nickles, Mr. Rudman, Mr. Gramm, and Mr. Bond.

Rules and Administration: Mr. Stevens, Mr. Hatfield, Mr. McClure, Mr. Helms, Mr. Dole, Mr. Garn, and Mr. McConnell.

Small Business: Mr. Boschwitz, Mr. Kasten, Mr. Pressler, Mr. Wallop, Mr. Bond, Mr. Grassley, Mr. Lott, Mr. Burns, and Mr. Stevens.

Veterans Affairs: Mr. Murkowski, Mr. Simpson, Mr. Thurmond, Mr. Specter, and Mr. Jeffords.

Select Committee on Ethics: Mr. Rudman, Mr. Helms, and Mr. Lott.

Special Committee on Aging: Mr. Heinz, Mr. Cohen, Mr. Pressler, Mr. Grassley, Mr. Wilson, Mr. Domenici, Mr. Simpson, Mr. Warner, and Mrs. Kassebaum.

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

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

The motion to lay on the table was agreed to.

AMENDING PARAGRAPH 4 OF RULE XXV

Mr. MITCHELL. Mr. President, I send a resolution amending paragraph 4 of rule XXV to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 48) to amend paragraph 4 of rule XXV of the Standing Rules of the Senate.

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

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

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

The resolution (S. Res. 48) was agreed to, as follows:

S. RES. 48

Resolved, That paragraph 4 of Rule XXV is amended by striking all after subparagraph (g) and inserting in lieu thereof the following:

"(h)(1) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Environment and Public Works and the Committee on Finance may, during the One Hundred and First Congress, also serve as a member of the Committee on Agriculture, Nutrition, and Forestry so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(2) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Armed Services and the Committee on Energy and Natural Resources may, during the One Hundred and First Congress, also serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(3)(A) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations may, during the One Hundred and First Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision as a member of more than three committees listed in paragraph 2.

"(B) A Senator who during the One Hundred and First Congress may serve as a member on those committees listed in subparagraph (A), as well as a member of the Committee on Rules and Administration, may, during the One Hundred and First Congress, also serve as a member of the Committee on the Budget so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(4) A Senator who on the last day of the One Hundredth Congress was serving as a

member of the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations may, during the One Hundred and First Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(5) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Agriculture, Nutrition, and Forestry and the Committee on Judiciary may, during the One Hundred and First Congress, also serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but no event may he serve, by reason of this subdivision as a member of more than three committees listed in paragraph 2.

"(6)(A) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Armed Services and the Committee on the Judiciary may, during the One Hundredth and First Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(B) A Senator who during the One Hundred and First Congress serves on the Committee on Armed Services, the Committee on the Judiciary, and the Committee on Labor and Human Resources, and who serves as chairman of a committee listed in paragraph 2, may serve as chairman of two subcommittees of all committees listed in paragraph 2 of which he is a member.

"(7) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Commerce, Science and Transportation and the Committee on Foreign Relations may, during the One Hundred and First Congress, also serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(8)(A) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry and the Committee on Appropriations may, during the One Hundred and First Congress, also serve as a member of the Committee on the Judiciary so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision as a member of more than three committees listed in paragraph 2.

"(B) A Senator who during the One Hundred and First Congress serves on the Committee on Agriculture, Nutrition and Forestry, the Committee on Appropriations and the Committee on the Judiciary, and who serves as chairman of a committee listed in paragraph 2, may serve as chairman of two subcommittees of all committees listed in paragraph 2 of which he is a member.

"(9) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Energy and Natural Resources and the Committee on the Judiciary may, during the One Hundred and First Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(10)(A) A Senator who on the last day of the One Hundredth Congress was serving on the Committee on Environment and Public Works and the Committee on Finance may, during the One Hundred and First Congress, also serve as a member of the Committee on Foreign Relations so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(B) A Senator who on the last day of the One Hundredth Congress was serving on the Committee on Rules and Administration may, during the One Hundred and First Congress, also serve as a member of the Joint Committee on Taxation so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraph 3.

"(11) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance may, during the One Hundred and First Congress, also serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(12) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Commerce, Science and Transportation and the Committee on Finance may, during the One Hundred and First Congress, also serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(13) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Appropriations and the Committee on Banking, Housing and Urban Affairs may, during the One Hundred and First Congress, also serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(14) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on the Judiciary and the Committee on Labor and Human Resources may, during the One Hundred and First Congress, also serve as a member of the Committee on Foreign Relations so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees in paragraph 2.

"(15) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Armed Services and the Committee on Energy and Natural Resources may, during the One Hundred and First Congress, also serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(16) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Small Business, may, during the One Hundred and First Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(17) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Special Committee on Aging, may, during the One Hundred and First Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(18) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Veterans Affairs, may, during the One Hundred and First Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(19) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred and First Congress, also serve as a member of the Committee on Veterans Affairs and the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than three committees listed in paragraphs 3 (a) and (b).

"(20) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred and First Congress, also serve as a member of the Joint Economic Committee so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(21) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Veterans Affairs, may, during the One Hundred and First Congress, also serve as a member of the Special Committee on Aging so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(22) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on the Budget, may, during the One Hundred and First Congress, also serve as a member of the Special Committee on Aging so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(23) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on Small Business may, during the One Hundred and First Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(24) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Special Committee on Aging, may, during the One Hundred and First Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(25) A Senator who on the last day of the One Hundredth Congress was serving as a member of the Committee on the Budget, may, during the One Hundred and First Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b)."

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

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

The motion to lay on the table was agreed to.

AMENDING PARAGRAPH 4 OF RULE XXV

Mr. LOTT. Mr. President, I send a resolution to the desk on behalf of the Republican leader and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 49) to amend paragraph 4 of rule XXV of the Standing Rules of the Senate.

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

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

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

The resolution (S. Res. 49) was agreed to, as follows:

S. RES. 49

Resolved, That paragraph 4 of rule XXV is amended by adding at the end of paragraph (h) the following:

"(h)(39) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on the Judiciary, and the Committee on Armed Services, may, during the One hundred and first Congress, serve as a member of the Committee on Labor and Human Resources, so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(40) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Appropriations, and the Committee on Commerce, Science and Transportation, may, during the One hundred and first Congress, serve as a member of the Committee on Governmental Affairs, so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(41) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Finance, and the Committee on Governmental Affairs, may, during the One Hundredth Congress, also serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(42) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Appropriations, and the Committee on Banking, Housing and Urban Affairs may, during the One hundred and first Congress, serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(43) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Banking, Housing and Urban Affairs, and the Committee on Finance may, during the One hundred and first Congress, serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(44) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Environment and Public Works and the Committee on Finance may, during the One hundred and first Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(45) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry, and the Committee on Appropriations may, during the One hundred and first Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(46) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Commerce, Science and Transportation and the Committee on Foreign Relations may, during the One hundred and first Congress, serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(47) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Foreign Relations and the Committee on the Judiciary may, during the One hundred and first Congress, serve as a member of the Committee on Environment and Public Works so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(48) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Agriculture, Nutrition, and Forestry and the Committee on Armed Services may, during the One hundred and first Congress, also serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(49) A Senator who on the last day of the One hundredth Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry and the Committee on Foreign Relations may, during the One hundred and first Congress, also serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(50) A Senator whose term begins on January 3, 1989, may serve as a member of the Committee on Armed Services and the Committee on Commerce, Science and Transportation and may, during the One hundred and first Congress, serve as a member of the Committee on Agriculture, Nutrition and Forestry so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

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

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

The motion to lay on the table was agreed to.

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

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

PROVIDING FOR SENATE MEMBERS OF THE JOINT COMMITTEE ON PRINTING AND THE JOINT COMMITTEE ON THE LIBRARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 36 reported today by the Rules Committee.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 36) providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library.

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

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

The resolution (S. Res. 36) was agreed to, as follows:

S. RES. 36

Resolved, That the following-named Member be, and they are hereby, elected members of the following joint committees of Congress:

Joint Committee On Printing: Mr. Ford of Kentucky, Mr. DeConcini of Arizona, Mr. Gore of Tennessee, Mr. Stevens of Alaska, and Mr. Hatfield of Oregon.

Joint Committee Of Congress On The Library: Mr. Pell of Rhode Island, Mr. DeConcini of Arizona, Mr. Moynihan of New York, Mr. Hatfield of Oregon, and Mr. Stevens of Alaska.

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

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

The motion to lay on the table was agreed to.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Senate Resolution 4, 95th Congress, Senate Resolution 448, 96th Congress, and Senate Resolution 127, 98th Congress, as amended, appoints the following Senators to the Select Committee on Indian Affairs: the Senator from North Dakota [Mr. CONRAD], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Arizona [Mr. MCCAIN], and the Senator from Mississippi [Mr. COCHRAN].

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Senate Resolution 400, 94th Congress, and Senate Resolution 4, 95th Congress, appoints the following Senators to the Select Committee on Intelligence: the Senator from Oklahoma [Mr. BOREN], Chairman; the Senator from Georgia [Mr. NUNN]; the Senator from South Carolina [Mr. HOLLINGS]; the Senator from New Jersey [Mr. BRADLEY]; the Senator from Arizona [Mr. DECONCINI]; the Senator from California [Mr. CRANSTON]; the Senator from Ohio [Mr. METZENBAUM]; the Senator from Ohio [Mr. GLENN]; the Senator from Maine [Mr. COHEN]; the Senator from Utah [Mr. HATCH]; the Senator from Alaska [Mr. MURKOWSKI]; the Senator from Pennsylvania [Mr. SPECTER]; the Senator from Virginia [Mr. WARNER]; the Senator from New York [Mr. D'AMATO]; and the Senator from Missouri [Mr. DANFORTH].

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to section 1024 of title 15, United States Congress, appoints the following Senators to the Joint Economic Committee: the Senator from Maryland [Mr. SARBANES]; the Senator from Texas [Mr. BENTSEN]; the Senator from Massachusetts [Mr. KENNEDY]; the Senator from New Mexico [Mr. BINGAMAN]; the Senator from Tennessee [Mr. GORE]; the Senator from Nevada [Mr. BRYAN]; the Senator from Delaware [Mr. ROTH]; the Senator from Idaho [Mr. SYMMS]; the Senator from California [Mr. WILSON]; and the Senator from Florida [Mr. MACK].

APPOINTMENT BY THE CHAIRMAN OF THE FINANCE COMMITTEE

The PRESIDING OFFICER. The Chair announces on behalf of the Chairman of the Finance Committee, pursuant to section 8002 of title 26 United States Code, the designation of the following Senators to the Joint Committee on Taxation: the Senator from Texas [Mr. BENTSEN]; the Senator from Hawaii [Mr. MATSUNAGA]; the Senator form New York [Mr. MOYNIHAN]; the Senator from Oregon [Mr. PACKWOOD]; and the Senator from Kansas [Mr. DOLE].

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. Pursuant to provisions in Public Law 99-158, the Chair announces at the request of the Republican Leader the appointment of the Senator from Oklahoma [Mr. NICKLES] as a member of the Biomedical Ethics Board.

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. Pursuant to provisions in Public Law 100-696, the Chair announces at the request of the Republican Leader the appointment of the Senator from Oregon [Mr. HATFIELD] as a member of the U.S. Capitol Preservation Commission.

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 100-382, appoints the following individuals to the Advisory Committee of the White House Conference on Libraries and Information Services: Carol L. Wohlford, of Kansas, and William Asp, Minnesota.

ORDERS FOR FRIDAY

RECESS UNTIL 11 A.M., TOMORROW, AND FURTHER RECESS UNTIL TUESDAY, FEBRUARY 7, 1989, AT 2:15 P.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate recesses today, it stand in recess until Friday, February 3, 1989, at 11 a.m.; that on Friday no business be transacted; that immediately following the convening of the Senate, the Senate then stand in recess until Tuesday, February 7 at 2:15 p.m.

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

RECESS UNTIL 11 A.M. TOMORROW

Mr. MITCHELL. Mr. President, I move that the Senate stand in recess under the previous order.

The motion was agreed to, and the Senate, at 9:09 p.m., recessed until Friday, February 3, 1989, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate February 2, 1989:

DEPARTMENT OF THE TREASURY

EDITH E. HOLIDAY, OF GEORGIA, TO BE GENERAL COUNSEL FOR THE DEPARTMENT OF THE TREASURY, VICE MARK SULLIVAN III, RESIGNED.

EXECUTIVE OFFICE OF THE PRESIDENT

WILLIAM M. DIEFENDERFER, III, OF VIRGINIA, TO BE DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET, VICE JOHN F. COGAN, RESIGNED.

IN THE COAST GUARD

REAR ADMIRAL HOWARD B. THORSEN, USCG AS COMMANDER, ATLANTIC AREA, U.S. COAST GUARD WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

MARSHALL D. BROWN, OF VIRGINIA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

FRANK ALMAGUER, OF VIRGINIA
ALFRED BISSET, OF VIRGINIA
B. LOC ECKERSLEY, OF PENNSYLVANIA
JOHN FREDERICK HICKS, OF FLORIDA
GEORGE A. LAUDATO, OF NEW JERSEY
JOHN E. POPOVICH, JR., OF CALIFORNIA
CHRISTOPHER HARVEY RUSSELL, OF MAINE

JESSE L. SNYDER, OF CALIFORNIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE AS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

RICHARD NEWTON BLUE, OF VIRGINIA
ROBERT A. BONNAFFON, OF VIRGINIA
CHRISTOPHER DENNIS CROWLEY, OF LOUISIANA
GARY A. EIDET, OF FLORIDA
THOMAS F. FALLON, OF THE VIRGIN ISLANDS
DAVID J. GARMS, OF VIRGINIA
JOHN HEARD, OF THE DISTRICT OF COLUMBIA
KURT K. KUNZE, OF VIRGINIA
MICHAEL JUSTIN LIPPE, OF FLORIDA
THOMAS C. LUCHE, OF VIRGINIA
NORMA JEAN PARKER, OF NEW YORK
RICHARD LYNN SHORTLIDGE, JR., OF FLORIDA
ALAN AUGUSTINE SILVA, OF CALIFORNIA
SAMUEL L. SKOGSTAD, OF FLORIDA
STEPHEN J. SPIELMAN, OF NEW HAMPSHIRE
MARK G. WENTLING, OF KANSAS
MICHAEL K. WHITE, OF VIRGINIA
ANNE M. WILLIAMS, OF NEW YORK

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

GEORGE M. FLORES, OF NEW MEXICO
HOWARD ROBERT KRAMER, OF FLORIDA
SCOTT E. SMITH, OF VIRGINIA

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER.)

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJOR TIMOTHY E. BREUHL, xxx-xx-xxxx, 10/22/88
MAJOR JACK B. BUNNELL, xxx-xx-xxxx, 11/6/88
MAJOR WALACE DAILEY, xxx-xx-xxxx, 11/8/88
MAJOR HOWARD W. DERRICK, xxx-xx-xxxx, 11/8/88
MAJOR WILLIAM H. FISCHER, xxx-xx-xxxx, 11/6/88
MAJOR LYLE R. GRAFF, xxx-xx-xxxx, 11/6/88
MAJOR LARS G. GRANATH, xxx-xx-xxxx, 11/10/88
MAJOR JAMES M. HUSSEY, xxx-xx-xxxx, 10/2/88
MAJOR ROBERT L. JONES, xxx-xx-xxxx, 10/2/88
MAJOR THEODORE N. KRAEMER, xxx-xx-xxxx, 8/6/88
MAJOR CHRISTOPHER A. LOWRY, xxx-xx-xxxx, 11/1/88
MAJOR DENNIS G. LUCAS, xxx-xx-xxxx, 11/1/88
MAJOR STEPHEN R. RICHARD, xxx-xx-xxxx, 10/31/88
MAJOR DAVID W. SHEFFEY, xxx-xx-xxxx, 9/8/88
MAJOR DAVID K. SHUFFER, xxx-xx-xxxx, 9/21/88
MAJOR LAWRENCE G. SPITALE, xxx-xx-xxxx, 11/15/88

LEGAL CORPS

To be lieutenant colonel

MAJOR WILLIAM G. ALEXANDER, xxx-xx-xxxx, 11/5/88

NURSE CORPS

To be lieutenant colonel

MAJOR CAROL M. THOMAS, xxx-xx-xxxx, 11/7/88

IN THE NAVY

THE FOLLOWING NAMED NAVY ENLISTED COMMISSIONING PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

CAL D. ASTRIN
MICHAEL S. HARRINGTON
JEFFREY D. HICKS

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

ROBERT J. ALLEN
DONAL J. BAILEY
LAWRENCE M. BRINLEY
ROBERT B. BURGIO
JACK C. CAIN
DAVID R. CONGDON
REBECCA A. CONRAD
JOHN C. CROOK, JR.
ROBERT L. FLOYD
JOSEPH M. FRISCO, JR.
HARRY L. GANTEAUME
RICHARD A. GARCIA
ANDREW A. GRETZULA
MICHAEL G. HEATER
EDUARDO JARAMILLO
JEFFREY L. JUHALA
PATRICK A. KOPPA
JEFFREY P. LOUDERMILK
MICHAEL J. MALECHA
GARY L. MASTERS
DAVID E. MCALEXANDER
JOHN J. MCGRAW
ROBERT P. MOLINOWSKI
ROBERT D. MOORE
PAUL D. MORRIS
NGHIEM Q. PHAM
KELLY D. PRICE
RONALD M. QUAVE
CHRISTIAN B. REED
ANDREW C. ROBERTSON
ELTON G. SAYWARD
CHARLES J. SCHMIDHEISER
BLAKE A. SEAS
JONATHAN T. SKARDA
RAY A. STAPF
T.M. TEARE
BOYD WISNIEWSKI
PETER R. WOLTERS
RICHARD J. ZITO

THE FOLLOWING NAMED U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

RUFUS M. THOMAS, JR.

IN THE NAVY

THE FOLLOWING NAMED NAVAL ACADEMY MIDSHIPMEN TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

NAVAL ACADEMY MIDSHIPMEN

To be ensign; permanent

SCOTT GREGORY ABEL
CHAD FRANCIS ACEY
GEORGE ALBERTO ACOSTA
BRIAN STEPHEN ADAMS
CHARLTON PETER ADAMS
ROBERT GAY ADAMS, III
ANTHONY EUGENE AHNEN
SCOTT WILLIAM AKINS
RANDY EUGENE ALEXANDER
GREGORY CARTER ALLEN
PEYTON MCKEAN ALLEN
ANTHONY ERIC ALTOMARI
MARK STEVEN ANDERSEN
BRYAN D. ANDERSON
CRAIG ARNOLD ANDERSON
DARRYL CHRISTIAN ANDERSON
EMORY ARTHUR ANDERSON, III
DAVID LEO ANSELMI
JULIE ANN ANYAN
GEORGE ANDREW APOLLONIO
SARA ANNETTE APPLEGARTH
LUTHER ARCHER, JR
DANIEL DARIN ARENSMEYER
KURT WILLIAM ARMBRUST
BRADLEY STEVEN ARMSTRONG
JAMES RICHARD ARMSTRONG
RAYMOND ANDREW ART
JOSEPH MANNING AUSTIN, JR
MARK ALLEN AUTRY
PAUL KLAUS AVERNA
HECTOR LUIS BAEZ, JR
CHARLES RICHARD BAILEY
MICHAEL JAMES BAIRD
STEVEN PATRICK BAKER
MICHAEL A. BALLOU
MICHAEL PATRICK BARATTA
MICHAEL RENARD BARBER
CARLOS MARTIN BARBOSA
GLENN ALLEN BARKER
CHRISTOPHER KEVIN BARNES
ERIK HOWARD BARNES
JAMES R. BARNHILL, II
SCOTT KENNETH BAROUN
STEPHEN KYLE BARRIE
PAUL MICHAEL BASILE
ROBERT BUELL BASSETT
ARMANDO EMILIO BATASTINI
DAVID RAND BATES
JOSEPH EDWARD BAUMGARTNER
PATRICK SCOTT BAYLISS
FAUSTINO MANDAPAT BAYSIC
JOHN CUNNINGHAM BEAL
MONIQUE ANNE BEAUCHESNE
WILLIAM JOHN BECKER, III
JOSEPH SHERIDAN BEGLEY
BRETT MICHAEL BEKKEN
JAMES ANTHONY BELL
ZACHARIAH RANDOLPH BELL
MICHAEL MCALLISTER BELLES
JOHN JOSEPH BELLINO
NATHAN EMIL BELTZ
RAYMOND JOHN BENEDICT
ROBERT TAYLOR BENNETT, JR
ROBERT EDWARD LEE BENSON
JAMES FREDRICK BERG
BRENDA KATHLEEN BERGER
DAVID MANNING BERGMAN
MARK WILLIAM BERGMANN
DAVID TAYLOR BERNHARDT
KENT STEVEN BERRY
RICHARD ALAN BEUTTER
ROBERT BRYAN BEYMER, JR
ANTHONY JAMES BIGBEE
ROBERT CLARK BIGLER
WILLIE DEMOORE BILLINGSLEA
MATTHEW CAMERON BISHOP
JOHN HENRY BITTING, III
BRUCE JEROME BLACK
JOHN KENNETH BLALOCK
ANTHONY RYAN BLANKENSHIP
GLENN EDWARD BLEILER
STEVEN JAMES BLETTE
OLIVER J. BLOCK
LEOPOLD BERNARD BLUM, IV
ANDREW ALAN BOBER, II
ANTHONY WADE BOGARD
JAIME BORREGO
PEGGY ANNE BOSNIC
JERRY RAY BOSTER
KEVIN DEAN BOSTICK
EDWARD JOSEPH BOTT
WESLEY MATTOX BOYCE
FRANK ALPHEUS BOYLAN
STEVEN ROY BOYLES
JEFFREY ROWLAND BRADBURY
TIMOTHY COLIN BRADY
DAVID EDWARD BRANDEEN
DOUGLAS JOHN BRANDEEN
HARRY E. M. BRANDICOURT
STEPHEN PAUL BRAUN
BRYAN ALAN BRAUNS
MARK RAYMOND BREEDEN
RICHARD JOHN BRENNAN
MICHAEL JOSEPH BRESLAUER
BRIAN JASSEN BRITTON
DONALD BRANT BROCKETT
BRUCE TRENT BROWN
DONALD STEVEN BROWN
KELLY ANN BROWN
KENT ROBERT BROWN
KEVIN LEE BROWN
DAN WAYNE BRUNE
CHRISTOPHER WOOD BRUNETT
THOMAS ANTHONY BRUNO
KEITH WILLIAM BRZOZOWSKY
ERIC MARTIN BUENVIAJE
TIMOTHY SHAYNE BUFFINGTON
GARY CONRAD BURGER, JR
ERIK ALFRED BURIAN
BRIAN KENNETH BURKE
STEPHEN NORRIS BURKE
STEPHEN LANDRIGAN BURNETT
DEVON MARJORIE BURR
ROBERT WILLIAM BUSBY, JR
LAURA SUE BUSH
JOHN THOMAS BUTHOD
SHAN MICHAEL BYRNE
SUDA TAI CABRAL
ROBERT ANSEL HOLMES CADY
BRIAN VINCENT CALDWELL
JAMES JOSEPH CAMMARATA
CHRISTOPHER GORDON CAMPBELL
KEVIN BRUCE CAMPBELL
MARVIN GERARD CAMPBELL
BRIAN CHARLES CANOVA
CHRISTOPHER ANTHONY CANTARELLA
GEORGE SIGURD CAPEN
MATTHEW JOHN CARADONNA
FRANK JOHN CARDELLO
CHRISTOPHER WILLIAM CARLSON
CLINTON ANDREW CARROLL
DAVID BARTHOLOMEW CARSON
BARNEY JEFFERSON CARTER, IV
RANDALL DOUGLAS CASEMENT
DAVID PRESTON CASEY
CHRISTOPHER MICHAEL CASHMAN
ROBERT THEOBALD CASSADY, III
DANIEL DAVID CATLIN
JAMES ANDREW CAUFIELD, III
GERALD JAMES CAVALIERI, JR
ROBERT JOHN CEPEK
RENE LUIS CERDA
HERMAN JOSE CESTERO, III
SALLY ANNE CHAMBERLAIN
STEWART MICHAEL CHANG
ALEXANDER BASIL CHAO
MARIA SOPHIA CHAPMAN
RUTH FRANCES CHASEN
JAMES ANSLIE CHATFIELD, II
BRYAN EDWARD CHEESEMAN
ERIC DALTON CHENEY
JOHN WILLIAM CHEWNING
MATTHEW DALE CHILDS
JEREMY BENJAMIN CHIO
ERIC LYLE CHRISTIAN
GEOFFREY ANGEL CIELO
KEVIN MICHAEL CLAFFY
JAMES REILLY CLAUTICE
ORIN BRETT CLAY
BRIAN CHRISTOPHER CLIFFORD
DAVID LYMAN CLOE
JOHN STEPHEN COFFEY
GEOFFREY DAVID COGAN
THOMAS EMMETT COKER
KRISTEN ANNE COLBERT
PHILIP ALFRED COLBORN
VERNON CARLTON COLE
RUSSELL JOSEPH COLLER, JR
GORDON BRIAN COLTON
JOHN PHILLIP CONEY
MICHAEL OWEN CONNELLY
DANIEL ROLAND CONSIE
PAUL WILLARD COOK
SCOTT EDWIN COOK
STEPHEN CARL COOK
LEONARD WILLIAM WALLA COOKE
JAMES FRANCIS COONEY
CHARLES BRADFORD COOPER, II
ALBERT FERNANDO CORCHUELO
MICHAEL COLE CORNELL
HAROLD RICHARD CORNWALL
BRENT WARREN COURIER
MICHAEL CARTER COUSINS
LINO COVARRUBIAS, JR
ANTHONY PAUL COX
DAVID LEON COX, JR
DAVID MATTHEW COX, JR
GREGORY JAY COZAD
JAY GLEASON CRABTREE
ANDREW BOEH CRAYCROFT
CHRISTOPHER STUART CRONK
CHRISTOPHER CROSS
CASSANDRA ANN CROWNOVER
MICHAEL TIMOTHY CUCCIO
DEBORAH LYNNE CUFFE
JOHN HOWARD CUNNINGHAM
RAFAEL ANTONIO CURBELO
ROBERT EDWARD CURRAN
BRUCE ALAN CZAJA, II
JOHN ANTHONY CZAJKOWSKI
PAUL MICHEL DABBAR
REDANTE GAMBOA DACANAY
ANDREW JOSEPH DAMBROSIO
ANDREW JOSEPH DARCY
JAMES HARRIS DARRELL, III
EVAN DAYAN DASH
JOHN WILLIAM DATKA
DRUSO DAUBON
FRANCIS WALTER DAVEY
JAMES PATRICK DAVIS
KRISTINE MICHELLE DAVIS
ROBERT PAUL DAY, JR
DANFORD ROGERS DEAKIN
GARY LAWRENCE DEAL
MICHAEL JOHN DEBRUYN
STEVEN MICHAEL DEBUS
RICHARD GERARD DEGUZMAN
MARIO ENRIQUE DELAOSSA, JR
CHRISTOPHER DENNIS DELARGY
JOHN EVAN DELL
PAUL MICHAEL DELUCA, III
ALEXANDER GEORGE DELUNA
MARIE ANN DEMEL
JAMES EUGENE DEMOTT
NOEL VANSTON DENNEY
ANTHONY CHARLES DEPRIZIO, JR
JOSEPH ANTHONY DESANTIS
EDWARD MICHAEL DEVILLIERS
DANA SCOTT DEWEY
DWIGHT DARVIN DICK
ANTHONY THOMAS DICKENS
HEIDI CHRISTINE DICKERSON
DAVID STEVE DICKSON
FLORENCIO ABALOS DICTADO, III
PAUL GLEN DIEHL
JEFFREY ALAN DIETZ
JAY FOSTER DILL
STEPHEN MICHAEL DININGER
KEVIN LEE DIPPERY
WILLIAM ALLEN DODGE, JR
RICHARD EATON DODSON, JR
WILLIAM PATRICK DONNELLY, JR
CATHERINE KIM DONOHUE
JAMES RONALD DOTTER
ARTHUR DAVID DOVE, JR
DAVID JAMES DOWLING
JOHN J. DRAKE
RONALD ERNEST DRAKER
EDWARD JAMES DREW
THOMAS SHELTON DRUEN
PAUL THOMAS DRUGGAN
STEVEN MARK DUDLEY
SHAWN PAUL DUFFY
ROBERT STEPHEN DUGUAY
ROBERT BERNHARD DUMONT, III
PATRICK MASON DUNN
LOUIS JAMES DURSO, JR
MICHAEL DON DURST
JOHN ALBERT DUVALL, III
KENNETH JUDE DYER
JOHN PAUL ECKARDT
DANIEL JOSEPH ECKHART
DONDI EDWARDS
JAMES PHILLIP EDWARDS
JAMES FREDRICK EHLERT, JR
JOSEPH AARON EISERT
RICHARD BENJAMIN EITEL
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DALE EMMANUEL FAJARDO
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CHRISTOPHER PATHEREE
ANTHONY DWIGHT FAUST
KIMBERLY ANN FELTAULT
DAVID LAWTON FEUGER
WILLIAM EVAN FIERY
WILLIAM CHARLES FILAN
JAMES STEPHEN FINN
CHRISTOPHER DEAN FISCHAHS
NORWIN ROLAND FISCHER
JOSEPH KIRK FLANAGAN
SHAUN ROBERT FLANAGAN
TODD JOSEPH FLANNERY
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HEIDI ALSTON FLEMING
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ERNEST PAUL FUCHS, JR
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LANCE ROBERT FULLER
SEAN PIERCE FULLER
THEODORE EMANUEL FUNDOUKOS

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DIONISIO SALES GAMBOA
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RYAN QUINTONG GARCIA
ELLEN STUART GARDNER
JEFFREY DAVID GARIGLIANO
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PETER ALLEN GARVIN
JOSE LUIS GARZA
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RICCARDIO DAVID GAY
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TIMOTHY ROBERT GOERING
KENNETH BLAKE GOLDING
JAMES DENNIS GONSALVES
YVETTE MARIE GONZALEZ
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DAVID EDWIN GRAY
EDWARD JOSEPH GRAY
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DAVID GREENHECK
DAVID SAMUEL GRENNEK
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KENNETH RODELL GRIMES
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GREGORY ALAN GRUBBS
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WESLEY RANDALL GUINN
GREGORY ALLEN GULICK
RICHARD ANDREW GUTH
FRANCISCO JAVIER GUTIERREZ
STEPHEN BERNARD HACKFORTH
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JEFFREY HAGGOTT
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THOMAS PATRICK HARE
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KENNETH GARDNER HARRIS
KRISTA HARRIS
KENNETH EDWARD HARRISON
LEIF BRIAN HARRISON
JOSEPH MICHAEL HART
BRIAN LEE HATHAWAY
THOMAS WILLIAM HEATTER
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EDWIN MANNING HENDERSON
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KEITH EDWARD HICKS
EDWARD FRANKLIN HILER
STEVEN MARK HILGENDORF
STONE LADD HILL
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WILLIAM CURT HOFFMAN
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MONICA KIM HOLLAND
TROY ELLIS HOLLAND
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JOHN R. HOOFNAGLE
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REGINALD MAURICE HOWARD
JAMES EDWIN HOWE, JR
RONALD JOSEPH HOWE
JOHN ROBERT HOYT
HSUAN YAO HUANG
PATRICK JAY HUDSON
JOSEPH W. HUFFAKER
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JONATHAN LEE HUGHES
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RICHARD STEVEN HULIT
NORA ANN HUML
JOHN MARTIN HUNCZAK
PATRICK GERARD HUNKLER
DALE PATRICK HURLEY, JR
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SCOTT MACKAY HURM
KI MOON HWANG
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GARY LAMBERT IRVIN
ANTHONY JOSEPH IUCULANO
RANDALL EVAN IVENER
CHRISTINE MARIE JAMES
SHAWN D. JAMES
KATHLEEN CASEY JAMIESON
ROBERT WENDELL JANSSEN
PHILIP BROOKS JANUS
ANDREW CORLEY JARRETT
JENNIFER RACHEL JAUNSEN
MARCOS MORALES JAVIER
JOKER LEE JENKINS
SCOTT STUART JENSEN
JON JOSEPH JERGE
WAYNE MARTIN JEVELI
MICHAEL ANTHONY JIMENEZ
WILLIAM ARLIN JIVIDEN
DIETER GORDON JOBE
KENNETH RAGNAR JOHANSEN
STEPHEN WALTER JOHANSON
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DAVID ALLAN JOHNSON, JR
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MICHAEL ABRAMS KELLY
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ANDREW MEL KENNY, JR
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SCOTT DIXON KEPLER
JEFFREY SCOTT KERR
KEVIN JOHN KIM
STEPHEN GENE KIM
SUNG KIM
CHARLES ANTHONY KIMBERLIN
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BRIAN SCOTT KING
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KARIN ANNE KLOSE
CHRISTOPHER LEE KNIGHT
MICHAEL KNOWLES
BEN JONAH KOENIG
MICHAEL PATRICK KOLSTER
PHILIP PETER KONDILAS
GARY WILLIAM KORN
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ROBERT ANDREW KOVALCHIK
ROBERT JOHN KOWALSKI, JR
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PAUL STEPHEN KRUSZKA, JR
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AARON STEVEN KUSHNER
STEPHEN KERMIT LAABS, JR
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DAVID ALLEN LADERER
MICHAEL CHRISTOPHER LADNER
MICHELLE CLAIRE LADUCA
CARL ANDREW LAHTI
EMILY HUIBEE LAI
GONTRAN MIGUEL LAMBERTY
STEVEN SCOTT LAMBRECHT
DOUGLAS DUNN LANCASTER
JOHN JOSEPH LAPOINT
RONALD SCOTT LASORSA
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PETER KINGSLEY LEHARDY
TAWAYLA MYNETTE LEMIEUX
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MICHAEL LESCHINSKY
ROBERT PATRICK LESSARD
ZIGMOND VINCENT LESZCZYNSKI
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ALBERT STANTON LEWIS
DAN EVERETT LEWIS
JOHN MICHAEL LEWIS
ROBERT HERBERT LEWIS
THERESA ANNE LEWIS
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FELIPE AMOR LUNA, JR
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ROBERT FREDERICK LYDENS
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HEIDI MALEY
RODERICK IRA MANABAT
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JAMES ALLEN MANN
EDWARD CHARLES MARAIST
MARGARET LYNN MARCANTONIO
TIMOTHY JOHN MARICLE
JAMES MICHAEL MARKEY
DARIN JOHN MARLEY
JEFFREY PAUL MARSHALL
STEPHEN VICTOR MARTELL
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GERALD HOLMES MATHIS, JR
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STEVEN PHILLIP MCALEARNEY
CATHERINE ELIZABETH MCCANN
DOUGLAS EDWARD MCCANN
DAVID MICHAEL MCCARTHY
KENNETH SEAN MCCARTNEY
JOHN CHRISTIAN MCCLURE
THEODORE LUPTON MCCOLL
DAVID GILES MCCORD
STEPHEN EDWARD MCCORMICK
RALPH LILES MCDONALD, JR
JOHN DOUGLAS MCDOWALL
TIMOTHY SEAN MCELLIGATT
JOEL SCOTT MCFADDEN
LARRY LEROY MCFALL, JR
MICHAEL DAVID MCGETTIGAN
BRIAN PATRICK MCGOLDRICK
EDWARD JOSEPH MCGOVERN
JOHN PAUL MCGREW
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GREGORY BRIAN MEYER
DAVID ALLEN MICHAEL
JASON JONES MICHAL
MICHAEL DENNIS MICHEL
ERIC JAMES MICHELI
DANIEL ALEXANDER MILLER
GLENN ROBERT MILLER
JAMES DEAN MILLER
RICHARD MICHAEL MILLER, JR
ROBERT DONALD MILLER
WENDY THERESE MILLER
ROBERT EDWARD MILLOTT
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JULIE ANNE MORGAN
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PATRICK THOMAS MOYNIHAN
LAURIE JEAN MUNDY
THOMAS JAMES MUNRO
ROLAND SIEGFRIED MUSE
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JARROD MICHAEL NIXON
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NORBERTO MOREIRA DE NOBREGA
DAVID SEAN NOLAN
DAVID EDWARD NOSAL
JEANINE LOUISE NOSER
RONALD JOSEPH NOVAK
ANDREW MICHAEL NUGENT
KIMBERLY ANN NUGENT
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TIMOTHY JAMES NYLAND
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KIP OCONNOR
PETER JOHN OCONNOR
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SEAN PHILIP OMALLEY
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DENNIS CHRISTOPHER OROURKE
TIMOTHY BRIAN OROURKE
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SUSAN HAMPTON OXENDINE

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PATERSON
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DOUGLAS GORDON PERRY
JOHN MARK PETIT
JEFFREY SCOTT PETRIE
ALAN MICHAEL PETRO
DARREN DANFORTH PETRO
CARL VANN PETTY
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TUNG XUAN PHAM
THOMAS JOSEPH PHELAN
TIMOTHY BRIAN PHILLIPS
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CHRISTOPHER LOUIS PICKETT
WILLIAM GLENN PICKREL
MARK ROBERT PIMPO
NOEL ANDREW PITONIAK
RONI SUE PLAUTZ
JAMES ANDREW POPIELEC
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SCOTT DENZIL PORTER
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GREGORY DONALD POTTEIGER
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SCOTT THOMAS POWERS
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CRAIG JAMES PROSSER
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KEVIN DENNIS REED
GEVAN DEAN REEVES
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HEIDI KATHERINE REINARD
JAMES KELLY REINING
DERRICK JOHN REITON
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DOMINIC EARL ROBERTS
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WALTER WILLIAM ROBOHN
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RANSOM ROBERT ROGERS
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ERIC SCOTT ROKKE
GREGORY ROY ROMERO
JAMES ROBERT RONKA
DAVID MICHAEL ROSE
MATTHEW WARREN ROSE
EDWARD JOSEPH ROTH
DENNIS BRUCE ROUDEBUSH
ROBERT MALDONADO RUIZ
SCOTT FREDERICK RUSSELL
MICHAEL WALTER RUSSONELLO
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PAUL PATRICK RYAN
RAELENE LEAH RYERSON
CHRISTOPHER LEE SAAT
JON MARK SABLAN
DAVID THI SADLER
DUSKA LYNN SAHLER
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CLIFFORD CHET SALONGA
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ROBERT BRENT SAMUELS
TIMOTHY EDWARD SANDENO
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ROBERT CELESTINO SANTIAGO, JR
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ROBERT PRESTON SAUNDERS, JR
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DONDI MICHAEL SHEEHY
JEFFREY SCOTT SHELTON
JONATHAN TODD SHEMWELL
ERIC SCOTT SHERCK
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DENISE MARIE SHOREY
MICHAEL DALE SHOUP
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WILLIAM ELLIS SIMMONS, JR
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LISA MARIE SKAGGS
THOMAS EDWARD SLUSARCHYK
DANIEL STEVEN SMALLEY
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CALVIN FORSYTHE SMITH
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JULIA ANN SMITH
KATHLEEN JANE SMITH
LOREN JAMES SMITH
PIPER ANNE SMITH
RANDALL LEE SMITH
ROBERT EMMET SMITH
THAD EUGENE SMITH
THOMAS CRAIG SMITH
TIMOTHY JOHN SMITH
RONALD THOMAS SMUDZ
JAMES JOSEPH SNARE
WILLIAM BRUCE SNEAD
ERIK LEE SNYDER
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ROBERT WILLIAM STAUDER
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JOSEPH WILLIAM STIBLER
BRADLEY ROGER STILLABOWER
WILLIAM STEVEN STOMP, JR
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ROGER PAUL SURO
TOM ANDREW SVOBODA
DAVID MICHAEL SWENSON
BRIAN STEVEN TAIT
MATTHEW ANTHONY TAIT
CHRISTINE YUKIKO TANABE
GEORGE DEREK TANGEMAN
RITA GERALYN TAUBER
BART ANDREW TAYLOR
TIMOTHY STEVEN TAYLOR
JOHN ADAM TEKVERK
MICHAEL JOHN TESAR
CARL FREDERIC THIELE
DOUGLAS BRIAN THIRY
DANIEL THOMAS THOELE
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JOHN JAMES THOMPSON
RICHARD DOUGLAS THOMPSON, JR
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DAVID SCOTT THORN
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WILLIAM ROBERT TIBBS
JEFFREY MICHAEL TOMLIN
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WILLIAM JUSTUS TOWNSEND, JR
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CASEY COLIN TRAVERS
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WILLIAM MELVIN TRIPLETT
JOHN LA ROY TROWER
BARBARA DIANE TUCKER
JOHN ROY TUCKER
DAVID EUGENE TURNBAUGH
DERRIC TODD TURNER
WADE DAVID TURVOLD
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GARY NEIL UNDERWOOD
RANDALL MICHAEL UNGER
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JOHN RYOICHI UYEMURA
MARCELO JOSEPH VALDEZ
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GEORGE STEVEN VANNI
DEAN CAMERON VANTOL
MICHAEL BURTON VELASQUEZ
ROBERT LOUIS VELEZ
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GREGORY STEWART WAGNER
ELIZABETH PENN WAINSCOTT
TODD CAREY WALDEMAR
DAVID BRYANT WALKER
STEVEN JOSEPH WALKER
VERNON LAVELL WALLACE
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JONATHAN MARK WARNER
JAY ALLEN WARREN
EARL ERIC WARTENBERG
CRAIG JOSEPH WASHINGTON
JAMES PRESTON WATERS, III
WILLIAM RANDOLPH WATKINS, III
ROBERT WEBBER, JR
JAMES BYRON WEBSTER
JAMES WARD WEGGEN
GARY PHILLIP WEGLEY
PAUL WILLIAM WEHNER
GREGORY JAMES WEISMAN
MATTHEW LEE WELBORN
KEVIN ROY WESLEY
MATTHEW WALLACE WESSEL
JAMES CURTIS WEST, JR
KAREN BERNADETTE WEST
LANCE RICHARD WESTERLUND
ROBERT DALE WETZEL
BRIAN RICHARD WETZLER
DARRIN LEE WHALEY
THOMAS RUDDOCK WHITE
KEITH BRUETTING WICHMANN
MARK JOHN WIGGINS
JAY FRANKLIN WIGLEY
RICHARD CHARLES WILLIAMS, JR
ROBERT ALVAH WILLIAMS
ROBERT CLIFTON WILLIAMS, III
CLARENCE EARL WILLIE, JR
CRAIG LANCASTER WILSON
JAMES ALLEN WILSON
JOHN JOSEPH WILSON, III
ROBERT PAINE WILSON
WILLIAM ADAIR WILSON
MICHAEL ALLEN WINDLAND
SCOTT WELLINGTON WINE
THEODORE VERNON WINGFIELD, II
JEFFREY SCOTT WINTER
STEPHEN AUGUST WISTNER
JOHN GREGORY WOLF
JOHN MADISON WOLFE
CAROL JUNE WOMACK
BRIAN ANTHONY WONG
DAMON IYUN WOO
LANCE JON WOOD
WILLIAM HAROLD WOODS
JOHN KENNETH WOODSON
DARYL JOSEPH WOODWORTH
RAYMOND BARNES WORTHINGTON
ROBERT RICE WYAND, III
PHILIP HERBERT YOUNG
PETER JAY ZAMESKA
VINCENT DAMIAN ZARASUA
ERIN LANCE ZELLERS
MICHAEL TONE ZIMMERMAN, II
PAUL JOHN ZIPPEL
CHRISTOPHER JOHN ZITO
THEODORE ALEXANDER ZOBEL
GLEN ALAN ZURLO

CONFIRMATIONS

Executive nominations confirmed by the Senate February 2, 1989:

DEPARTMENT OF THE INTERIOR

MANUEL LUJAN, JR., OF NEW MEXICO, TO BE SECRETARY OF THE INTERIOR.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

JACK KEMP, OF NEW YORK, TO BE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

EXECUTIVE OFFICE OF THE PRESIDENT

MICHAEL J. BOSKIN, OF CALIFORNIA, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS.

ENVIRONMENTAL PROTECTION AGENCY

WILLIAM KANE REILLY, OF VIRGINIA, TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.